

**MINUTES OF THE MEETING  
OF THE  
LOUISVILLE METRO PLANNING COMMISSION  
July 16, 2020**

A meeting of the Louisville Metro Planning Commission was held on July 16, 2020 at 1:00 p.m. via Cisco Webex Video Teleconferencing. On the recommendation of the Louisville Metro Department of Health and Wellness regarding congregate events and social distancing, the special Planning Commission meeting set for today was held online.

**Commission members present:**

Vince Jarboe, Chair  
Marilyn Lewis, Vice Chair  
Robert Peterson  
Lula Howard  
Rich Carlson  
Ruth Daniels  
Pat Seitz – Left approximately 5:20 p.m.  
Jim Mims  
Ruth Daniels

**Commission members absent:**

Jeff Brown

**Staff Members present:**

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

The following matters were considered:

**PLANNING COMMISSION MINUTES**  
**July 16, 2020**

**APPROVAL OF MINUTES**

**(JUNE 18, 2020) PLANNING COMMISSION REGULAR MEETING MINUTES**

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

**RESOLVED**, that the Planning Commission does hereby **APPROVE** the minutes of its meeting conducted on June 18, 2020 with the following corrections: Pg. 1 - Commissioner Daniels was absent; Pg. 6 – Commissioner Carlson voted yes; and Pg. 8 – Instead of 7 a.m. to 9 a.m., it should be 9 p.m.

**The vote was as follows:**

**YES: Commissioners Carlson, Howard, Lewis, Peterson, Seitz and Jarboe**

**NO ANSWER: Commissioner Daniels**

**NOT PRESENT FOR THIS CASE: Commissioner Brown**

**ABSTAINING: Commissioner Mims**

**PLANNING COMMISSION MINUTES**  
**July 16, 2020**

**BUSINESS SESSION**

Request: Introduction to LDC Reform Resolution  
Presented By: Emily Liu, Planning and Design Director  
Joel P. Dock, AICP, Planner II

**Discussion**

00:08:47 Ms. Liu stated there is no request for adopting a resolution today. Equity will be looked at addressing the latest policies and regulations that have an impact on Louisville residents. Staff will present and focus on the history dealing with systemic racism throughout Louisville's history.

00:10:31 Mr. Dock gave a presentation on *Equity in Land Use Policy, Regulation and Practice*.

00:31:44 Commissioner Carlson asked if there will be a lot of information in a short period of time before making a decision. Mr. Dock said there will be a 6 month time line. There will be a reform resolution on July 30, 2020 that will highlight some of the land uses and ask the Planning Commission to pass a resolution requesting staff to present recommendations to the Planning Commission and Metro Council to reform the Land Development Code.

00:33:12 Commissioner Lewis asked if this presentation will be available as part of the minutes or online? Mr. Davis said it will be attached to the agenda.

00:33:51 Commissioner Howard asked if the Bartholomew Plan had anything in it regarding housing from 9th St. to the Russell area. Mr. Dock said he believed most of that was urban renewal. The 1931 zoning ordinance and Comprehensive Plan, as well as the Bartholomew study titled, "The Negro Housing Problem in Louisville" led to the systems that created environments such as Rubbertown. The African American neighborhoods were zoned for higher intensity multi-family and/or industrial, which allowed for the environmental injustice issues. Mr. Dock stated he was unable to find the document. He has notes, conversations and quotes.

00:35:20 Commissioner Mims commends Planning and Design staff. As we move forward, there will be people coming together to get behind it. Mr. Dock stated, as conversations have begun, we need to move forward on the missing middle-housing and attached-housing.

00:37:47 Commissioner Howard said she's excited about middle-housing.

00:37:57 Commissioner Carlson asked if Planning and Design started working on this issue since the Comprehensive Plan was adopted. Mr. Dock replied, yes, we knew that Plan 2040 and the housing elements that were created may not match what is currently in the Land Development Code. We knew the Land Development Code had

**PLANNING COMMISSION MINUTES**  
**July 16, 2020**

**BUSINESS SESSION**

inadequacies and elements that disproportionately harmed minority communities and low income individuals. Ms. Liu added, since January of last year (adoption of Comprehensive Plan 2040), the Office of Housing conducted a housing need assessment, which enforces the subject matter discussed today. The resolution will ask you to direct staff to conduct additional research and make recommendations to reform the Land Development Code and bring those recommendations back to you within a 6-month preliminary time frame.

00:39:52 Chair Jarboe stated the resolution will be the first step towards the ability for anyone in Jefferson Co. to live anywhere they choose.

**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.**

**NO ACTION**

**PLANNING COMMISSION MINUTES**  
**July 16, 2020**

**PUBLIC HEARING**

**CASE NO. 20-ZONE-0017**

Request: Change in zoning from R-6 to C-1, with Detailed District Development Plan and Binding Elements and associated Variances and Waiver

Project Name: E. Washington Street Carriage House

Location: 1300 East Washington Street

Owner: J5E LLC

Applicant: J5E LLC

Representative: Bardenwerper, Talbott & Roberts

Jurisdiction: Louisville Metro

Council District: 4 – Barbara Sexton Smith

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:**

00:40:38 Ms. St. Germain discussed the case summary, standard of review and staff analysis from the staff report.

00:49:45 Commissioner Lewis asked if staff finds the lot appropriate for a commercial use. Ms. St. Germain said yes, it's a corner lot and adjacent to an existing commercial lot and the Neighborhood Plan encourages a mix of commercial and residential uses in the central residential core.

Commissioner Lewis also asked if the carriage house is taking up parking spaces that were available for the duplex or where they using street parking? Ms. St. Germain said she doesn't know where anyone is parking for the duplex as there is no parking pad in the rear (grass). The house is being renovated.

00:51:27 Chair Jarboe asked if there are other short-term rentals nearby and too close to be approved for a CUP. Ms. St. Germain answered, a CUP is only required for a residential zoning district. If this goes to commercial, it can have short-term by right (no CUP necessary).

**PLANNING COMMISSION MINUTES**  
**July 16, 2020**

**PUBLIC HEARING**

**CASE NO. 20-ZONE-0017**

00:52:53 Commissioner Seitz asked how many parking spaces will be placed in the area of the bricked driveway. Ms. St. Germain said there will be a total of 7 spaces (including the back).

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

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

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

00:53:24 Mr. Whitty gave a power point presentation and stated the home is being saved with an addition of a carriage house. It's a middle-house that was previously discussed. The site is walkable, sustainable, equitable and within a mixed-use neighborhood. The historical character of the house will be maintained as it adds charm to the area.

Mr. Whitty said he didn't know about the opposition and can't address those comments.

Mr. Whitty provided elevations. Also, the parking issue is caused by the Swift Co.

01:04:46 Commissioner Carlson asked Mr. Whitty if they would bind out some of the commercial uses. Mr. Whitty said some of those uses aren't feasible. Commissioner Carlson is worried about what might happen in the future. Could you bind out automobile service stations with service bays and the package liquor stores? Mr. Whitty agreed.

01:07:43 Commissioner Mims asked, are there garages underneath the carriage house? Mr. Whitty said no, it's just the look of a carriage house.

01:10:40 Commissioner Lewis asked if all 4 units could be short-term rentals. Mr. Whitty said the plan is for 2 to be long-term and 2 short-term.

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

Tim Stephens, 1318 East Washington Street, Louisville, Ky.

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

01:12:10 Mr. Stephens is a member of the Butchertown ARC. He said the proposed property has never operated as a duplex and he's lived there almost 30 years. Recently property values have gone up because there are less rentals in the

**PLANNING COMMISSION MINUTES**  
**July 16, 2020**

**PUBLIC HEARING**

**CASE NO. 20-ZONE-0017**

neighborhood. There are some parking issues with Swift and the noticing process for this case was an issue as well.

**Rebuttal**

01:20:04 Mr. Whitty stated he relies on the PVA records for noticing and the notices should have gone out. The opposition had plenty of time to express their concerns. Mr. Whitty said he has no control of Swift parking on the street or trash issues. This proposal promotes equity/inclusion and diversity of housing styles. The carriage house will look like single family as required by Historical Preservation (front door and foyer).

**Deliberation**

01:23:13 Commissioner Carlson wants to bind out some uses – automobile service stations and liquor store.

01:24:17 Commissioner Howard stated it's a corner lot in a mixed used area and the character of the property will remain with rehabilitation of the existing historic home. When does the applicant have to apply for short-term rental registration? Ms. St. Germain said they can register whenever they want unless you impose a binding element.

01:26:53 Commissioner Daniels likes the character of the building.

01:27:31 Commissioner Lewis said the proposal gives the diversity as discussed at the beginning of this meeting. The applicant is offering additional parking.

01:29:25 Commissioner Seitz said it's an innovative idea and fits well on the corner lot.

01:29:52 Commissioner Peterson stated the design is very well thought out and the character of the neighborhood will be preserved.

01:30:32 Commissioner Mims supports the plan and binding out certain uses.

01:30:50 Chair Jarboe said the short-term rental doesn't help with diversity as far as equity.

**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**  
**July 16, 2020**

**PUBLIC HEARING**

**CASE NO. 20-ZONE-0017**

**Change in zoning from R-6 Multi Family Residential to C-1 Commercial**

On a motion by Commissioner Carlson, seconded by Commissioner Howard, the following resolution based on the Applicant's Findings and 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 proposed zoning district will not constitute a non-residential expansion into an existing residential area. The site is adjacent to an existing activity center; the proposed zoning district would permit higher density and intensity uses; the site is located approximately 1 block from Story Avenue, a transportation corridor; the proposed zoning district would not permit hazardous uses. Uses with air, noise and light emissions must comply with restrictions in the Louisville Metro Ordinances and the Land Development Code; the proposed zoning district would not permit uses with noxious odors, particulates or emissions; the site is located close to Story Avenue, a major arterial street; and it is unlikely that adverse impacts from noise will be generated by the proposal.

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Form because, the subject site is adjacent to an existing activity center; the site is close to Story Avenue, a major arterial, and has appropriate access and connectivity; the proposed zoning district would permit retail development. The site is located adjacent to an existing activity center; the proposed zoning district would encourage a more compact development pattern in the activity center; the proposed zoning district would permit a mixture of compatible land uses. The site is located near a transit corridor; the proposed zoning district would permit residential and office uses above retail and other mixed-use multi-story retail buildings; the proposal re-uses the existing structure on the lot; the proposal does not include any underutilized parking lots; and the proposal re-uses an existing structure which is compatible with nearby residences. The proposal includes a carriage house which is not unusual for the neighborhood and must comply with Traditional Form limitations on size.

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Community Form because, no natural features or natural systems are evident on the subject site; no wet or highly permeable soils, or severe, steep or unstable slopes are evident on the site; the site is not located in the Ohio River Corridor; the subject site is not located in a flood-prone area. No karst features are evident on the site.



**PLANNING COMMISSION MINUTES**  
**July 16, 2020**

**PUBLIC HEARING**

**CASE NO. 20-ZONE-0017**

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 4: Community Form because, the existing structure is proposed to be preserved.

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Mobility because, the proposed zoning district would permit higher density and intensity uses. The site is located adjacent to an existing marketplace corridor and activity center.

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Mobility because, access to the site does not pass through areas of significantly lower intensity or density development.

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Mobility because, the proposal would permit a mix of complementary neighborhood-serving businesses and services; the site is easily accessible by bicycle, car, transit, pedestrians and people with disabilities; the proposed zoning district would permit higher density mixed-use development; and Transportation Planning has approved the proposal.

**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; and MSD has approved the proposal.

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Economic Development because, the proposed zoning district would permit commercial uses. The site is at a location with adequate access to a major arterial.

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Livability because, no karst features are evident on the site; and the subject site is not located in the regulatory floodplain.

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Housing because, the proposed zoning district would permit housing options and environments that support aging in place.

**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 and mixed-use development that is connected

**PLANNING COMMISSION MINUTES**  
**July 16, 2020**

**PUBLIC HEARING**

**CASE NO. 20-ZONE-0017**

to the neighborhood and surrounding area; and the site is within proximity to Story Avenue, a multi-modal transportation corridor.

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

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Community Form because, guide the form and design of development to respond to distinctive physical, historic and cultural qualities. This proposed zone change complies with all of the applicable goals, objectives and policies 7 and 9 which requires higher density and intensity uses near major transportation facilities and transit corridors, employment centers, in or near activity centers and other areas where demand and adequate infrastructure exists or is planned because the site is 2 blocks from a transit route on Story Avenue. The transition between uses that are substantially different in scale and intensity or density of development is not truly implicated as the longstanding residential use will remain unchanged and the area has a diversity of zoning classifications and uses including R-7, EZI, M3 and C-1; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: because, it encourages sustainable growth and density around mixed-use centers and corridors. This proposal complies with Policy 9 which encourages new developments and rehabilitation of buildings the provide commercial, office and/or residential uses because it will allow the financing of rehabilitating a beautiful and historic existing mixed-use building to be consistent with the residential use of the immediate area with easy access to mixed use corridors; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 4: Community Form because, it promotes and preserves the historic and archaeological resources that contribute to our authenticity. This proposal complies with Policy 2 which encourages the cultural features including landscapes, natural elements and built features as it enables the preservation and rehabilitation of a beautiful brick multi-use building built at the turn of the century. Its historic character and the associated yards will be maintained in its current form. Similarly this proposal complies with Policy 3 which encourages preservation and/or adaptive reuse of historic sites listed on or eligible for the National Register of Historic Places and/or recognized by the Louisville Metro Landmarks Commission or other national, state or local government historic

**PLANNING COMMISSION MINUTES**  
**July 16, 2020**

**PUBLIC HEARING**

**CASE NO. 20-ZONE-0017**

preservation agencies as it is an adaptive reuse of a classic live/work building characteristic of the older neighborhoods of Louisville; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Mobility because, it Implements an accessible system of alternative transportation modes. Policy 4 encourages higher densities within or near existing marketplace corridors and existing and future and employment centers to support transit-oriented development and an efficient public transportation system which this proposal meets because it is within 2 blocks of a bus line and cyclists and pedestrians can easily access the central business district; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Mobility because, it builds and maintains a safe, accessible and efficient transportation system. Policy 4 requires avoidance of access to development through areas of significantly lower intensity or density development if such access would create significant nuisances, however the proposed density is not significantly higher and four units is not significantly more intense than the surrounding area with commercial and office zones within blocks, all of which traverse the grid system of streets in the area; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Mobility because, Goal 3- Encourage land use and transportation patterns that connect Louisville Metro and support future growth. To improve mobility, and reduce vehicle miles traveled and congestion, Policy 2 encourages a mixture of compatible land uses that are easily accessible by bicycle, car, transit, pedestrian and people with disabilities. This proposal easily meets this policy with its location near to transit lines, within a walkable neighborhood with sidewalks. Policy 5 requires evaluation of developments for their impact on the transportation network (including the street, pedestrian, transit, freight movement and bike facilities and services) and air quality and this proposal would have no impact on these facilities as it would only allow two additional residential units. Policy 6 requires assurance that those who propose new developments bear or share in rough proportionality the costs of transportation facilities and services made necessary by development. This proposal will have NO impact on these facilities or services and therefore is also consistent with Policies 9 and 10 because there is no impact that would require additional transportation improvements; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Facilities because, it plans for community facilities to improve quality of life and meet anticipated growth.

**PLANNING COMMISSION MINUTES**  
**July 16, 2020**

**PUBLIC HEARING**

**CASE NO. 20-ZONE-0017**

This proposal meets Policies 1, 2 and 3 all relevant utilities are and long have been available to the site and there are no native plant communities on the site; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Livability because, it protects and enhances the natural environment and integrate it with the built environment as development occurs. This proposal satisfies Policies 5, 17 and 21 since it is in a long-established built environment with no native plant species or karst features with no impact of groundwater resources or surface drainage and is not located in a regulatory floodplain; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Housing because, it expands and ensures a diverse range of housing choices. Policy 1 encourages a variety of housing types including multi-family and allows accessory residential structures and apartments and housing types must reflect the Form District pattern. This proposal clearly meets this policy because the proposal increases the diversity of housing styles and would allow only two more residential units than currently permitted characteristic of the Traditional Neighborhood Form. Policy 2 promotes housing options and environments that support aging in place. Encourages housing for older adults and people with disabilities to be located close to shopping and transit routes and, when possible, medical and other supportive facilities. This proposal is clearly compliant due to its convenient access to transportation to the medical district and downtown; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Housing because, it facilitates the development of connected, mixed-use neighborhoods. In accordance with Policies 1 and 2, this proposal encourages inter-generational, mixed-income and mixed-use development that is connected to the neighborhood and surrounding area because it would offer a housing choice that will enable both younger and older persons an affordable opportunity to live in this desirable neighborhood with access to all the amenities for shopping, services and entertainment a choice of multi-modal transportation that are available in this area. Affordable housing has increasingly become beyond the reach of the younger generation which, without a diversity of housing types, would be shut out from this area; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Housing because, it ensures long-term affordability

**PLANNING COMMISSION MINUTES**  
**July 16, 2020**

**PUBLIC HEARING**

**CASE NO. 20-ZONE-0017**

and livable options in all neighborhoods. This proposal complies with Policies 1, 2 and 3 because it increases the variety of ownership options and unit costs throughout Louisville Metro, no existing residents will be displaced and permits the innovative housing methods. Insisting on maintaining a monolithic block of a single zoning classification would tend to create gentrification to the exclusion of persons of color and differing income levels.

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council the change in zoning from R-6, Multi-Family Residential to C-1, Commercial on property described in the attached legal description be **APPROVED**.

**The vote was as follows:**

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

**NOT PRESENT AND NOT VOTING: Commissioner Brown**

**Variance from Table 5.2.2 to permit encroachment into the required street side yard setback by a proposed structure (required 3', request 2' 2", variance of 10") (20-VARIANCE-0032)**

On a motion by Commissioner Carlson, seconded by Commissioner Peterson, the following resolution based on the Standard of Review and Staff Analysis and the Applicant's Testimony was adopted.

**WHEREAS**, the requested variance will not adversely affect public health safety or welfare as sight lines are unlikely to be affected by the small variance; and

**WHEREAS**, the requested variance will not alter the essential character of the general vicinity as the variance is relatively small and unlikely to be noticeable to neighbors; and

**WHEREAS**, the requested variance will not cause a hazard or nuisance to the public as the variance is relatively small and unlikely to cause sight line issues or other hazards or nuisances; and

**WHEREAS**, the requested variance will not allow an unreasonable circumvention of zoning regulations as the variance is relatively small and the lot is slightly irregular in shape, necessitating the variance; and

**PLANNING COMMISSION MINUTES**  
**July 16, 2020**

**PUBLIC HEARING**

**CASE NO. 20-ZONE-0017**

**WHEREAS**, the requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone because the shape of the lot is slightly irregular, with the lot narrowing toward the rear; and

**WHEREAS**, the Louisville Metro Planning Commission finds, the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant by requiring the applicant to build a smaller carriage house; and

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

**Variance from Section 5.4.1.D.3 to permit a private yard area to be less than the required 20% of the area of a lot (required 20%, requested 9%, variance of 11%) (20-VARIANCE-0032)**

On a motion by Commissioner Carlson, seconded by Commissioner Peterson, the following resolution based on the Standard of Review and Staff Analysis and the Applicant's Testimony was adopted.

**WHEREAS**, the requested variance will not adversely affect public health safety or welfare as the private yard area will still be provided at a reduced percentage of the lot; and

**WHEREAS**, the requested variance will not alter the essential character of the general vicinity as the neighborhood is mixed-use and mixed-zoned and private yard area is not required of all uses in the vicinity; and

**WHEREAS**, the requested variance will not cause a hazard or nuisance to the public as the private yard is still provided, but at a reduced percentage of the yard; and

**WHEREAS**, the requested variance will not allow an unreasonable circumvention of zoning regulations as the variance is needed because the carriage house had to be moved forward on the lot to accommodate parking in the rear; and

**WHEREAS**, the requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone because the carriage house had to be moved forward on the lot to accommodate parking off the alley; and

**PLANNING COMMISSION MINUTES**  
**July 16, 2020**

**PUBLIC HEARING**

**CASE NO. 20-ZONE-0017**

**WHEREAS**, the Louisville Metro Planning Commission finds, the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant by requiring the applicant to build a smaller carriage house; and

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

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** a Variance from Table 5.2.2 to permit encroachment into the required street side yard setback by a proposed structure (required 3', request 2' 2", variance of 10") (20-VARIANCE-0032) and a Variance from Section 5.4.1.D.3 to permit a private yard area to be less than the required 20% of the area of a lot (required 20%, requested 9%, variance of 11%) (20-VARIANCE-0032).

**The vote was as follows:**

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

**NOT PRESENT AND NOT VOTING: Commissioner Brown**

**Waiver from Table 10.2.3 to permit encroachment into the required property perimeter Landscape Buffer Area by existing and proposed structures (20-WAIVER-0037)**

On a motion by Commissioner Carlson, seconded by Commissioner Howard, the following resolution based on the Standard of Review and Staff Analysis and the Applicant's Testimony was adopted.

**WAIVER**, the waiver will not adversely affect adjacent property owners as one of the structures encroaching into the buffer area already exists, and no known adverse impacts have occurred; and

**WAIVER**, the waiver will not violate specific guidelines of Plan 2040 as Plan 2040 encourages the use of landscaped buffer areas to provide appropriate transitions between uses of substantially different scale or intensity. The proposed use of the subject site is similar in scale and intensity as the use of the adjacent property; 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 required

**PLANNING COMMISSION MINUTES**  
**July 16, 2020**

**PUBLIC HEARING**

**CASE NO. 20-ZONE-0017**

LBA extends almost halfway into the property and without the encroachment the property would not be usable; and

**WHEREAS**, the Louisville Metro Planning Commission further finds the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant because the width of the required landscape buffer area makes the property almost unusable without the allowed encroachment.

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** a Waiver from Table 10.2.3 to permit encroachment into the required property perimeter Landscape Buffer Area by existing and proposed structures (20-WAIVER-0037).

**The vote was as follows:**

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

**NOT PRESENT AND NOT VOTING: Commissioner Brown**

**Detailed District Development Plan with Binding Elements**

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

**WHEREAS**, no natural resources are evident on the subject site. The existing structure is proposed to be preserved and used as it has been used in the past; 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**, private yard area is being provided, although at a reduced percentage of the total lot than required by the Land Development Code. A variance is being requested for this reduction; 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



**PLANNING COMMISSION MINUTES**  
**July 16, 2020**

**PUBLIC HEARING**

**CASE NO. 20-ZONE-0017**

**WHEREAS**, the Louisville Metro Planning Commission finds, the overall site design is compatible with the existing and future development of the area. The proposal will permit the use of the site as a four-plex in a mixed-use mixed-zoning neighborhood; 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 variances and waiver.

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

**Binding Elements**

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
3. 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.

**PLANNING COMMISSION MINUTES**  
**July 16, 2020**

**PUBLIC HEARING**

**CASE NO. 20-ZONE-0017**

- d. Final elevations/renderings shall be submitted for review and approval by Planning Commission staff. A copy of the approved rendering shall be available in the case file on record in the offices of the Louisville Metro Planning Commission.
  - e. A Certificate of Appropriateness for the proposed carriage house shall be requested and obtained.
5. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
  6. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
  7. The following uses shall not be allowed on the property: automobile rental agencies; automobile parking areas both public and private; automobile service stations; car washes; and package liquor stores.

**The vote was as follows:**

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

**NOT PRESENT AND NOT VOTING: Commissioner Brown**

**PLANNING COMMISSION MINUTES**  
**July 16, 2020**

**PUBLIC HEARING**

**CASE NO. 19-ZONE-0068**

Request: Change in zoning from R-4 to C-1, commercial with detailed district development plan  
Project Name: JAW Real Estate  
Location: 4922 Cane Run Road  
Owner: James A. White, Jr.  
Applicant: James A. White, Jr.  
Representative: James A. White, Jr.  
Jurisdiction: Louisville Metro  
Council District: 1 – Jessica Green  
Case Manager: Joel P. Dock, AICP, Planner II

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

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

**Agency Testimony:**

01:38:45 Mr. Dock discussed the case summary, standard of review and staff analysis from the staff report.

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

James A. White, Jr., 4922 Cane Run Road, Louisville, Ky.

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

01:43:24 Mr. White stated he's increasing his business.

**Deliberation**

01:44:48 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.**

**PLANNING COMMISSION MINUTES**  
**July 16, 2020**

**PUBLIC HEARING**

**CASE NO. 19-ZONE-0068**

**Zoning Change from R-4 to C-1**

On a motion by Commissioner Carlson, seconded by Commissioner Daniels, the following resolution based on the Plan 2040 Staff Analysis and Applicant's Testimony was adopted.

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Community Form because, the proposed district does not constitute a non-residential expansion into a residential area as it is located along an arterial roadway adjoin a small commercial node; the proposed district is located on a major arterial roadway where demand and infrastructure exist or is planned; the proposed district will not have any adverse impacts on traffic patterns as it is located along an arterial roadway; and noise will be no more than commonly occurring at nearby commercial districts.

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Form because, the proposed district is appropriately located at a small commercial node on an arterial roadway; the proposed district is located in the NFD at a location with access along an arterial roadway; a sufficient population is present to support a wide variety of uses; the proposed district encourages development to concentrate at commercial nodes; the proposed district encourages a mixture of compatible land uses with a commercial node which concentrates activities to reduce trips; the proposed district encourages new developments and rehabilitation of buildings that provide commercial, office and/or residential uses; and the proposal does not create a new center but incorporate additional commercial uses at a small commercial node along an arterial roadway.

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Community Form because, the site does not appear to contain any sensitive natural features; the site does not appear to contain wet or highly permeable soils, severe, steep or unstable slopes; and the site does not appear to be located in a flood prone area

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 4: Community Form because, the proposal does not contain historic buildings or landscapes having value.

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Mobility because, the proposed district is along an arterial roadway supported by transit.

**PLANNING COMMISSION MINUTES**  
**July 16, 2020**

**PUBLIC HEARING**

**CASE NO. 19-ZONE-0068**

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Mobility because, access will be provided by an arterial roadway.

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Mobility because, the district encourages a mix of complementary neighborhood serving businesses and services in neighborhood form district; the proposed district is located in near housing and employment; the proposed district concentrates commercial intensities together at a central location to promote transit and pedestrian use; improvements to close the gap between pedestrian infrastructure will be made to reduce the width of the driveway; all transportation improvements required will be made; and the developer will bear or share in rough proportionality the costs of transportation facilities and services made necessary by development.

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Facilities because, the development is in an area served by existing utilities or capable of being served by public or private utility extensions; the development will have an adequate supply of potable water and water for fire-fighting purposes; and preliminary approval has been received from MSD.

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Economic Development because, the proposed commercial district is locate along an arterial roadway.

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Livability because, no significant improvement to the site will be made that will impact natural features, if any; and the proposed district is not within the floodplain.

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

**The vote was as follows:**

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

**NOT PRESENT AND NOT VOTING: Commissioner Brown**

**PLANNING COMMISSION MINUTES**  
**July 16, 2020**

**PUBLIC HEARING**

**CASE NO. 19-ZONE-0068**

**Variance from Land Development Code (LDC), section 5.3.1.C.5 to reduce the non-residential to residential setback from 15' to 11' for proposed parking spaces**

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

**WHEREAS**, the requested variance will not adversely affect public health, safety, or welfare as pavement is existing and striped spaces will be provided; and

**WHEREAS**, the requested variance will not alter the essential character of the general vicinity as the area is currently vehicle use and the spaces are being proposed to formalize parking requirements; and

**WHEREAS**, the requested variance will not cause a hazard or nuisance to the public as the pavement is existing and the space will formalize parking regulations; and

**WHEREAS**, the requested variance will not allow an unreasonable circumvention of zoning regulations as the pavement is existing and the space will formalize parking regulations; 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 parking spaces are being formalized where pavement is existing; and

**WHEREAS**, the Louisville Metro Planning Commission finds, the strict application of the provisions of the regulation would deprive the applicant of reasonable use of the land as the request will not affect public health, safety or welfare and a hazard or nuisance will not be created; 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 applicant is requesting relief.

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** a Variance from Land Development Code (LDC), section 5.3.1.C.5 to reduce the non-residential to residential setback from 15' to 11' for proposed parking spaces.

**The vote was as follows:**

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

**PLANNING COMMISSION MINUTES**  
**July 16, 2020**

**PUBLIC HEARING**

**CASE NO. 19-ZONE-0068**

**NOT PRESENT AND NOT VOTING: Commissioner Brown**

**Waiver of LDC, section 10.2 to allow existing structures and proposed parking spaces to encroach upon the 25' landscape buffer area (LBA)**

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

**WHEREAS**, the waiver will not adversely affect adjacent property owners as the encroachments are currently present and all landscape material and plantings will be provided; and

**WHEREAS**, Guideline 3, Policy 9 of Cornerstone 2020 calls for the protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigate when appropriate. Guideline 13, Policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. The proposed development is providing the required planting and screening; 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 encroachments are existing; and

**WHEREAS**, the Louisville Metro Planning Commission further finds the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as the proposed development is providing the required planting and screening required and adjacent property owners will not be adversely impacted.

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** a Waiver of LDC, section 10.2 to allow existing structures and proposed parking spaces to encroach upon the 25' landscape buffer area (LBA).

**The vote was as follows:**

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

**NOT PRESENT AND NOT VOTING: Commissioner Brown**

**Detailed District Development Plan and Binding Elements**

**PLANNING COMMISSION MINUTES**  
**July 16, 2020**

**PUBLIC HEARING**

**CASE NO. 19-ZONE-0068**

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

**WHEREAS**, the conservation of natural resources on the property proposed for development, including: trees and other living vegetation, steep slopes, water courses, flood plains, soils, air quality, scenic views, and historic sites will be conserved as the site does not negatively impact any of these natural resources; and

**WHEREAS**, provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community has been provided as public sidewalks are existing and the access point is being improved to a narrower width; and

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

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

**WHEREAS**, the Louisville Metro Planning Commission finds, the proposal is generally compatible within the scale and site design of nearby existing development and with the form district's pattern of development as no new structures are proposed; and

**WHEREAS**, the Louisville Metro Planning Commission further finds the proposed development plan conforms to Plan 2040. The development is located within/near a small activity center and no new structures are proposed which adversely impact adjacent property owners or the character of the area.

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

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.



**PLANNING COMMISSION MINUTES**  
**July 16, 2020**

**PUBLIC HEARING**

**CASE NO. 19-ZONE-0068**

2. Before any permit (including but not limited to building, parking lot, change of use, site disturbance) is requested:
  - a. The development plan must receive full construction approval from 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.
3. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
4. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
5. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.

**The vote was as follows:**

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

**NOT PRESENT AND NOT VOTING: Commissioner Brown**

**PLANNING COMMISSION MINUTES**  
**July 16, 2020**

**PUBLIC HEARING**

**CASE NO. 19-ZONE-0052**

Request: Change in zoning from R-5 to R-6 with detailed plan and review of substandard lot creation  
Project Name: 308 Franck Avenue  
Location: 308 Franck Avenue  
Owner: Ryan Fagan  
Applicant: Ryan Fagan  
Representative: Ryan Fagan  
Jurisdiction: Louisville Metro  
Council District: 9 – Bill Hollander  
Case Manager: Joel P. Dock, AICP, Planner II

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

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

**Agency Testimony:**

01:51:05 Mr. Dock discussed the case summary, standard of review and staff analysis from the staff report.

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

Ryan Fagan,  
Beth Mack, 2030 Frankfort Avenue, Louisville, Ky.  
Palmer Cole

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

01:56:45 Mr. Fagan stated the lot will be split and sold to Mr. and Mrs. Mack. The Mack's want to build their dream home.

01:57:35 Mrs. Mack explained that her health issues are causing her to build a home so as not to have to deal with mold which is in a lot of older homes. The construction will be performed as safely as possible.

**PLANNING COMMISSION MINUTES**  
**July 16, 2020**

**PUBLIC HEARING**

**CASE NO. 19-ZONE-0052**

Mrs. Mack said she will pay for a foundation inspection for the neighbors surrounding the lot – 313, 317 and 319 S. Galt and 306, 308 and 310 Franck Ave. (prior to construction).

02:02:26 Chair Jarboe stated that the foundation inspection will need to be put into a binding element. Mr. Dock said some people may refuse the inspection and there's been past binding elements to address it, language as follows: A written notice to inspect shall be given 30 days in advance and if a response isn't received within 30 days, that's considered a refusal.

02:04:30 Commissioner Seitz asked after the inspection and there's been some damage, are you going to pay for the damages? Mrs. Mack said if there is a discrepancy, the builder's liability should pay. Commissioner Peterson said Mrs. Mack needs to be sure that is in place and add it to the binding element as well. Mr. Dock said he advises against that.

02:07:39 Mr. Cole said he's built in plenty of developments and has a lot of experience. He's never had this issue before.

02:09:11 Ms. Ferguson, Assistant County Attorney, stated if there is damage, it would be a dispute between the insurance company, builder, etc. The Planning Commission and Planning and Design Services are not a part of it. The offer of the inspection can be in the binding element, but not liability issues.

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

Ann Tichenor, 353 South Galt, Louisville, Ky.  
Ruth Durbin, 309 Franck Avenue, Louisville, Ky.  
Anne Roberts, 209 South Galt Avenue, Louisville, Ky.  
Kim McCabe, 321 South Galt, Louisville, Ky.

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

02:10:27 Ms. Tichenor said her home is not included in the foundation inspection offered to other neighbors.

Ms. Tichenor stated she objects to any kind of land disturbance and if there's any disturbance to her foundation, she will take legal action. The builder hasn't thought out liability issues or the scope of damage possibly done to neighbors. There are other lots that are not at high risk for causing disturbance to neighbors.

**PLANNING COMMISSION MINUTES**  
**July 16, 2020**

**PUBLIC HEARING**

**CASE NO. 19-ZONE-0052**

02:13:35 Ms. Durbin stated she is concerned about construction issues and the quality of the streets and sewers. Also, the down-zoning done years ago is what makes Crescent Hill desirable. If you like the area, why change it? The applicant's health should not be a deciding factor.

02:16:35 Ms. Roberts stated there's a limestone shelf that runs down the area where they want to build. There's a real delicate balance and disturbing the limestone may cause water damage to the basements. There's a lot of traffic on S. Galt currently. There are other places in the area to build.

02:19:45 Ms. McCabe stated she's opposed to the proposal in every way and has sustained foundation damage in the past. Allowing one home owner in the middle of R-5 designation to zone up to R-6, because they have an opportunity to make some money, is not why she purchased a house in this neighborhood.

02:23:01 Commissioner Carlson asked Ms. Tichenor what she meant by land disturbance and how far away she is from the proposed project. Ms. Tichenor said the area is fragile but she can't tell you what type of land disturbance will cause damage. The disruption required to build the residential home as proposed by the architect is what she was referring to as land disturbance. Also, Ms. Tichenor lives within half a mile of the proposed site.

**Rebuttal**

02:26:07 Mr. Fagan said he is a Structural Engineer and deals with construction close to homes quite often. He hasn't experienced any foundation or structural damage to anyone 7 houses away. The homes to worry about would be the ones adjacent to the site.

02:27:15 Mrs. Mack said she wasn't trying to influence the commissioners with her health issues. She takes the concerns of the neighbors seriously.

02:28:03 Commissioner Carlson asked if there is any limestone in the way of the proposed building. Mr. Cole said he hasn't disturbed anything or done any testing to date.

02:29:24 Mrs. Mack asked Mr. Fagan if there was a geological sounding survey performed on the lot in the past week. Mr. Fagan said yes, but he has no results from Mr. Cole.

02:30:28 Mr. Dock said he would like to handle the binding elements similar to the ones used for development on steep slopes. There will be an evaluation of the first tier

**PLANNING COMMISSION MINUTES**  
**July 16, 2020**

**PUBLIC HEARING**

**CASE NO. 19-ZONE-0052**

properties and the Structural Engineer will provide a 'best practices' for construction sheet for Planning and Design to incorporate it into the record. The binding element will read as follows: A Structural Engineer shall be hired and an evaluation shall be performed of first tier property. The engineer shall lay out best practices for construction and provide those to Planning and Design Services for incorporation into the record. Notice of intent to evaluate first tier properties shall be provided 30 days advance. Ms. Ferguson agrees with the proposed binding element.

02:33:07 Commissioner Howard suggests adding the proposed binding element to number 2. Mr. Dock agrees.

02:34:01 Commissioner Mims stated, it looks like there's a pattern for subdividing these double frontage lots. Has that occurred recently? Mr. Dock explained, the southern 60% of Galt Ave. leading down to the cul-de-sac was platted subdivision and the northern was deeded subdivision. The platted lots were recorded in that manor and the deeded lots appeared to be recorded in that manor, but it can't be confirmed.

Commissioner Mims asked why R-5A won't work for this proposal. Mr. Dock said it won't work because of the density.

**Deliberation**

02:38:20 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-5 to R-6**

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

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Community Form because, the proposed district is in keeping with the existing density along the block-face of both Franck and Galt Avenues. The proposed district encourages infill development near transportation, employment, and amenities; and uses adjacent to the proposed district are similar in their existing density and pattern of development. No transitions are needed between sites having

**PLANNING COMMISSION MINUTES**  
**July 16, 2020**

**PUBLIC HEARING**

**CASE NO. 19-ZONE-0052**

two dwellings and those having one. The proposal will provide development that resembles the existing pattern.

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Form because, the proposal provides for residential living comparable to the historic lotting patterns of the two blocks and the neighborhood. If two single-family dwellings are not constructed, the site is appropriately located for duplex and/or missing middle housing which is also consistent with the neighborhood.

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Community Form because, the site does not appear to possess any issues related to wet or highly permeable soils, severe, steep or unstable slopes with the potential for severe erosion.

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 4: Community Form because, the proposal provides for the use of the property in a historical context to provide smaller lotting patterns and/or missing middle housing consistent with the area; and existing structures will be used and the proposed district allows for additional density at an appropriate location.

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Mobility because, the proposed district is in keeping with the existing density along the block-face of both Franck and Galt Avenues. The proposed district encourages infill development near transportation, employment, and amenities.

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Mobility because, access to the site does not create a nuisance as the proposed district will be developed to reflect existing neighborhood conditions, whether for two detached dwellings or duplex.

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Mobility because, the proposed district is easily accessible by bicycle, car, transit, pedestrians and people with disabilities as the area is well-connected and walkable; existing roadway infrastructure, in conjunction with multiple modal transport options is adequate to support a wide range of densities; the proposal will share in the cost of improvements that are proportional to the zoning district being requested; the developer will provide adequate funds to facilitate sidewalk improvements in the council district; no transportation improvements would appear to be occurring along Galt Avenue that impact the subject property or greater area; no access to high speed roadways is provided.

**PLANNING COMMISSION MINUTES**  
**July 16, 2020**

**PUBLIC HEARING**

**CASE NO. 19-ZONE-0052**

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Facilities because, the proposal is in an area served by existing utilities or planned for utilities. The subject site is in the urban services district; the proposal has access to an adequate supply of potable water and water for fire-fighting purposes. The subject site is located in the urban services district; and adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams as determined by the Metropolitan Sewer District (MSD) is provided as preliminary approval has been received.

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Livability because, minimum standards for tree canopy will be provided; the site is being developed in an infill context and all permits will be acquired; and the zoning district does not impact the integrity of the floodplain as all MSD requirements will be met and the site is not within the floodplain.

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Housing because, the proposed district allows a lotting pattern which is consistent with the historic patterns as evidenced in PB 4, PG 46, as well as allowing for duplex/missing middle housing. If two detached homes are not constructed and duplex is appropriate. Housing will reflect the form and the area; and the proposed district allows for a variety of housing options in a well-connected urban neighborhood with a variety of amenities. The subject site is located close to shopping and transit routes, and medical and other supportive facilities.

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Housing because, the proposed district allows for a variety of housing options including mixed-income and mixed-use development that is connected to the neighborhood and surrounding area; and the proposed district is located within proximity to multi-modal transportation corridors providing safe and convenient access to employment opportunities, as well as within proximity to amenities providing neighborhood goods and services. It is located within close proximity to transit corridors and commercial corridor.

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Housing because, the proposal helps to create appropriately zoned inclusive housing. Through duplex or smaller lots, the district expands opportunities for people to live in quality, variably priced housing in locations of their choice by encouraging affordable and accessible housing in dispersed locations throughout Louisville Metro; the proposed district allows for an appropriate level of density in an area that is well-connected for multi-modal transportation to jobs, services, and recreation. No residents will be displaced and additional residential infill

**PLANNING COMMISSION MINUTES**  
**July 16, 2020**

**PUBLIC HEARING**

**CASE NO. 19-ZONE-0052**

development will allow residents within an urban area; and the proposal helps to create appropriately zoned inclusive housing.

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council the change in zoning from R-5, Single Family Residential to R-6, Multi-Family Residential on property described in the attached legal description be **APPROVED**.

**The vote was as follows:**

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

**NOT PRESENT AND NOT VOTING: Commissioner Brown**

**Detailed District Development Plan with review for substandard lot creation (Land Development Code, section 7.1.85)**

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

**WHEREAS**, the conservation of natural resources on the property proposed for development, including: trees and other living vegetation, steep slopes, water courses, flood plains, soils, air quality, scenic views, and historic sites will be conserved and historic lotting patterns will be provided to encourage infill development at appropriate locations; and

**WHEREAS**, provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community has been provided as a fee-in-lieu will be provided or sidewalks constructed to provide connectivity to services and amenities, as well as employment within the neighborhood; and

**WHEREAS**, the provision of sufficient open space (scenic and recreational) to meet the needs of the proposed development will be provided. Each site will maintain private yards and each site conforms to the residential site design standards contained in the Land Development Code; 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



**PLANNING COMMISSION MINUTES**  
**July 16, 2020**

**PUBLIC HEARING**

**CASE NO. 19-ZONE-0052**

**WHEREAS**, the Louisville Metro Planning Commission finds, the proposal is compatible with the scale and site design of nearby existing development and with the form district's pattern of development as the proposal is in keeping with the existing density along the block-faces of both Franck and Galt Avenues and encourages infill development near transportation, employment, and other services and amenities. The proposal also provides for residential housing options comparable to the historic lotting patterns of the two blocks as evidenced in PB 4, PG 46 and the overall neighborhood; and

**WHEREAS**, the Louisville Metro Planning Commission further finds the proposed development plan conforms to Plan 2040. The proposal provides for residential housing options comparable to the historic lotting patterns of the two blocks as evidenced in PB 4, PG 46 and the overall neighborhood. The proposal encourages infill development near transportation, employment, and other services and amenities.

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

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. Before any permit (including but not limited to building, parking lot, change of use, site disturbance) is requested:
  - a. The development plan must receive full construction approval from Louisville Metro Department of Inspections, Permits and Licenses, Louisville Metro Public Works and the Metropolitan Sewer District.
  - b. A minor subdivision plat shall be approved by Planning and Design Services staff and recorded creating the lot lines as shown on the approved development plan.
  - c. A Structural Engineer shall be retained and an evaluation of first tier foundations shall be performed. Notice of intent to evaluate these foundations shall be provided 30 days advance. The engineer shall lay out best practices for construction and provide those to Planning and Design Services for incorporation into the record.
3. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be

**PLANNING COMMISSION MINUTES**  
**July 16, 2020**

**PUBLIC HEARING**

**CASE NO. 19-ZONE-0052**

implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.

4. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
5. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.

**The vote was as follows:**

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

**NOT PRESENT AND NOT VOTING: Commissioner Brown**

**PLANNING COMMISSION MINUTES**  
**July 16, 2020**

**PUBLIC HEARING**

**CASE NO. 20-ZONE-0007**

Request: Change in zoning from R-5 to C-1, with Detailed District Development Plan and Binding Elements and associated Waivers with abandonment of CUP

Project Name: Mike's Carwash

Location: 2962 Breckenridge Lane

Owner: Taylorsville Road Realty

Applicant: Mike's Carwash

Representative: Dinsmore & Shohl LLC

Jurisdiction: Louisville Metro

Council District: 26 – Brent Ackerson

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:**

02:54:35 Ms. St. Germain discussed the case summary, standard of review and staff analysis from the staff report.

03:04:07 Mr. Ashburner asked if the emails received late are completely new information. Ms. St. Germain said the emails were received after the staff report was published. Mr. Ashburner said he wants to be able to address everyone's concerns.

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

Cliff Ashburner, Dinsmore and Shohl, LLC, 101 South 5<sup>th</sup> Street, Suite 2500, Louisville, Ky. 40202

Mike Dahm, 4525 Rehnor Court, Mason, Ohio

Ty Dubais, 100 Northeast Drive, Levland, Ohio 45140

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

03:07:06 Mr. Ashburner said this case was last heard on April 2, 2020.

**PLANNING COMMISSION MINUTES**  
**July 16, 2020**

**PUBLIC HEARING**

**CASE NO. 20-ZONE-0007**

03:08:56 Mr. Dahm stated he's the 2<sup>nd</sup> generation for owning Mike's Car Wash. There are 27 locations and we want to be the best in the communities. Image and keeping up the property are very important.

03:10:55 Mr. Ashburner gave a power point presentation. There are parking areas in the rear. There will be increased green space and a fence with landscaping.

Mr. Ashburner explained how the business operates.

03:23:47 Mr. Ashburner said the vacuum system is centralized. Decibel readings were recorded and it's a very quiet system. Noise coming from vehicles is an issue and a binding element will be provided as follows: The applicant shall install signage near the vacuum parking spaces discouraging the playing of loud music or other loud noises from customer cars. The hours of operation will be 7:00 a.m. to 9:00 p.m. A binding element will read as follows: The hours of operation during which the public may visit the subject property shall be limited to the hours between 7:00 a.m. and 9:00 p.m. There is some maintenance work that takes place off hours (infrequent).

03:28:25 Commissioner Carlson asked if there will be conflicts when people try to enter the site on Breckinridge Ln. Mr. Ashburner said maybe every once in a while, but the plans have been reviewed by Public Works and the state and they haven't said anything about making any changes.

03:34:41 Commissioner Mims asked if the outdoor vacuums shut off at 9:00 p.m.

03:35:12 Mr. Dubais said those vacuums typically stay on at night. Commissioner Mims asked if you've ever shut them down (other locations). Mr. Dahm said no, but the lights are turned down for safety. Commissioner Carlson said that will be a violation of the hours of operation. Mr. Dubais said there's never been an issue with vacuum noise or neighbor complaints. The vacuums are very quiet, located in a masonry building with a muffler so the noise level won't get above regular street noise. Commissioner Carlson said he's worried about the noise the customers themselves will be making, not the vacuum noise.

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

Renee Aldrich, 5151 Jefferson Boulevard, Suite 102, Louisville, Ky. 40219

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

03:42:07 Ms. Aldrich, Paragon Management Group, stated she represents a senior living community (156 homes) and 80% are 55 and over.

**PLANNING COMMISSION MINUTES**  
**July 16, 2020**

**PUBLIC HEARING**

**CASE NO. 20-ZONE-0007**

Ms. Aldrich said she submitted 4 petitions signed by 72 homeowners in opposition to this plan. The use is an inappropriate use and will result in encroachment into the residential area where a variation is needed. The use is not needed because there's already a car wash nearby. The impacts of noise, traffic and lighting have not been fully discussed or mitigated. The requests for variances and waivers are not justified and needed because the applicant is proposing an intense site.

**Rebuttal**

03:57:56 Mr. Ashburner stated the traffic will be studied by Metro Public Works and the Dept. of Highways. A traffic study was not required. The car wash does not generate new traffic. The senior condos are 200 ft. away and across 5 lanes of minor arterial and bounded by a major arterial so there should be no impact. The noise impacts are being mitigated. Competition is important and having more than one car wash in the area should not be factored into the Planning Commission's decision. If the issue of noise from the vacuums being too loud becomes a problem, then maybe they can be shut off.

04:05:03 Commissioner Carlson stated the business could be sold and operations can run differently. Also, leaving the vacuums on past the hours of operation will be tempting to some and they may make noise because there will be no attendants on duty. Mr. Dubais said this is a long time family business – 72 yrs. with only 1 closing. Commissioner Carlson asked why the vacuums can't be turned off. Mr. Dubais said there are customers that ask for them to be on. Mr. Ashburner proposes the car wash operating between 7:00 a.m. and 9:00 p.m. and the vacuums come on at 6:00 a.m. and be turned off at 10:00 p.m. Commissioner Carlson agrees.

04:10:54 Commissioner Mims asked Ms. Stuber if there was a trip generation submitted comparing peak hour trips for the Frisch's vs. Mike's Car Wash. Ms. Stuber said the difference would have to total more than 200 peak hour trips but it didn't come close to the 200. Mr. Ashburner said it appears there was a reduction in traffic.

**NOTE: Commissioner Seitz left at approximately 5:24 and did not vote on this case.**

**Deliberation**

04:13:26 Planning Commission deliberation.

**PLANNING COMMISSION MINUTES**  
**July 16, 2020**

**PUBLIC HEARING**

**CASE NO. 20-ZONE-0007**

**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-5 and C-1 to C-1**

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

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Community Form because, the proposal would not constitute a non-residential expansion into an existing residential area. The site is already partially C-1 and is located in an existing activity center; the site is located adjacent to Breckenridge Lane, a transit corridor; the proposed zoning district would not permit hazardous uses. Disadvantaged populations are not disproportionately impacted by the proposal; the proposed zoning district would not permit uses which create noxious odors, particulates or emissions; the site is located on Breckenridge Lane and Hikes Lane and traffic to the site will be routed along these major roads; and screening and buffering will be provided to address noise impacts.

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Form because, the site is part of an existing activity center. The design and density are compatible with the desired form, adjacent uses, and existing and planned infrastructure; the site has appropriate access and connectivity, as it is located on Breckenridge Lane and Hikes Lane; the site is located in an existing activity center; the proposed zoning district would permit a more compact pattern of development in an existing activity center; the proposal would permit residential uses in an existing activity center; the proposal will permit new commercial buildings; the proposal would not include any underutilized parking lots; and the placement of the structure would be compatible with nearby residences.

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Community Form because, no natural systems are evident on the subject site; No wet or highly permeable soils, or severe, steep or unstable slopes are evident on the site; the site is not located in a flood-prone area. No karst features were evident on the site.

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 4: Community Form because, the existing structure on

**PLANNING COMMISSION MINUTES**  
**July 16, 2020**

**PUBLIC HEARING**

**CASE NO. 20-ZONE-0007**

the site is not proposed to be preserved. It does not appear to have historic or architectural value.

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Mobility because, the site is located partially within an existing marketplace corridor and existing activity center.

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Mobility because, access to the site will be via Breckenridge Lane and Hikes Lane.

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Mobility because, C-1 zoning would permit a mix of complementary neighborhood serving businesses; the proposal would permit a mixture of compatible land uses that are easily accessible by bicycle, car, transit, pedestrians and people with disabilities; the site is located on an existing transit corridor and the proposal would encourage higher density mixed-use developments; and Transportation Planning has approved the proposal.

**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; and MSD has approved the proposal.

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Economic Development because, the site is located on Breckenridge Lane and Hikes Lane, both minor arterials at this location.

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Livability because, no karst features are evident on the subject site.

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Housing because, the proposal would support aging in place by permitting higher density housing options on the site, or neighborhood-serving commercial uses in proximity to existing residential development.

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Housing because, the proposal would permit inter-generational mixed-income and mixed-use development. The site is connected to the neighborhood and surrounding area; and the proposal would permit housing in proximity to Breckenridge Lane, a multi-modal transportation corridor. It would also permit

**PLANNING COMMISSION MINUTES**  
**July 16, 2020**

**PUBLIC HEARING**

**CASE NO. 20-ZONE-0007**

commercial development providing neighborhood-serving uses in proximity to existing housing.

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

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council the change in zoning from R-5, Single Family Residential and C-1, Commercial to C-1, Commercial on property described in the attached legal description be **APPROVED**.

**The vote was as follows:**

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

**NOT PRESENT AND NOT VOTING: Commissioners Brown and Seitz**

**Waiver #1: from LDC section 10.2.4.B.1 to allow vehicular use area and a retaining wall to encroach into the required 15' Landscape Buffer Area, reducing the LBA from 15' to 10' (20-WAIVER-0020)**

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

**WHEREAS**, the waiver will not adversely affect adjacent property owners as the encroachment has existed for some time and has had no known adverse effects; and

**WHEREAS**, the waiver will not violate specific guidelines of Plan 2040 as Plan 2040 encourages adequate buffering between uses which are of substantially different intensity or density. The required screening will be provided as well as a retaining wall; 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 pavement already exists in the current location and is proposed to remain the same; and



**PLANNING COMMISSION MINUTES**  
**July 16, 2020**

**PUBLIC HEARING**

**CASE NO. 20-ZONE-0007**

**WHEREAS**, the Louisville Metro Planning Commission further finds strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant because the conditions that require the waiver already exist and the applicant would need to redesign the site considerably to provide the full required buffer area.

**Waiver #2: from LDC section 5.5.2.A.1 to allow the building to have no entrances facing either of the streets abutting the lot (20-WAIVER-0023)**

On a motion by Commissioner Peterson, seconded by Commissioner Carlson, the following resolution based on the Applicant's Justification and testimony heard today was adopted.

**WHEREAS**, the proposed waiver of the requirement of Section 5.5.2(A)(1) of the Land Development Code to have no entrances facing the abutting streets will not adversely affect the adjacent property owners as the proposal calls for the entrances to be oriented toward the middle of the property, and for windows facing the abutting street to provide visibility into the proposed building. Positioning the entrances toward the middle of the property will best serve customers who will access the proposed car wash by pulling their vehicles into the queuing area in the middle of the property. There will be no adverse impact to adjoining property owners from positioning the entrances toward the middle of the property; and

**WHEREAS**, the proposed waiver will not violate the Comprehensive Plan. The applicant proposes to provide adequate entrances and windows on the proposed building. The proposed entrances will provide for the most efficient customer access to the building, and the proposed windows will provide adequate visibility into the building from the abutting roadways. The waiver will permit the applicant to construct a new neighborhood-serving car wash use; and

**WHEREAS**, the extent of the proposed waiver of the regulation is the minimum necessary to afford relief to the applicant. The proposed waiver will permit the applicant to develop the site consistent with the Comprehensive Plan while still providing convenient entrances for the car wash's customers and adequate visibility into the proposed building from the abutting roadways; and

**WHEREAS**, the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land and would create an unnecessary hardship on the applicant as the waiver will simply permit the applicant to provide convenient entrances for customers visiting the car wash. The applicant is also proposing numerous windows that will provide adequate visibility along the abutting roadways.

**PLANNING COMMISSION MINUTES**  
**July 16, 2020**

**PUBLIC HEARING**

**CASE NO. 20-ZONE-0007**

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** a Waiver from LDC section 10.2.4.B.1 to allow vehicular use area and a retaining wall to encroach into the required 15' Landscape Buffer Area, reducing the LBA from 15' to 10' (20-WAIVER-0020) and a Waiver from LDC section 5.5.2.A.1 to allow the building to have no entrances facing either of the streets abutting the lot (20-WAIVER-0023).

**The vote was as follows:**

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

**NOT PRESENT AND NOT VOTING: Commissioners Brown and Seitz**

**Abandon an existing Conditional Use Permit**

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

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** the abandonment of an existing Conditional Use Permit.

**The vote was as follows:**

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

**NOT PRESENT AND NOT VOTING: Commissioners Brown and Seitz**

**Detailed District Development Plan and Binding Elements**

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

**WHEREAS**, no natural resources appear to exist on the site. The existing building is not proposed to be retained. However, the existing building does not appear to be a historic 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

**PLANNING COMMISSION MINUTES**  
**July 16, 2020**

**PUBLIC HEARING**

**CASE NO. 20-ZONE-0007**

**WHEREAS**, there are no open space requirements pertinent to the current proposal;  
and

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

**WHEREAS**, the Louisville Metro Planning Commission finds, the overall site design is compatible with the existing and future development of the area, with the exception of the requested waiver #2; 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 waivers.

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

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
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

**PLANNING COMMISSION MINUTES**  
**July 16, 2020**

**PUBLIC HEARING**

**CASE NO. 20-ZONE-0007**

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 structures shall be substantially the same as depicted in the rendering as presented at the July 16, 2020 Planning Commission hearing. A copy of the approved rendering is available in the case file on record in the offices of the Louisville Metro Planning Commission.
5. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
  6. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
  7. No idling of trucks shall take place within 200 feet of residential structures. No overnight idling of trucks shall be permitted on-site.
  8. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
  9. The applicant shall install signage near the vacuum parking spaces discouraging the playing of loud music or other loud noises from customer cars. The hours of operation during which the public may visit the subject property shall be limited to the hours between 7:00 a.m. and 9:00 p.m. The vacuums on site will be turned off from the hours of 10:00 p.m. and 6:00 a.m.

**The vote was as follows:**

**PLANNING COMMISSION MINUTES**  
**July 16, 2020**

**PUBLIC HEARING**

**CASE NO. 20-ZONE-0007**

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

**NOT PRESENT AND NOT VOTING: Commissioners Brown and Seitz**

**PLANNING COMMISSION MINUTES**  
**July 16, 2020**

**PUBLIC HEARING**

**CASE NO. 19-ZONE-0095**

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

Project Name: Old Henry Road Retail

Location: 14015 Old Henry Trail

Owner: One Fourteen LLC

Applicant: One Fourteen LLC

Representative: Bardenwerper, Talbott & Roberts

Jurisdiction: Louisville Metro

Council District: 19 – Anthony Piagentini

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:**

04:30:21 Ms. St. Germain discussed the case summary, standard of review and staff analysis from the staff report.

04:37:35 Commissioner Carlson asked what does the term ‘residential collar’ mean? Ms. St. Germain said she’s not sure why that terminology is being used but, there are 2 large tracts of land, one on either side of Highway 265 and the proposal of the neighborhood plan stating everything in those 2 tracts be restricted to low density residential.

Commissioner Carlson asked if the project for widening Old Henry Rd. is in progress or scheduled to be done in the future. Ms. Stuber said it has been started and they’re working on right-of-way right now. Also, how long will it be before completion? Ms. Stuber said maybe 4-5 years. Commissioner Carlson stated he doesn’t think the applicant will be able to hold up the Certificate of Occupancy based on road widening. Commissioner Lewis said there was a letter from the state engineer stating completion would be in 18 months.

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

**PLANNING COMMISSION MINUTES**  
**July 16, 2020**

**PUBLIC HEARING**

**CASE NO. 19-ZONE-0095**

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

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

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

04:41:05 Mr. Pregliasco gave a power point presentation. A binding element will be proposed to address the traffic issue – until that roadway work along Old Henry, until the state’s work is complete, there would be no access. The proposal is a center with retail and restaurant on the first floor and the 2<sup>nd</sup> floor will be residential with 8 units. The plan is low density with respect to the residential proponent. Ky. Transportation and Public Works have signed off and approved the entrance an encroachment permit after the state finishes the 3 lanes. The variance request has been reduced since the LD&T meeting. There is outdoor seating proposed as well. Sidewalks are proposed along Old Henry Trail and Old Henry Rd. as well as a multi-use path. There are references in the Old Henry Road Subarea Plan – different planning areas (we’re in 2), elements of the plan; residential collars; projections for the plan and the area; plan fits and use will work well in the neighborhood; and location of future Bush Farm and Aiken Rd. extension.

05:01:46 Mr. Young said Commissioner Brown asked the applicant/representatives to address the variance. The building was pulled forward by 14 ft.

05:03:02 Mr. Pregliasco stated the proposed binding element will be as follows: Direct access to Old Henry Rd shall only be constructed upon: (i) the completion of the portion of KYTC project 5-353.00 along the subject property frontage, and (ii) the acceptance of Old Henry Rd into the State Primary Road System per KYTC Official Order #109154 (or in advance thereof, with the written permission of KYTC and Louisville Metro Public Works for the Old Henry Road access connection). A KYTC encroachment permit will be required before work in the Old Henry Rd right-of-way can begin.

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

Mr. Beal, 1604 Majestic Place, Louisville, Ky. 40245

John Bloomingstock, 2802 Hamilton Springs Drive, Louisville, Ky. 40245

John Fenton, 15013 Tradition Drive, Louisville, Ky. 40245

Clay Foreman, 3503 Stillbrook Place, Louisville, Ky. 40245

Gary Stephan, 15004 Sycamore Falls Drive, Louisville, Ky. 40245

Mary Dries, 15510 Champion Lakes Place, Louisville, Ky. 40241

Bob Edmonds, 15001 Tradition Drive, Louisville, Ky. 40245

**PLANNING COMMISSION MINUTES**  
**July 16, 2020**

**PUBLIC HEARING**

**CASE NO. 19-ZONE-0095**

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

05:05:05 Mr. Beal, representing the Lake Forest Community Association Board, stated the proposal violates the directives of the Old Henry Subarea Plan –residential collar of neighborhoods should be preserved and does not permit rezoning; classification that would permit high density residential or non-residential uses; and recommendation number 6 regarding neighborhood serving centers. There are also multiple violations of the Goals and Policies of Comprehensive Plan 2040. It's not appropriate for this location. Traffic safety will be an issue even after the road widening.

05:12:24 Mr. Bloomingstock stated his property backs up to Old Henry Trail. Staff has not analyzed the impact on Old Henry Trail - an increase of traffic. Also, the tree canopy will be diminished. If the plan is approved, there needs to be berms on Old Henry Trail.

Mr. Bloomingstock said he submitted binding elements in writing.

05:15:02 Mr. Fenton asked Ms. St. Germain, what is a designated parkway? Ms. St. Germain explained. Also, are Shelbyville Rd. and LaGrange Rd. minor arterial roads? Ms. Stuber said Shelbyville Rd. is not a minor, but major arterial road and she would have to look up LaGrange Rd. Mr. Fenton stated, Old Henry Rd. is the only major arterial road from I- 265 into Jefferson Co. and Oldham Co. It handles a lot of traffic. Adding congestion to an unplanned commercial development and residential area is going to cause chaos.

05:22:18 Mr. Foreman stated the area is residential and should remain. Commercial zoning would be incompatible with the existing neighborhood. There's no meaningful transition between the existing R-4 surrounding properties and the proposed commercial development.

Mr. Foreman gave the following findings of fact to deny the rezoning application: The Old Henry Rd. Subarea Plan is violated by this proposed use. It specifically violates the written purpose of the Subarea Plan as contained on page 1 paragraph 1 Executive Summary – This Subarea Plan is necessary to plan for growth and preserve the character of the area; Pg. 20 of the Old Henry Rd. Subarea Plan, Guiding Principle 2 – A very real concern of many residents and property owners within the area east of I-265 was the potential for non-residential uses to proliferate along the proposed extension of Old Henry Rd. This type of linear development is incompatible with the suburban rural residential pattern of development and would detract from the character of the subarea; Pg. 22 of the Old Henry Rd. Subarea Plan – This proposed use violates Guiding Principle 3, Transportation – Anything developed in this area should be coordinated with



**PLANNING COMMISSION MINUTES**  
**July 16, 2020**

**PUBLIC HEARING**

**CASE NO. 19-ZONE-0095**

Oldham Co. or the development of a scenic corridor overlay district that would guide land use and access management decisions within the Old Henry Rd. corridor between I-265 and Ky-146 in Oldham Co. The proposed use does not comply with the Comprehensive Plan 2040, pg. 8 of the staff report – Community Form Goal 1, Land Use and Development Policies – Discourage non-residential expansion into existing residential areas. Staff Analysis – This proposal would constitute a non-residential expansion into an existing residential area. Adverse impacts to neighboring residential uses are likely to be low. Community Form Goal 1, Item 7 – Locate higher density and intensity uses near major transportation facilities and transit corridors. Staff Analysis – The proposal is for a higher density and intensity zoning district and the subject site is not located near major transportation facilities.

05:30:02 Mr. Stephan is the president of the Falls of Old Henry Homeowners' Association. The proposal is not compatible with the area. If the proposal is allowed, other homeowners will probably sell at some point. It will also set a precedent.

Mr. Stephan supports the others who spoke in opposition.

05:32:51 Ms. Dries stated the new commercial developments on Old Henry Rd. are very attractive because they comply with the Old Henry Rd. Subarea Plan.

Ms. Dries gave a power point presentation. The proposed commercial development is not walkable (not safely). Please continue to follow the very successful Old Henry Rd. Subarea Plan and leave residential east of Bush Farm Rd. Old Henry Trail is a terrible location for a commercial strip mall now and it's a terrible location if and when it's widened.

05:36:47 Mr. Edmonds said every graphic slide that's been shown does not show the residential homes, which are almost all complete. Then entrance is key that it brings the homes closer to this location than what's being seen on the maps.

05:38:31 Commissioner Carlson asked when the daycare center was built on Bush Farm Rd. Mr. Stephan said approximately 3-4 years ago.

**The following spoke neither for nor against the request:**

Jerry and Terry Miller – had to log off

**Summary of testimony of those neither for nor against:**

05:04:20 Mr. Davis stated Terry Miller had concerns regarding potential road improvements and the timing of construction.

**PLANNING COMMISSION MINUTES**  
**July 16, 2020**

**PUBLIC HEARING**

**CASE NO. 19-ZONE-0095**

**Rebuttal**

05:41:28 Mr. Pregliasco stated the proposal is not in the residential collar. There should be medium density in the proposed area and that's what this project is. Section 6 of the Old Henry Rd. Subarea Plan is not applicable just because it was cited. Also, it was planned to go to 2020 and it's past that time limit. There can be non-residential plans at this site. The traffic is two lanes now but will change drastically once the roadway improvements are complete. The proposed binding element should address this concern. There will be landscape buffer areas and the buildings are set back. The proposal is compatible.

05:49:35 Commissioner Lewis asked the applicant/representative to address the issue of berms. Are there berms along Old Henry Rd.? Mr. Pregliasco said no, because the site drains towards the intersection of Old Henry Rd. and Old Henry Trail. That's why the detention is in that area. Mr. Young added, all the required landscaping will be provided.

05:51:14 Commissioner Mims asked if there is a connective park and open space system or community retail? Mr. Pregliasco explained that it's not community retail.

05:52:56 Chair Jarboe stated the applicant is showing community retail and the opposition and the Old Henry Subarea Plan states there should be no added retail in residential areas. Which one is correct? Mr. Pregliasco said neither is right. All of it is based on assumptions. The area is not a residential collar. The Old Henry Subarea Plan is just a supplement to the Comprehensive Plan.

05:55:42 Ms. St. Germain stated she disagrees with the interpretation of Mr. Pregliasco's map. The location of the applicant's site is in the connected park and open retail space. The intended interpretation of the residential collar on the map is that the dark line indicates the boundary of the collar and in order to draw attention to that line, the shading is pointing north and east. This shows that everything to the north and east is in the residential collar. There's another residential collar on the other side of I-265.

05:58:06 Commissioner Howard asked if the Old Henry Subarea Plan was included as an appendix to the Comprehensive Plan 2040. Ms. St. Germain said yes, it was re-adopted.

**Deliberation**

05:59:37 Planning Commission deliberation. Commissioner Howard said she supports the zoning change. The proposal, as presented today, will provide a small

**PLANNING COMMISSION MINUTES**  
**July 16, 2020**

**PUBLIC HEARING**

**CASE NO. 19-ZONE-0095**

scale mixture of retail uses and new residential uses. The residential use is an alternative housing option which is now part of Comprehensive Plan 2040.

06:01:24 Commissioner Carlson said putting commercial in the middle of residential could cause problems in the future, especially if the property changes hands/owners.

06:03:29 Commissioner Mims stated it's not R-4 property anymore so something different has to happen. This commercial plan does not work for this site.

06:04:34 Commissioner Peterson stated he's concerned about the driveway entrance off of Old Henry Rd. Most of the other developments have separate entrances that reflect the nature of the parkway. It would be a better plan with more residential and a small commercial (maybe coffee shop).

06:05:59 Commissioner Lewis stated she's conflicted but likes the residential aspect of the plan. It gives a diversity of housing.

06:07:46 Commissioner Daniels stated this plan does not need to be approved without the road widening completed first. The residential portion is a smoke screen to add more commercial development in the future.

06:08:47 Chair Jarboe stated he agrees with the other commissioners.

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

**Zoning Change from R-4 to C-1**

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

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal would violate Land Use & Development Goal 1: Community Form because the proposal would constitute a non-residential expansion into an existing residential area; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal would create an adverse impact to the neighboring residential uses as evidenced by the opposition's testimony given the size of the property and the inadequate buffering to the adjacent residents; and

**PLANNING COMMISSION MINUTES**  
**July 16, 2020**

**PUBLIC HEARING**

**CASE NO. 19-ZONE-0095**

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal would be for a higher density and intensity zoning district and the subject site is not located near major transportation facilities and transit corridors and community centers or in/or near an existing activity center.

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council the change in zoning from R-4, Residential to C-1, Commercial be **DENIED**.

**The vote was as follows:**

**YES: Commissioners Carlson, Daniels, Mims, Peterson and Jarboe**

**NO: Commissioners Howard and Lewis**

**NOT PRESENT AND NOT VOTING: Commissioners Brown and Seitz**

**Variance from Table 5.3.2 to permit a non-residential structure located on a parkway to be set back more than 95 feet from the property line (119' setback, variance of 24') (19-VARIANCE- 0080)**

**NO MOTION OR VOTE**

**Detailed District Development Plan and Binding Elements**

**NO MOTION OR VOTE**

**PLANNING COMMISSION MINUTES**  
**July 16, 2020**

**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 6:17 p.m.

---

**Chair**

---

**Planning Director**