

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO PLANNING COMMISSION
July 15, 2021**

A meeting of the Louisville Metro Planning Commission was held at 1:00 p.m. on Thursday, July 15, 2021 via Webex.

Commission members present:

Lula Howard, Vice Chair
Rich Carlson
Ruth Daniels
Jim Mims
Te'Andre Sistrunk
Rob Peterson
Patricia Seitz

Commission members absent:

Marilyn Lewis, Chair
Jeff Brown
Patricia Clare

Staff Members present:

Emily Liu, Director, Planning & Design Services
Joe Reverman, Assistant Director, Planning & Design Services
Joe Haberman, Manager, Planning & Design Services
Brian Davis, Manager, Planning & Design Services
Dante St. Germain, Planner II
Joel Dock, Planner II
Jay Lockett, Planner I
Laura Ferguson, Legal Counsel
Beth Stuber, Transportation Planning
Pamela M. Brashear, Management Assistant

The following matters were considered:

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APPROVAL OF MINUTES

JULY 1, 2021 PLANNING COMMISSION REGULAR MEETING MINUTES

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

RESOLVED, that the Planning Commission does hereby **APPROVE** the minutes of its meeting conducted on July 1, 2021.

The vote was as follows:

YES: Commissioners Carlson, Mims and Howard

NOT PRESENT FOR THIS CASE: Commissioners Brown, Clare and Lewis

ABSTAINING: Commissioners Daniels, Peterson, Seitz and Sistrunk

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PUBLIC HEARING

CASE NO. 21-STRCLOSURE-0006

Project Name:	Lloyd St Closure
Location:	Lloyd St and associated alleys
Owner(s):	Louisville Metro
Applicant:	Waterfront Development Corporation
Jurisdiction:	Louisville
Metro Council District:	9 – Bill Hollander
Case Manager:	Jay Lockett, AICP, Planner I

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

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

Agency Testimony:

00:10:32 Jay Lockett discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

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

Summary of testimony of those in favor:

Jon Baker represents Waterfront Botanical Gardens. There will be coordination with any utilities with infrastructure under Floyd St. (see recording for detailed presentation).

Deliberation

Planning Commission deliberation.

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

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CASE NO. 21-STRCLOSURE-0006

Closure of Public Right-of-way

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

WHEREAS, adequate public facilities are available to serve existing and future needs of the community. The proposed closure does not result in an increase in demand on public facilities or services as utility agencies have coordinated with the applicant and/or applicant's representative and Planning and Design Services staff to ensure that facilities are maintained or relocated through agreement with the developer. No property adjacent or abutting the rights-of-way to be closed will be left absent of public facilities or services or be dispossessed of public access to their property. The applicant will provide necessary easements or relocation of equipment per utility agency requirements; and

WHEREAS, any cost associated with the rights-of-way to be closed will be the responsibility of the applicant or developer, including the cost of improvements to those rights-of-way and adjacent rights-of-way, or the relocation of utilities and any additional agreement reached between the utility provider and the developer; and

WHEREAS, the Louisville Metro Planning Commission finds, the request to close rights-of-way is in compliance the Goals, Objectives and Plan Elements of the Comprehensive Plan as Mobility Goal 2, Policy 2 states to coordinate use of rights-of-way with community design policies. Ensure accessible rights-of-way to accommodate mobility needs of all transportation network users; Mobility Goal 2, Policy 7 states that the design of all new and improved transportation facilities should be accessible and; Mobility Goal 3, Policy 1 states to provide transportation services and facilities to promote and accommodate growth and change in activity centers through improved access management. Provide walking and bicycling opportunities to enable activity centers to minimize single-occupant vehicle travel. Encourage a mix of complementary neighborhood serving businesses and services in neighborhood and village centers to encourage short trips easily made by walking or bicycling; Mobility Goal 3, Policy 2 seeks to improve mobility, and reduce vehicle miles traveled and con-gestion, encourage a mixture of compatible land uses that are easily accessible by bicycle, car, transit, pedestrians and people with disabilities. Housing should be encouraged near employment centers; Mobility Goal 3, Policy 3 to evaluate developments for their ability to promote public transit and pedestrian use. Encourage higher density mixed-use developments that reduce the need for multiple automobile trips as a means of achieving air quality standards and providing transportation and housing choices; Mobility Goal 3, Policy 5 to evaluate developments for their impact on the transportation network (including the street, pedestrian, transit, freight movement and bike facilities and services) and air quality; and Mobility Goal 3, Policy 12 states to ensure that

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transportation facilities of new developments are compatible with and support access to surrounding land uses, and contribute to the appropriate development of adjacent lands. Where appropriate, provide at least one continuous roadway through the development to tie all local access roads or parking areas to the arterial street system. Adequate stub streets and pedestrian connections should be provided by developments. Any cost associated with the rights-of-way to be closed will be the responsibility of the applicant or developer. Adequate public facilities are available to serve existing and future needs of the community. Any facility required to be placed in an easement or relocated will be done so by the developer. Transportation facilities have been provided to accommodate future access and to not dispossess property owners of public access. All adjacent lands maintain access to public infrastructure and utility services will continue to be provided to these lands; and

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

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council the closure of public right-of-way on property described in the legal description be **APPROVED**.

The vote was as follows:

YES: Commissioners Carlson, Daniels, Mims, Peterson, Seitz, Sistrunk and Howard

NOT PRESENT AND NOT VOTING: Commissioners Brown, Clare and Lewis

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PUBLIC HEARING

CASE NO. 20-DDP-0054

Request: Revised Detailed District Development Plan with parking waiver and building design waiver
Project Name: Cedar Creek Crossing
Location: 7704-7718 Bardstown Road & 7509 Cedar Creek Road
Owner: Real Properties Plus II, LLC; Park Community Credit Union; Cindy Sue daily
Applicant: Hogan Real Estate
Representative: Dinsmore & Shohl, LLP – Cliff Ashburner
Jurisdiction: Louisville Metro
Council District: 22 – Robin Engel
Case Manager: Joel P. Dock, 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. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

00:21:24 Joel Dock discussed the case summary, standard of review and staff analysis from the staff report. This case has been to DRC and Planning Commission a couple of times and the request has been modified since the original hearing. It no longer includes an encroachment into the 30-foot parkway buffer.

The following spoke in favor of this request:

Cliff Ashburner, Dinsmore and Shohl, 101 South 5th Street, Louisville, Ky. 40202
Diane Zimmerman, 12803 High Meadows Pike, Prospect, Ky. 40059

Summary of testimony of those in favor:

Cliff Ashburner gave a power point presentation.

Mr. Ashburner discussed the following: sidewalks; no encroachments in parkway buffer; alignment; eliminated right-out; tract 2 proposed building; glazing; enhanced landscaping; tract 3 proposed building; overall plan; and the tract 2 cross section – replace 4 feet to 3.5 feet to comply with exhibit in the binding element. Mr. Dock agrees (see recording for detailed presentation).

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Diane Zimmerman discussed the traffic impact study which was first completed on February 2021 and revised July 6, 2021 (see recording for detailed presentation).

Mr. Ashburner discussed road improvements recommendations and requests: turn lane southbound on Bardstown Rd. (provided); restriping Cedar Creek Rd. approach to Bardstown Rd. at entrance (provided); expansion of Cedar Creek at entrance (provided); and right-of-way dedication on Cedar Creek (provided) (see recording for detailed presentation).

Deliberation

Planning Commission deliberation.

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

Waiver of Land Development Code (LDC), section 5.6.1.C to not provide clear windows and doors along at least 50% of the façade facing a public street on Tracts 2 & 3

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

WHEREAS, the waiver will not adversely affect adjacent properties the buildings will be located at a lower elevation than Bardstown Road where the planting and screening requirements for the parkway buffer mitigates the request. The elevations also show a screen wall similar to the materials provided on the buildings to screen the utility doors. The elevations also show spandrel glass in place of clear glass to help activate the facades; and

WHEREAS, the waiver will not violate specific land use and development polices of Plan 2040 as community form goal 1, policy 4 calls to ensure new development and redevelopment are compatible with the scale and site design of nearby existing development and with the desired pattern of development within the Form District. Quality design and building materials should be promoted to enhance compatibility of development and redevelopment projects. Plan 2040 defines a parkway as roadways with a designation used to protect existing scenic roadways, to ensure a quality visual

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experience on developing corridors and to improve the visual experience on established roads with area-wide significance. Mobility goals call for development, preservation, and maintenance of an interconnected system of scenic corridors and parkways and encourages the preservation of important cultural resources, landscapes and scenic vistas in the design, maintenance and development of major thoroughfares and parkways. The buildings will be located at a lower elevation than Bardstown Road where the planting and screening requirements for the parkway buffer mitigates the request. The elevations also show a screen wall similar to the materials provided on the buildings to screen the utility doors. The elevations also show spandrel glass in place of clear glass to help activate the facades; and

WHEREAS, the Louisville Metro Planning Commission finds, the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the buildings will be located at a lower elevation than Bardstown Road where the planting and screening requirements for the parkway buffer mitigates the request. The elevations also show a screen wall similar to the materials provided on the buildings to screen the utility doors. The elevations also show spandrel glass in place of clear glass to help activate the facades; and

WHEREAS, the Louisville Metro Planning Commission further finds the applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived since the buildings will be located at a lower elevation than Bardstown Road where the planting and screening requirements for the parkway buffer mitigates the request. The elevations also show a screen wall similar to the materials provided on the buildings to screen the utility doors. The elevations also show spandrel glass in place of clear glass to help activate the facades.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the Waiver of Land Development Code (LDC), section 5.6.1.C to not provide clear windows and doors along at least 50% of the façade facing a public street on Tracts 2 and 3.

The vote was as follows:

YES: Commissioners Carlson, Daniels, Mims, Peterson, Seitz, Sistrunk and Howard

NOT PRESENT AND NOT VOTING: Commissioners Brown, Clare and Lewis

Parking Waiver to exceed the maximum parking permitted on the development site (LDC 9.1.3) to allow for a maximum of 229 parking spaces

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On a motion by Commissioner Mims, seconded by Commissioner Seitz, the following resolution based on the Standard of Review and Staff Analysis, testimony heard today and the technical review of the detailed parking summary was adopted.

WHEREAS, the applicant has provided the number of spaces they find will accommodate the proposed use on the subject site; and

WHEREAS, the Louisville Metro Planning Commission finds, Plan 2040 calls for development to accommodate all modes of transportation which the development will provide using sidewalks, pedestrian connections, and bike parking which aid the use of transit service in the area which extends to Glenmary Plaza at Colonel Hancock Drive. However, the area remains heavily dependent on vehicle trips given the relatively low-density and current population dispersion. Parking revisions to the Land Development were approved in August of 2020. These revisions did not fully capture the parking demanded by the current retail and restaurant environment in areas where auto dependence remains the norm based on land development conditions. For instance, the maximum permitted for a restaurant may not sufficiently accommodate employees and customers during peak hours. This may reduce the economic viability of certain uses as insufficient parking for customers may be restricted by the current requirements. Planning and Design Services has drafted revisions to the latest amendments to increase maximum for restaurants in suburban areas and will bring those forward soon. The amount of parking provided will not necessarily reduce the shopping centers ability to be adapted for future changes in desired accommodations by users and operators and mobility choices; and

WHEREAS, the Louisville Metro Planning Commission further finds the applicant has indicated in their justification that based on the ITE parking generation manual that the proposed parking is within the limits of what is needed to serve the proposed users in the shopping center and consistent with parking norms for those uses that the parking serves. The total parking proposed would also be below the requirements previously in effect for a development site with shared parking.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the Parking Waiver to exceed the maximum parking permitted on the development site (LDC 9.1.3) to allow for a maximum of 229 parking spaces.

The vote was as follows:

YES: Commissioners Carlson, Daniels, Mims, Peterson, Seitz, Sistrunk and Howard

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NOT PRESENT AND NOT VOTING: Commissioners Brown, Clare and Lewis

Revised Detailed District Development Plan and Binding Elements

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

WHEREAS, the development site does not appear to contain natural or cultural resources; and

WHEREAS, the development will provide sidewalks, pedestrian connections, and bike parking which aid the use of transit service in the area which extends to Glenmary Plaza at Colonel Hancock Drive; and

WHEREAS, the parkway buffer along Bardstown Road is in compliance with the Land Development Code, otherwise no open space is required with the proposal; and

WHEREAS, the Metropolitan Sewer District has approved the preliminary drainage; and

WHEREAS, the Louisville Metro Planning Commission finds, the proposed plan is consistent with suburban development typical of the form district where commercial outlots for banks, restaurants, or retail are provided in front of retail centers. Drive-through facilities are common along the corridor and drive lanes or parking is present in front of buildings. The buildings and dumpsters along Bardstown Road will be lower than Bardstown Road and will have the parkway buffer plantings and screening to mitigate any unsightly portions of the buildings or refuse areas; and

WHEREAS, the Louisville Metro Planning Commission further finds the development plan is in conformance with Plan 2040 and the Land Development Code.

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

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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 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, or alteration permit) is requested:

- 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.
- b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
- c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter. Landscaping shall be provided as shown on the concept plan presented at the July 15, 2021 Planning Commission hearing.
- d. 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.
- e. A reciprocal access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be created between all lots shown on the approved development plan and recorded. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services.
- f. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the July 15, 2021 public meeting. Final renderings for each site or phase of development shall be reviewed and approved by Planning and Design Services staff.
- g. Sidewalk easements shall be submitted to Planning and Design Services prior to the issuance of a Certificate of Occupancy.

4. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.

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5. Reciprocal and crossover access shall be provided at the time of non-residential development (prior to issuance of building permit) for the properties to the north. A copy of the signed easement agreement shall be provided to Planning Commission staff upon request.

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.

7. Bike parking shall be provided for each tract within the development or at a centralized location that is visible from parking areas, businesses or public ways. Long-term parking shall be provided indoors as required for each use.

8. Dumpsters located in front of structures on Tracts 2 & 3 of the approved development plan shall be recessed into the earth a minimum of 3.5' below the grade of Bardstown Road and landscaped consistently with the dumpster cross section of record and landscape exhibit presented at the July 15, 2021 Planning Commission public hearing.

9. Landscaping shall be in full compliance with the Land Development Code and substantially similar to the Landscape exhibit presented at the Planning Commission public hearing July 15, 2021. A brick wall that is no less than 7' in height shall be provided on Tracts 2 & 3 as shown on the exhibit.

The vote was as follows:

YES: Commissioners Daniels, Mims, Peterson, Seitz, Sistrunk and Howard
NOT PRESENT AND NOT VOTING: Commissioners Brown, Clare and Lewis
ABSTAINING: Commissioner Carlson

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PUBLIC HEARING

CASE NO. 21-ZONE-0016

Request: Change in zoning from R-4 to R-5A, with Detailed District Development Plan and Binding Elements, Major Preliminary Subdivision, and Variances and Sidewalk Waiver
Project Name: Old Heady Road Subdivision and Multi-Family
Location: Parcels 004702920000, 004702930000, 004702940000
Owner: Daniel & Todd Bridwell
Applicant: Sunshine Builders LLC
Representative: Bardenwerper, Talbott & Roberts
Jurisdiction: Louisville Metro
Council District: 20 – Stuart Benson
Case Manager: Dante St. Germain, AICP, Planner II

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

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

Agency Testimony:

01:42:54 Dante St. Germain discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Nick Pregliasco, Bardenwerper, Talbott and Roberts, 1000 North Hurstbourne Parkway, Louisville, Ky. 40223
Derek Triplett, Land Design and Development, 503 Washburn Avenue, Louisville, Ky. 40222

Summary of testimony of those in favor:

Nick Pregliasco gave a power point presentation explaining the proposal and history of this case (see recording for detailed presentation).

Derek Triplett continued the presentation and discussed the layout of the property. Some of the obstacles are as follows: future Urton Ln. corridor right-of-way; steep slopes; and transmission overhead electric easement along the Gene Snyder (see recording for detailed presentation).

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Mr. Pregliasco discussed the R-4 zoning density transfer as well as conditions of approval (see recording for detailed presentation).

Joe Reverman stated, if the adjacent property develops, we don't want to forego sidewalks for that new development. Mr. Triplett said he agrees. Mr. Reverman said it can be a condition of approval for the waiver (see recording for detailed presentation).

The following spoke in opposition to this request:

Gerard Derby, 5411 Old Heady Road, Louisville, Ky. 40299

Jonathan Hagemann, 14001 Fancy Gap Drive, Louisville, Ky. 40299

Josh Reynolds, 13300 Stepping Stone Way, Louisville, Ky. 40299

Summary of testimony of those in opposition:

Gerard Derby said he's concerned about the infrastructure (roads). Also, will there be rental properties (apartments) or Section 8 housing? Mr. Pregliasco said it will be single family homes (see recording for detailed presentation).

Jonathan Hagemann discussed landscape buffer areas and the fact that the proposed smaller lots don't match the neighboring lot sizes (see recording for detailed presentation).

Josh Reynolds discussed the following: requests another traffic study be performed; additional natural landscaping; devaluation of existing homes; and slopes (see recording for detailed presentation).

Ms. St. Germain explained development transfer potential (see recording for detailed presentation).

Rebuttal

Mr. Pregliasco described the screening – subdivision backing up to another subdivision doesn't require additional screening. The proposed area traffic moves/flows very well and the proposal will have no negative impact on that.

Mr. Pregliasco agrees with the additional condition of approval regarding grading of lots (see recording for detailed presentation).

Deliberation

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Planning Commission deliberation.

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

Zoning Change from R-4 Single Family Residential to R-5A Multi-Family Residential

On a motion by Commissioner Carlson, seconded by Commissioner Seitz, the following resolution based on the Plan 2040 Staff Analysis was adopted.

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Community Form because, the proposal is not for higher density or intensity zoning; the proposal is not for significantly different intensity or density or scale compared with surrounding development; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Form because, the proposal would permit new development providing residential uses; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Community Form because, no wet or highly permeable soils are evident on the site. There are no unstable slopes on the site. Severe or steep slopes are stable per the geotechnical report; and

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

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Mobility because, the proposed zoning district would not permit higher density or intensity uses; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Mobility because, access to the site is via Old Heady Road, a secondary collector at this location; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Mobility because, the site is easily accessible by car. The redevelopment of the site will improve the sidewalk network, improving the

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accessibility of the site via pedestrians and people with disabilities; Transportation Planning has approved the proposal; no direct residential access to high-speed roadways is proposed; and

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

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Livability because, no open space is required by the Land Development Code, but the applicant is preserving open space next to the pond; No karst features are evident on the subject site; the site is not located in the regulatory floodplain; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Housing because, the proposed zoning district would increase the variety of housing types in the neighborhood; The proposed zoning district would support aging in place by increasing the variety of housing in the neighborhood; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Housing because, the proposed zoning district would permit inter-generational mixed-income development that is connected to the neighborhood and the surrounding area; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Housing because, the proposal would increase the provision of fair and affordable housing by increasing the variety of ownership options and unit costs in Louisville Metro; no existing residents will be displaced by the proposal; the proposed zoning district would permit the use of innovative methods of housing.

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

The vote was as follows:

YES: Commissioners Carlson, Daniels, Peterson, Seitz, Sistrunk and Howard

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NOT PRESENT AND NOT VOTING: Commissioners Brown, Clare, Mims and Lewis

Variance from 5.3.1.C.4 to allow structures in the single-family residential subdivision portion of the site to encroach into the required supplemental setback for a collector road along the future Urton Lane corridor (21-VARIANCE-0052)

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

WHEREAS, the requested variance will not adversely affect public health safety or welfare as the applicant proposes enhanced landscaping along the Urton Lane corridor which will protect the proposed single-family structures from the traffic impacts of Urton Lane, when Urton Lane is constructed in the future; and

WHEREAS, the requested variance will not alter the essential character of the general vicinity as the enhanced landscaping which is proposed will help to screen the rears of the homes from Urton Lane so that they are not as visible from the future right-of-way; and

WHEREAS, the requested variance will not cause a hazard or nuisance to the public as the encroachment presents no hazards, and any nuisances will be mitigated by the proposed enhanced landscaping; and

WHEREAS, the requested variance will not allow an unreasonable circumvention of zoning regulations as the proposed enhanced landscaping will mitigate the negative impacts of the encroachment; and

WHEREAS, the requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone as the Urton Lane corridor is a proposed future collector-level road which does not exist yet and will not exist for an unknown period of time; and

WHEREAS, the Louisville Metro Planning Commission finds, the strict application of the provisions of the regulation would deprive the applicant of reasonable use of the land or create an unnecessary hardship on the applicant by requiring the applicant to redesign the lots that have double-frontage on the proposed local street and the future Urton Lane; and

WHEREAS, the Louisville Metro Planning Commission further finds the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the

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zoning regulation from which relief is sought as the variance is being requested and no construction has taken place at this time.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** a Variance from 5.3.1.C.4 to allow structures in the single-family residential subdivision portion of the site to encroach into the required supplemental setback for a collector road along the future Urton Lane corridor (21-VARIANCE-0052).

The vote was as follows:

YES: Commissioners Carlson, Daniels, Peterson, Seitz, Sistrunk and Howard
NOT PRESENT AND NOT VOTING: Commissioners Brown, Clare, Mims and Lewis

Variance from 5.3.1.C.4 to allow structures in the multi-family residential portion of the site to encroach into the required supplemental setback for a collector road along the future Urton Lane corridor (21-VARIANCE-0053)

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

WHEREAS, the requested variance will not adversely affect public health safety or welfare as the applicant proposes enhanced landscaping along the Urton Lane corridor which will protect the proposed multi-family structures from the traffic impacts of Urton Lane, when Urton Lane is constructed in the future; and

WHEREAS, the requested variance will not alter the essential character of the general vicinity as the enhanced landscaping which is proposed will help to screen the rears of the multi-family structures from Urton Lane so that they are not as visible from the future right-of-way; and

WHEREAS, the requested variance will not cause a hazard or nuisance to the public as the encroachment presents no hazards, and any nuisances will be mitigated by the proposed enhanced landscaping; and

WHEREAS, the requested variance will not allow an unreasonable circumvention of zoning regulations as the proposed enhanced landscaping will mitigate the negative impacts of the encroachment; and

WHEREAS, the requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone as the Urton Lane

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corridor is a proposed future collector-level road which does not exist yet and will not exist for an unknown period of time; and

WHEREAS, the Louisville Metro Planning Commission finds, the strict application of the provisions of the regulation would deprive the applicant of reasonable use of the land or create an unnecessary hardship on the applicant by requiring the applicant to redesign the lots that have double-frontage on the proposed local street and the future Urton Lane; and

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

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** a Variance from 5.3.1.C.4 to allow structures in the multi-family residential portion of the site to encroach into the required supplemental setback for a collector road along the future Urton Lane corridor (21-VARIANCE-0053).

The vote was as follows:

YES: Commissioners Carlson, Daniels, Peterson, Seitz, Sistrunk and Howard
NOT PRESENT AND NOT VOTING: Commissioners Brown, Clare, Mims and Lewis

Sidewalk Waiver to omit a required sidewalk along the western side of proposed Street "A" (21- WAIVER-0094)

On a motion by Commissioner Carlson, seconded by Commissioner Sistrunk, the following resolution based on the testimony heard today was adopted.

WHEREAS, the waiver will adversely affect the owners in that they will not have the ability to walk on both sides of the road; and

WHEREAS, granting the waiver will be inconsistent with the Comprehensive land use plan which includes elements concerning connectivity and being healthy because more sidewalks allow for greater connectivity and encourage healthy walking, jogging, bicycling, strollers and other transportation by human power; and

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WHEREAS, the applicant can reasonably comply with other methods of compliance such as through an interval curb configuration or reducing the depth of the adjacent lots and they will still be in excess of minimum requirements; and

WHEREAS, the strict application of the regulation would not deprive the applicant of reasonable use of the land or many of those reasons discussed; and

WHEREAS, there are no site constraints that make the construction of sidewalks impractical.

RESOLVED, that the Louisville Metro Planning Commission does hereby **DENY** the Sidewalk Waiver to omit a required sidewalk along the western side of proposed Street "A" (21- WAIVER-0094).

The vote was as follows:

YES: Commissioners Carlson, Daniels, Peterson and Sistrunk

NO: Commissioners Seitz and Howard

NOT PRESENT AND NOT VOTING: Commissioners Brown, Clare, Mims and Lewis

Major Preliminary Subdivision with Development Potential Transfer and review of land disturbing activity on slopes greater than 20% (21-MSUB-0010)

On a motion by Commissioner Carlson, seconded by Commissioner Seitz, the following resolution based on the Standard of Review and Staff Analysis and testimony from the applicant and staff was adopted.

WHEREAS, a geotechnical analysis was performed and no significant concerns with respect to slope instability or substantial erosion were observed on the site. There are three lots that would have portions of slopes greater than 20% which are likely to be disturbed by home-building activity, however the geotechnical report found no slope instability. The report outlined mitigation and construction procedures to allow for safe development of the site as proposed. Overall, the design and layout appear to be the minimum necessary accommodate the proposed use of the site; and

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

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

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

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the Major Preliminary Subdivision with Development Potential Transfer and review of land disturbing activity on slopes greater than 20% (21-MSUB-0010), **SUBJECT** to the following conditions of approval:

Proposed Conditions of Approval (Tract 1)

1. 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.
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.

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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. 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 Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
 - d. A minor subdivision plat or legal instrument shall be recorded creating Tracts 1 and 2 and dedicating right-of-way along Old Heady Road 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.
 - e. 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 for Tract 1.

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 shall submit a landscape plan for approval by Planning Commission staff showing plantings and/or other screening and buffering materials to comply with the Chapter 10 of the Land Development Code prior to recording the record plat. The applicant shall provide the landscape materials on the site as specified on the approved Landscape Plan prior to issuance of Certificates of Occupancy for the site.

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."

8. Open space lots shall not be further subdivided or developed for any other use and shall remain as open space in perpetuity. A note to this effect shall be placed on the record plat.

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9. When limits of disturbance are shown on the plan, a note shall be placed on the preliminary plan, construction plan and the record plat that states, "Construction fencing shall be erected at the edge of the limits of disturbance area, prior to any grading or construction activities. The fencing shall remain in place until all construction is completed. No parking, material storage, or construction activities shall be permitted within the fenced area."

10. 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.

11. The developer shall be responsible for maintenance of all drainage facilities and undeveloped lots ensuring prevention of mosquito breeding, until such time as the drainage bond is released.

12. After release of the drainage bond, mosquito abatement on open space lots shall be the responsibility of the Homeowners Association. Accumulations of water in which mosquito larvae breed or have the potential to breed are required to be treated with a mosquito larvicide approved by the Louisville Metro Health Department. Larvicides shall be administered in accordance with the product's labeling. This language shall appear in the deed of restrictions for the subdivision.

13. The applicant shall provide language in the deed restrictions notifying lot and/or house purchasers that a future road corridor is planned in the area of the subdivision. The form of such restrictions shall be approved by Planning Commission counsel. The area reserved for future road corridor shown on the approved preliminary plan shall also be shown on the record plat.

14. Prior to the recording of the record plat, copies of the recorded documents listed below shall be filed with the Planning Commission. a. Articles of Incorporation in a form approved by Counsel for the Planning Commission and the Certificate of Incorporation of the Homeowners Association. b. A deed of restriction in a form approved by counsel of the Commission outlining responsibilities for the maintenance of open space. c. Bylaws of the Homeowners' Association in a form approved by Counsel for the Planning Commission.

15. Any signature entrance shall be submitted to the Planning Commission staff for review and approval prior to recording the record plat.

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16. At the time the developer turns control of the homeowners' association over to the homeowners, the developer shall provide sufficient funds to ensure there is no less than \$3,000 cash in the homeowners' association account. The subdivision performance bond may be required by the Planning Commission to fulfill this funding requirement.

17. No residential structures shall be permitted within 250 feet of the edge of pavement of the Gene Snyder Freeway's nearest travel lane.

18. The landscape plan shall be in compliance with Chapter 10 of the LDC but shall include no less vegetation than that shown in the landscape exhibit presented at the July 15, 2021 Planning Commission hearing. Developer shall plant a 6' shrub screen and one Type A tree every 50 linear feet (to match the proposed patio home development's screen) along the future Urton Lane Corridor ROW dedication as shown on the landscaping exhibits presented at the July 15, 2021 hearing. Pursuant to the Declaration of Covenants, Conditions, and Restrictions (CCRs), these plantings shall be maintained by the homeowners (which shall include a specific prohibition against removal), and if not so maintained, shall be maintained by the homeowners' association. Maintenance of these plantings shall specifically include replacement of any dead trees or shrubs. The CCRs shall be reviewed and approved by the Planning Commission legal counsel.

19. The CCRs shall prohibit the lot owners from erecting fences or any other structures in the Urton Lane Corridor ROW, or from taking any other action therein which would constitute dominion and control over the property (including, but not limited to playgrounds, etc.). The homeowners' association shall be responsible for enforcing this restriction contained in the CCRs.

20. Developer shall provide the swale along the western area of proposed Street "A" within the right-of-way abutting the adjacent property, as shown at the July 15, 2021 hearing.

21. Prior to approval of the clearing and grading permit, developer shall consult with Public Works and Transportation Planning to match up the proposed finish grade of the property lines adjoining the future Urton Lane Corridor to the anticipated grade of the future roadway. Public Works and Transportation Planning shall approve the proposed elevations shown on the construction plans along the adjoining property lines.

The vote was as follows:

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YES: Commissioners Carlson, Daniels, Peterson, Seitz, Sistrunk and Howard
NOT PRESENT AND NOT VOTING: Commissioners Brown, Clare, Mims and Lewis

Detailed District Development Plan with Binding Elements

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

WHEREAS, tree canopy and steep slopes will be largely preserved on the site. No other natural resources are evident on the site. No historic assets are evident on the site; and

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

WHEREAS, due to the low proposed density of the development, no open space is required; and

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

WHEREAS, the Louisville Metro Planning Commission finds, the overall site design is compatible with existing and projected future development of the area. The proposed area of rezoning will be largely surrounded by the proposed single-family subdivision. Single-family and multi-family development are compatible; and

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

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

Binding Elements (Tract 2)

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1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee 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. 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 Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
 - d. The materials and design of proposed multi-family structures shall be substantially the same as depicted in the rendering as presented at the July 15, 2021 Planning Commission meeting. A copy of the approved rendering is available in the case file on record in the offices of the Louisville Metro Planning Commission.
 - e. A minor subdivision plat or legal instrument shall be recorded creating Tracts 1 and 2 and dedicating right-of-way along Old Heady Road 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.

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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.

7. No residential structures shall be permitted within 250 feet of the edge of pavement of the Gene Snyder Freeway's nearest travel lane. 8. The landscape plan shall be in compliance with Chapter 10 of the LDC but shall include no less vegetation than that shown in the landscape exhibit presented at the July 15, 2021 Planning Commission hearing. Developer shall plant a 6' shrub screen and one Type A tree every 50 linear feet (to match the proposed subdivision's screen) along the future Urton Lane Corridor ROW dedication as shown on the landscaping exhibits presented at the July 15, 2021 hearing. Pursuant to the Declaration of Condominium Regime (Declaration), these plantings shall be located in the common areas and maintained/replaced by the condominium association. The Declaration shall be reviewed and approved by the Planning Commission legal counsel.

8. The landscape plan shall be in compliance with Chapter 10 of the LDC but shall include no less vegetation than that shown in the landscape exhibit presented at the July 15, 2021 Planning Commission hearing. Developer shall plant a 6' shrub screen and one Type A tree every 50 linear feet (to match the proposed subdivision's screen) along the future Urton Lane Corridor ROW dedication as shown on the landscaping exhibits presented at the July 15, 2021 hearing. Pursuant to the Declaration of Condominium Regime (Declaration), these plantings shall be located in the common areas and maintained/replaced by the condominium association. The Declaration shall be reviewed and approved by the Planning Commission legal counsel.

The vote was as follows:

YES: Commissioners Carlson, Daniels, Peterson, Seitz, Sistrunk and Howard
NOT PRESENT AND NOT VOTING: Commissioners Brown, Clare, Mims and Lewis

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CASE NO. 21-ZONE-0003

Request: **THIS CASE WILL NOT START BEFORE 5:30 P.M.** -
Change in zoning from R-4 to R-6, with Detailed District
Development Plan and Binding Elements

Project Name: Lodges at Prospect
Location: 7312 River Road
Owner: Eastwood Construction and Development
Applicant: AGS Development LLC
Representative: Dinsmore & Shohl
Jurisdiction: Louisville Metro
Council District: 16 – Scott Reed
Case Manager: Dante St. Germain, AICP, Planner II

NOTE: COMMISSIONER PETERSON LEFT AND DID NOT VOTE ON THIS CASE

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

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

Agency Testimony:

03:55:54 Brian Davis stated there will not be a quorum of commission members at 5:30 p.m.

The following spoke in favor of this request:

Cliff Ashburner, Dinsmore and Shohl, 101 South 5th Street, Louisville, Ky. 40202

Summary of testimony of those in favor:

Cliff Ashburner said he's disappointed the case won't be heard as it's been delayed a couple of times. The preference however, is to present this case to the entire Planning Commission and the August 5, 2021 meeting will be fine.

Mr. Ashburner said he agrees to this being the first zoning case on the docket.

The following spoke in opposition to this request:

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Amanda Weinert, 6511 Mayfair Avenue, Louisville, Ky. 40059
Meme Sweets Runyon, 1201 Story Avenue #215, Louisville, Ky. 40206

Summary of testimony of those in opposition:

Amanda Weinert stated she is fine with the case being continued to August 5, 2021 Planning Commission at 1:00 p.m. Acting Chair Howard reminded Ms. Weinert that the August 5, 2021 Planning Commission will be held in person at the Old Jail Building.

Meme Sweets Runyon said this is an important case and she agrees with Cliff Ashburner (see recording for detailed presentation).

Deliberation

Planning Commission deliberation.

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

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

RESOLVED, that the Louisville Metro Planning Commission does hereby **CONTINUE** this case to the August 5, 2021 Planning Commission meeting, 514 W. Liberty St. This case will be the first case in the Public Hearing portion of the meeting adhering to the standard times as stated in the Policy and Procedures manual.

The vote was as follows:

YES: Commissioners Carlson, Daniels, Mims, Seitz, Sistrunk and Howard
NOT PRESENT AND NOT VOTING: Commissioners Brown, Clare, Peterson and Lewis

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STANDING COMMITTEE REPORTS

Land Development and Transportation Committee

No report given.

Site Inspection Committee

No report given.

Planning Committee

No report given.

Development Review Committee

No report given.

Policy and Procedures Committee

No report given.

CHAIRPERSON/DIRECTOR'S REPORT


No report given.

ADJOURNMENT

The meeting adjourned at approximately 5:09 p.m.



Chair



Planning Director