

**LOUISVILLE METRO PLANNING COMMISSION
MEETING MINUTES
JUNE 29, 2017**

A meeting of the Louisville Metro Planning Commission was held on June 29, 2017, at 1:00 p.m. at the Old Jail Building, 514 W Liberty Street, Louisville, KY 40202.

Commissioners present:

Marilyn Lewis, Chair pro tem
Jeff Brown
Ramona Lindsey
Laura Ferguson
David Tomes
Rich Carlson

Commissioners absent:

Robert Peterson
Lula Howard
Vince Jarboe, Chair
Emma Smith

Staff members present:

Emily Liu, Planning Director
Brian Davis, Planning Manager
Ken Baker, Planning Manager
Laura Mattingly, Planner II
Joel Dock, Planner II
Jay Lucket, Planner I
Julia Williams, Planning Supervisor
Brian Mabry, Planning Supervisor
Tammy Markert, Transportation Planning Supervisor
Paul Whitty, Legal Counsel
John Carroll, Legal Counsel
James Carey, Legal Counsel
Kristen Loeser, Management Assistant

The following matters were considered:

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APPROVAL OF MINUTES

00:08:10 On a motion by Commissioner Carlson, seconded by Commissioner Ferguson, the following resolution was adopted:

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the minutes of its meeting conducted on June 15, 2017.

The vote was as follows:

Yes: Brown, Carlson, Lewis, Ferguson, Tomes and Lindsey

Absent: Howard, Peterson, Jarboe, and Smith

Abstain: None

No: None

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CONSENT AGENDA

CASE NUMBER 17STREETS1001

Request: Close a portion of Bates Ave ROW
Project Name: Bates Ave Closure
Location: North Side of Bates Ave at intersection with Jefferson Boulevard.
Owner: Public ROW (Louisville Metro)
Applicant: HRM Louisville, LLC.
Representative: Richard Matheny, Cardinal Surveying
Jurisdiction: Louisville Metro
Council District: 24- Madonna Flood
Case Manager: Jay Lockett, Planner I

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

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

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

Agency Testimony:

00:11:20 Jay Lockett presented the request to close approximately .335 acres of public right of way. This is identical to a request that was approved by the Planning Commission in 1990, but was never properly recorded (see Staff Report and recording for detailed presentation).

00:12:32 On a motion by Commissioner Tomes, seconded by Commissioner Brown, the following resolution was adopted:

RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** that the Louisville Metro Council close approximately .335 acres of public right of way along the North side of Bates Avenue at the intersection with Jefferson Boulevard.

The vote was as follows:

Yes: Brown, Carlson, Lewis, Ferguson, Tomes and Lindsey

Absent: Howard, Peterson, Jarboe, and Smith

Abstain: None

No: None

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CONSENT AGENDA

CASE NUMBER 17STREETS1009

Request: Street name change from Foxy Lane to Dove Point Place
Project Name: Foxy Lane
Location: Foxy Ln at intersection with Dove Park Boulevard
Owner: Public ROW (Louisville Metro)
Applicant: Dove Point Estates, LLC
Representative: Kelli Jones, Sabak, Wilson and Lingo
Jurisdiction: Louisville Metro
Council District: 20- Stuart Benson
Case Manager: Jay Lockett, Planner I

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

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

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

Agency Testimony:

00:13:50 Jay Lockett presented the request change the street name from Foxy Lane to Dove Point Place (see Staff Report and recording for detailed presentation).

00:14:58 On a motion by Commissioner Tomes, seconded by Commissioner Lindsey, the following resolution was adopted:

RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the street name change from Foxy Lane to Dove Point Place be **APPROVED**.

The vote was as follows:

Yes: Brown, Carlson, Lewis, Ferguson, Tomes and Lindsey

Absent: Howard, Peterson, Jarboe, and Smith

Abstain: None

No: None

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BUSINESS SESSION

CASE NUMBER 9-13816-10

Request: Final Order, Cedar Creek Road - Deferred from the June 15, 2017 Planning Commission meeting
Presented by: Assistant County Attorney Paul Whitty

00:16:02 Assistant County Attorney Paul Whitty updated the Commissioners on the ongoing situation involving case number 9-13816-10. The property on 11012 Cedar Creek Road was once a fire station but has since been rezoned for a landscaping business. A total of \$2,140 in fines has been paid in various binding element violations. This being the third violation, it would be classified as a Level 3 violation for which our policies recommend a \$4,000 fine. Mr. Whitty recommended the Commissioners assess a \$4,000 fine and give the violator 30 days to bring the property in compliance before the fine becomes due. But it is within their discretion to assess a higher fine with or without extended time for compliance.

00:18:24 Discussion between the Commissioners and Mr. Whitty

00:31:42 A motion was made by Commissioner Carlson, seconded by Commissioner Brown, that the Planning Commission assess the property owner a \$4,000 fine, due immediately, and that the property owner be directed to bring the property into compliance with the binding elements within 30 days. The motion carried by the following vote:

The vote was as follows:

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

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PUBLIC HEARING

CASE NUMBER 17NEIGHPLAN1000 & 17NEIGHPLAN1001

Project Name: Parkland Neighborhood Plan
Applicant: Louisville Metro Advanced Planning
Jurisdiction: Louisville Metro
Council District: 1 – Jessica Green
Case Manager: Ken Baker, AICP

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

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

Agency Testimony:

00:33:05 Ken Baker presented the case (see Staff Report and recording for detailed presentation) and read the Parkland Neighborhood Plan Vision Statement into the record: “The vision for Parkland in the future is of a vibrant, safe, connected and green neighborhood. Parkland residential areas are revitalized, with diverse housing choices. The commercial area along 28th Street between Virginia and Dumesnil is restored to its former prominence as the retail and civic hub of Parkland and surrounding neighborhoods, and is a focal destination that capitalizes on its central location, historic architecture, and long-standing traditions of commerce and community.”

The following spoke in favor of the request:

Kristin Booker, 815 W Market Street, Suite 302, Louisville, KY 40202
Charles Cash, 815 W Market Street, Suite 302, Louisville, KY 40202

Summary of testimony of those in favor:

00:39:45 Kristin Booker spoke on behalf of Booker Design Collaborative and Urban 1 who were selected to assist with development of the neighborhood plan. Ms. Booker provided background on the corridor study and showed a basic model of the proposed town center area. With the exception of the pavilion-like structures, all buildings shown are existing structures. The proposed pavilion area could be used for markets or small and large group gatherings.

00:45:20 Charles Cash with Urban 1 spoke about the history of the Parkland neighborhood and provided a more in depth look at the recommendations for the neighborhood from the Executive Summary.

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00:50:36 Ms. Booker spoke about the neighborhood plan's focus on vacant and abandoned properties.

00:56:10 Mr. Baker concluded the presentation and spoke about Staff findings and the Commission's required actions.

00:57:20 Commissioner Brown asked if the intersection at 28th Street and Dumesnil Avenue would be aligned, which would help in the 2-way conversion in the future. Mr. Cash stated that they prefer that the intersection is offset from a place-making standpoint.

00:58:52 Commissioner Tomes commented that town center offsets tend to calm traffic, which could have a positive effect on the area.

00:59:25 In response to Mr. Whitty, Ms. Booker discussed the recent movement to increase tree canopy.

01:01:34 Commissioners' deliberation

17NEIGHPLAN1000

01:03:10 On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution was adopted:

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

RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** that the Louisville Metro Council **APPROVE** the Parkland Neighborhood Plan.

The vote was as follows:

Yes: Brown, Carlson, Lewis, Ferguson, Tomes and Lindsey

Absent: Howard, Peterson, Jarboe, and Smith

Abstain: None

No: None

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PUBLIC HEARING

CASE NUMBER 17NEIGHPLAN1000 & 17NEIGHPLAN1001

17NEIGHPLAN1001

01:03:40 On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution was adopted:

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

RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** that the Louisville Metro Council **APPROVE** the Executive Summary of the plan and to amend Cornerstone 2020.

The vote was as follows:

Yes: Brown, Carlson, Lewis, Ferguson, Tomes and Lindsey

Absent: Howard, Peterson, Jarboe, and Smith

Abstain: None

No: None

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PUBLIC HEARING

CASE NUMBER 17AMEND1000

Project Name: Form District Lighting LDC Text Amendment
Location: Multiple properties in Louisville Metro
Owner: Multiple Owners
Applicant: Louisville Metro
Representative: Louisville Metro
Jurisdiction: Louisville Metro
Council District: Louisville Metro
Case Manager: Brian Mabry, AICP, Planning Supervisor

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

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

Agency Testimony:

01:04:49 Brian Mabry presented the request to amend LDC Sec. 4.1.3, Lighting, to include additional form districts and height measurement methodology (see Staff Report and recording for detailed presentation).

01:19:10 Commissioners' deliberation

01:22:32 On a motion by Commissioner Carlson, seconded by Commissioner Lindsey, the following resolution was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the proposed amendments to Section 4.1.3 of the LDC comply with the applicable guidelines and policies of Cornerstone 2020, and

WHEREAS, the Planning Commission further finds that the proposed amendments to Section 4.1.3 of the LDC comply with Marketplace Strategy, Goal A1, Objective A1.2 and C.1.1 of Cornerstone 2020. The amendments promote clarity and consistent enforcement and facilitate development review by clarifying provisions that have previously been less than certain, and

WHEREAS, the Planning Commission further finds that the proposed amendments to Section 4.1.3 of the LDC comply with Regional Marketplace Center Form District Objective E4.3, Traditional and Suburban Marketplace Corridor Form Districts Objective F4.4, Traditional and Suburban Workplace Form Districts Objective G4.3, and Campus

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Form District Objective H4.3. The amendments help to ensure compatibility between uses in the Traditional and Suburban form districts by applying distinct lighting height standards to both groups of form districts, and

WHEREAS, the Planning Commission further finds that the proposed amendments to Section 4.1.3 of the LDC comply with Community Form/Land Use, Compatibility, Policy 8, Lighting. The amendments set a maximum height for outdoor lighting and a methodology for measuring such height in order to ensure light trespass onto other properties and into the night sky will be minimized; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** that the Louisville Metro Council and other legislative bodies **APPROVE** the amendment to the LDC Sec. 4.1.3, Lighting, to include additional form districts and height measurement methodology, and to include the graphic shown in today's presentation by Staff.

The vote was as follows:

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

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PUBLIC HEARING

CASE NUMBER 17ZONE1023

Request:	Amendment to Tyler Town Center PDD related to maximum lighting heights
Project Name:	Tyler Town Center PDD Lighting Text Amendment
Location:	Tyler Town Center PDD
Owner:	Multiple
Applicant:	Louisville Metro
Representative:	Louisville Metro
Jurisdiction:	Louisville Metro
Council District:	20 – Stuart Benson
Case Manager:	Brian Mabry, Planning & Design Supervisor

Notice of this public hearing appeared in **The Courier Journal**.

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

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

Agency Testimony:

01:24:15 Brian Mabry presented the case (see Staff Report and recording for detailed presentation).

01:29:46 Commissioners' deliberation

01:30:05 On a motion by Commissioner Carlson, seconded by Commissioner Ferguson, the following resolution was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the proposed amendments to Section 4.4.3 of the Tyler Town Center PDD comply with the applicable guidelines and policies of Cornerstone 2020, and

WHEREAS, the Planning Commission further finds that the proposed amendments to Section 4.4.3 of the Tyler Town Center PDD comply with Marketplace Strategy, Goal A1, Objective A1.2 and C.1.1 of Cornerstone 2020. The amendments promote clarity and consistent enforcement and facilitate development review by clarifying provisions that have previously been less than certain, and

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WHEREAS, the Planning Commission further finds that the proposed amendments to Section 4.4.3 of the Tyler Town Center PDD comply with Community Form/Land Use, Compatibility, Policy 8, Lighting. The amendments refer to the Lighting provisions of the LDC, which contain form district-based lighting standards, and

WHEREAS, the Planning Commission finds that the proposed amendments to Section 4.4.3 of the Tyler Town Center PDD comply with the applicable guidelines and policies of Tyler Rural Settlement District Neighborhood Plan, and

WHEREAS, the Planning Commission further finds that the proposed amendments to Section 4.4.3 of the Tyler Town Center PDD comply with Land Use Recommendation 7. The amendments ensure that future outdoor lighting is in character with the vision of the Tyler Town Center; now, therefore

RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the amendment to Tyler Town Center PDD related to maximum lighting heights be **APPROVED**.

The vote was as follows:

Yes: Brown, Carlson, Lewis, Ferguson, Tomes and Lindsey

Absent: Howard, Peterson, Jarboe, and Smith

Abstain: None

No: None

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PUBLIC HEARING

CASE NUMBER 17AMEND1001

Please note: the minutes for this case were approved by the Planning Commission on July 6, 2017.

Project Name:	Private Institutional Uses in Single-Family Zoning Districts LDC Text Amendment
Location:	Multiple properties in Louisville Metro
Owner:	n/a
Applicant:	Louisville Metro
Representative:	Louisville Metro
Jurisdiction:	Louisville Metro
Council District:	All Council Districts
Case Manager:	Brian Mabry, AICP, Planning Supervisor

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

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

Agency Testimony:

01:31:40 Brian Mabry presented the request to amend the LDC related to private institutional uses in single-family zoning districts (R-R, R-E, R-1, R-2, R-3, R-4, R-5, and U-N). On June 8, 2017, Metro Council passed Ordinance No. 96, Series, 2017 that places a 90-day moratorium on development of new private institutional uses in single-family zoning districts and directs the Planning Commission, through Staff, to research changes to the LDC related to such uses in such districts. The Planning Committee met regarding the case on June 9, 2017, and generally agreed with the concerns and direction given in the moratorium Ordinance.

01:37:15 Mr. Mabry provided some background on the research undertaken by Staff related to this request.

01:45:00 Mr. Mabry gave the Commissioners an overview of the amendment options that can be found on pages 16 through 23 in the Staff Report.

02:04:25 Commissioner Carlson and Mr. Mabry discussed the general consensus of the June 9, 2017 Planning Committee meeting.

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02:06:13 In response to Commissioner Lindsey, Mr. Mabry stated that daycare centers, transitional housing, and other similar organizations are not included in this request.

02:06:45 Mr. Whitty asked if the recommendation to remove “religious buildings” from the definition of “institutional use” is in consideration of the potential liability of the Religious Land Use and Institutionalized Persons Act (RLUIPA). Mr. Mabry stated that this is partly the reasoning and that there is already a lengthy definition for “religious building” in the LDC.

The following spoke in favor of the request:
Metro Councilman Brandon Coan, District 8

Summary of testimony of those in favor:

02:07:52 Councilman Coan stated that he was the sponsor of this ordinance and is in favor of it generally, but he does have some concerns. He agrees with the City of Cincinnati in that they require a Conditional Use Permit (CUP) for most institutional uses (public or private) with no specific standards.

He does not think religious buildings should be exempt in this case and stated that RLUIPA very clearly mandates that places of worship are not regulated any differently from any other similar secular uses. He does not feel that lots should be differentiated based on size, as stated in Option 2. Lastly, he is concerned about how the proposed definition of “institutional use” will affect charter schools as these schools may increase in number (see recording for full testimony.)

02:12:40 Mr. Whitty commented that going forward, the Commissioners should keep in mind that the regulation of property is based on use, not the owner.

02:13:20 Commissioners’ deliberation

Commissioners Tomes and Brown agree with Option 1. Commissioner Brown does not think that a proposal should be treated differently because of the size of the lot in this situation.

Chair pro tem Lewis and Commissioners Ferguson and Carlson also prefer Option 1 and would like to see “religious buildings” put back into the definition of “institutional use.”

Commissioner Lindsey agrees about the definition of “institutional use”, but she would prefer Option 2. She thinks the CUP process could put a burden on individuals seeking to repurpose a small, abandoned property.

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02:18:00 There was further discussion between the Commissioners regarding the definition of “institutional use.”

02:25:00 On a motion by Commissioner Brown, seconded by Commissioner Tomes, the following resolution was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the proposed amendments to the LDC related to private institutional uses in single-family zoning districts comply with the applicable guidelines and policies of Cornerstone 2020, and

WHEREAS, the Planning Commission further finds that the proposed amendments to the LDC related to private institutional uses in single-family zoning districts comply with Objectives C2.1, C4.1, C4.6 and G4.3 of Cornerstone 2020. In addition, the proposed amendments to the LDC related to private institutional uses in single-family zoning districts comply with Guideline 3, Compatibility, Policy A6, Traffic; Guideline 3, Compatibility, Policy A7, Noise; and Guideline 13, Landscape Character, Policy A6, Buffers for Incompatible Uses. The proposed amendments contain setback, parking, noise, buffering, traffic, and operating hours provisions in order to promote compatibility with the surroundings and mitigate nuisances, and

WHEREAS, the Planning Commission further finds that the proposed amendments to the LDC related to private institutional uses in single-family zoning districts comply with Guideline 15, Community Facilities, Policy A5, Compatibility; Guideline 15, Community Facilities, Policy A6, Impact on Residential Areas; and Guideline 15, Community Facilities, Policy A14, Schools of Cornerstone 2020. The listed policies encourage community facilities to be compatible with their surroundings and the proposed LDC text amendments impose compatibility requirements on the privately owned and/or operated counterparts of community facilities, private institutional uses; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council and other legislative bodies to amend the LDC related to private institutional uses in single-family zoning districts with the following revisions:

1. The Commission recommends using the definition for “institutional use” as written on page 20 of the Staff Report, noting the inclusion of “religious buildings.”
2. The Commission accepts what is being proposed as Option 1 for the Conditional Use Permit requirements and the addition of section 4.2.65 for the private institutional uses in single-family zoning districts.
3. The Commission strikes the recommendation for the additional definition under “Institutional Use, Publicly Owned and/or Operated.”

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The vote was as follows:

Yes: Brown, Carlson, Lewis, Ferguson, Tomes, and Lindsey

Absent: Howard, Smith, Jarboe, and Peterson

Abstain: None

No: None

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PUBLIC HEARING

CASE NUMBER 17ZONE1002

Project Name: Juneau Drive
Location: 111 Juneau Drive
Owner(s): Real Properties KKT, LLC
Applicant: Real Properties KKT, LLC – Kenneth Towery
Representative(s): Land Design and Development; Dinsmore & Shohl, LLP
Jurisdiction: City of Middletown
Council District: 19 – Julie Denton
Case Manager: Joel Dock, Planner II

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

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

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

Agency Testimony:

02:28:05 Joel Dock presented the case (see Staff Report and recording for detailed presentation).

02:33:14 Tammy Markert of Transportation Planning stated that the right-out-only onto Juneau Drive was requested by the Middletown Mayor's office. Transportation Planning would be okay with full access onto Juneau Drive.

The following spoke in favor of the request:

Clifford Ashburner, 101 S 5th Street, Suite 2500, Louisville, KY 40202

Summary of testimony of those in favor:

02:35:32 Clifford Ashburner spoke on behalf of the applicant who is requesting a change in zoning from R-5 to C-1 and a detailed district development plan. The plan did not initially have the access restrictions that are shown today. These were a result of feedback from residents of Juneau Drive and Middletown city officials. There are no waivers or variances being requested.

02:43:20 Commissioners' deliberation

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Commissioner Carlson feels the zoning is appropriate, but stated he would not prefer a right-out-only onto Juneau drive if he lived there.

Commissioner Lindsey feels the zoning is appropriate and respects the applicant for working with the community and listening to their concerns about access.

Commissioner Ferguson feels the zoning and plan are appropriate.

Commissioner Brown feels the zoning is appropriate, but feels it is shortsighted to restrict access along Juneau Drive. The goal of Public Works would be to minimize the amount of traffic on Shelbyville Road.

Chair pro tem Lewis feels the zoning is appropriate, and she also has reservations about a right-out-only onto Juneau Drive.

Change in Zoning

02:47:32 On a motion by Commissioner Carlson, seconded by Commissioner Tomes, the following resolution was adopted:

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

RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the City of Middletown that the change in zoning from R-5 to C-1 be **APPROVED**.

The vote was as follows:

Yes: Brown, Carlson, Lewis, Ferguson, Tomes and Lindsey

Absent: Howard, Peterson, Jarboe, and Smith

Abstain: None

No: None

Detailed District Development Plan

02:48:38 On a motion by Commissioner Carlson, seconded by Commissioner Lindsey, the following resolution was adopted:

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WHEREAS, the Louisville Metro Planning Commission finds that the subject site does not appear to contain any significant natural features. There are also no features of historical significance on the property, and

WHEREAS, the Commission further finds that provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community has been provided as a sidewalk exists or is provided along each frontage and a safe pedestrian pathway from these sidewalks into the development has been provided. Sufficient access to the property is provided by a twenty foot wide drive lane serving all buildings and storage areas, and

WHEREAS, the Commission further finds that open space is not required for this application. Landscape buffer areas and tree preservation will be provided as required. No waivers have been requested, and

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

WHEREAS, the Commission further finds that the overall site design and land use is compatible with the surrounding area as the area surrounding the development contains a mixture of commercial at a variety of sizes providing a variety of services. The proposal integrates well within the context of the commercial uses along the corridor, while also filling a gap between non-residential uses by converting underutilized residential land within the Suburban Marketplace Corridor form district, and

WHEREAS, the Commission further finds that the development plan conforms to applicable guidelines and policies of the Comprehensive Plan as demonstrated in the *Cornerstone 2020 Staff Review Checklist* for the change in zoning request contained in *Attachment 3* of the staff report; now, therefore be it

RESOLVED, 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 and to the City

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Middletown for review and approval; any changes/additions/alterations not so referred shall not be valid.

2. The development shall not exceed 4,500 square feet of gross floor area.
3. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
4. 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.
5. Before any permit (including but not limited to building, parking lot, change of use, site disturbance) is requested:
 - a. The development plan must receive full construction approval from Develop Louisville, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
 - c. A minor subdivision plat or legal instrument shall be recorded dedicating additional right-of-way to Shelbyville Road and Juneau Drive. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services prior to obtaining a building permit.
 - d. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - e. A minor plat or legal instrument shall be recorded consolidating the property into one lot. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services prior to obtaining a building permit.
 - f. A reciprocal access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be created between the adjoining property owner to the east and recorded. A copy of the recorded instrument shall

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be submitted to the Division of Planning and Design Services prior to obtaining a building permit.

6. 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.
7. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
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 materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the **6/29/17** Planning Commission meeting.
10. No idling of trucks shall take place within 200 feet of residential development. No overnight idling of trucks shall be permitted on-site.

The vote was as follows:

Yes: Brown, Carlson, Lewis, Ferguson, Tomes and Lindsey

Absent: Howard, Peterson, Jarboe, and Smith

Abstain: None

No: None

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PUBLIC HEARING

CASE NUMBERS 17STREETS1008 & 17SUBDIV1009

NOTE: Case numbers 17STREETS1008 and 17SUBDIV1009 were heard together.

Jurisdiction: Louisville Metro
Council District: 19 – Julie Denton
Case Manager: Laura L. Mattingly, Planner II

17STREETS1008:

Request: Street name change from Davenport Drive to Davenport Place
Project Name: Davenport Drive
Location: North/South Davenport Drive from Glen Lakes Drive to its current terminus north of Vista Lake Court
Owner: Louisville Metro
Applicant: Jim Obert, IH of KY, Inc
Representative: Sabak, Wilson, & Lingo, Inc

17SUBDIV1009:

Project Name: Glen Lakes, Section 4
Location: 408 Flat Rock Rd
Owners: IH of KY, Inc.
Applicant: IH of KY, Inc – Jim Obert
Representative(s): Sabak, Wilson, & Lingo, Inc. – Kelli Jones
Project Area/Size: 42.87 Acres
Existing Zoning District: R-4, Single-Family Residential
Existing Form District: N, Neighborhood

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 reports prepared for these cases were incorporated into the record. The Commissioners received the reports in advance of the hearing, and the reports were available to any interested party prior to the public hearing. (Staff reports are part of the case files maintained in Planning and Design Services offices, 444 S. 5th Street.)

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

Agency Testimony:

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CASE NUMBERS 17STREETS1008 & 17SUBDIV1009

02:50:20 Laura Mattingly presented the cases. The Commissioners were provided with a list of streets that had similar names such as Davenport Drive and Davenport Place (see Staff Reports and recording for detailed presentation).

The following spoke in favor of the request:

Kelli Jones, 608 S 3rd Street, Louisville, KY 40202

Jim Obert, 4901 Hunt Road, Suite 300, Cincinnati, OH 45242

Caitlin Bowman, 702 Davenport Drive, Louisville, KY 40245

John Keeling, 701 Davenport Drive, Louisville, KY 40245

Summary of testimony of those in favor:

03:02:11 Kelli Jones spoke on behalf of the applicant and gave an overview of the requests. She showed which portion of Davenport Drive would be changed to Davenport Place. In the proposed preliminary subdivision plan, they do not connect the existing portion of Davenport Drive to the new development. One reason the connection is no longer a part of the request is the environmental impact on the stream that flows through the area.

03:05:54 Jim Obert spoke about his work to mitigate the environmental impact of this project. He stated that the name can be changed to something other than Davenport Place, if the Commissioners prefer this.

03:07:57 Ms. Jones showed photographs of the existing stub off Davenport Drive and stated that another reason for these requests is to make this area safer. She provided letters from the Eastwood Fire Department and Emergency Services supporting the name change request.

03:12:20 Mr. Obert stated that having two streets with the exact same name is not only inconvenient, but can be a safety issue.

03:15:12 Caitlin Bowman is a resident of Davenport Drive. She is in support of the revised plan because of her safety concerns. She stated that Davenport Drive ends in a sharp, blind curve that poses a threat to children and adults and she does not want to see a connection built. She is also in support of the street name change.

03:18:18 John Keeling owns the home at the end of Davenport Drive that creates the blind curve. Drivers frequently speed past his house and slam on their breaks when they realize the street is a dead end. He stated that if connection is constructed, it would have to be a bridge because of the existing stream, which could be dangerous if children try to play in the area. He stated that he and other neighbors are willing to work on the landscaping of the stub to make it more aesthetically pleasing, and he noted that they have tried to do this in the past, but were told by property management they could

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not. He stated that residents who would be affected by the name change (he would not) were offered \$1,000 for their inconvenience.

The following spoke in opposition to the request:

Kenneth Long, 914 Davenport Drive, Louisville, KY 40245

Summary of testimony of those in opposition:

03:27:32 Kenneth Long is a resident of Davenport Drive. When he moved to this area, he was told that the Glen Lakes subdivision would have a “loop-around” design. He does not understand why this design was abandoned when the project was restarted. He provided a diagram to the Commissioners of what the subdivision was supposed to look like according to the original development plan. He stated there is a petition in the record of 82 signatures of homeowners who are opposed to the plan.

Rebuttal:

03:42:00 Mr. Obert spoke in rebuttal. He confirmed the developers did offer the affected parties \$1,000 for the inconvenience of the name change. He does not feel a connection will have that much of an impact on safety, but the name change will be beneficial to the community. In response to Commissioner Carlson, Mr. Obert stated he would be willing to work with the city to come up with a reasonable solution to the speed issues at the end of Davenport Drive. He reiterated that there is no preference for the new street name.

03:48:08 Mr. Long stated that buying a home is a big decision. Home buyers should sufficiently research what they’re buying. It is his understanding that Public Works is generally not in favor of speed bumps in neighborhoods like this one.

03:51:50 Commissioners’ deliberation

Commissioner Tomes feels the subdivision changes are appropriate and suggested that signage be posted in the front of the street and ahead of the curve to reduce incidents of speeding.

Commissioner Brown favors connectivity over the use of cul-de-sacs, however, if a cul-de-sac is constructed, he feels it should be a full cul-de-sac with a 50’ right-of-way radius. He does not buy the argument that the connection was removed from the plan due to concerns for environmental effects. He feels the street name change is warranted, but would like the street name to be changed to something different from Davenport Place to avoid any more confusion in the future. Public Works would support installation of speed bumps if the need meets their criteria.

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Commissioner Ferguson can see both sides of the argument, but sees that a lot of the people who would be affected by this are in favor. She agrees with Commissioner Brown that the street name should be completely different and that a connection is preferred, but overall, the project is appropriate.

Commissioner Lindsey also feels that the name change should be different from Davenport Place. She respects the decision of the applicant to protect the environment and does not think it is necessary to build a connection. But she does feel that there needs to be a better terminus at the end of Davenport Drive than what is there currently.

Commissioner Carlson is not convinced that removing the connection from the plan is due to concern for the environmental conditions. As a former fire chief, he is supportive of the name change to avoid any confusion for fire and emergency services.

Chair pro tem Lewis also does not feel that environmental concerns are a factor in the decision to remove the connection from the plan, and that this decision was probably made for financial reasons. If a connection is not made, a cul-de-sac should be constructed at the end of the stub street. She feels that signage is warranted and that it would be appropriate for the developer to contribute to the cost of signage considering what is being saved by not creating a connection. The street name change is needed.

04:05:40 The Commissioners discussed the option to construct a cul-de-sac at the end of Davenport Drive.

04:07:00 Ms. Jones stated that it would be difficult to construct a full regulation size cul-de-sac at the stub end without getting into the environmental impacts they were trying to avoid. If this was not the case, they would have included a cul-de-sac in the plan.

04:08:45 Mr. Obert stated he would be happy to work with the neighbors and Transportation to come up with something that could be constructed at the dead end.

04:11:44 Mr. Long stated that a full cul-de-sac would probably cost the same as a connection.

04:12:44 Ms. Jones stated that she would like the case to be continued so that some of the questions that have come up during the hearing can be answered and to see if a full cul-de-sac is feasible. This will also allow more time for another name to be decided upon and brought back to the Commission.

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PUBLIC HEARING

CASE NUMBERS 17STREETS1008 & 17SUBDIV1009

17STREETS1008

04:15:01 On a motion by Commissioner Carlson, seconded by Commissioner Ferguson, the following resolution was adopted:

RESOLVED, the Louisville Metro Planning Commission does hereby **CONTINUE** case number 17STREETS1008 to the August 3, 2017 meeting of the Planning Commission.

The vote was as follows:

Yes: Brown, Carlson, Lewis, Ferguson, Tomes and Lindsey

Absent: Howard, Peterson, Jarboe, and Smith

Abstain: None

No: None

17SUBDIV1009

04:15:55 On a motion by Commissioner Carlson, seconded by Commissioner Ferguson, the following resolution was adopted:

RESOLVED, the Louisville Metro Planning Commission does hereby **CONTINUE** case number 17SUBDIV1009 to the August 3, 2017 meeting of the Planning Commission.

The vote was as follows:

Yes: Brown, Carlson, Lewis, Ferguson, Tomes and Lindsey

Absent: Howard, Peterson, Jarboe, and Smith

Abstain: None

No: None

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PUBLIC HEARING

CASE NUMBER 17ZONE1011

Request: Change in zoning from R-4 to R-6, Variance, and Preliminary Subdivision Plan
Project Name: Storypoint
Location: 12923 & 13309 Urton Lane
Owner: Ochsner Family LLC
Applicant: CSIG Development Company LLC
Representative: Milestone Design Group; Dinsmore & Shohl
Jurisdiction: City of Middletown
Council District: 19-Julie Denton
Case Manager: Julia Williams, RLA, AICP, Planning Supervisor

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

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

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

Agency Testimony:

04:18:10 Julia Williams presented the case (see Staff Report and recording for detailed presentation).

The following spoke in favor of the request:

Clifford Ashburner, 101 S 5th Street, Suite 2500, Louisville, KY 40202
Michael Simko, 2200 Genoa Business Park, Brighton, MI 48114

Summary of testimony of those in favor:

04:25:29 Clifford Ashburner introduced Michael Simko with Storypoint.

04:25:30 Michael Simko spoke on behalf of Storypoint and stated they are proposing 120 independent living units (88 one-bedroom; 32 two-bedroom) and 42 enhanced/assisted living units (30 one-bedroom; 8 studio; 4 two-bedroom). He spoke about various amenities offered by Storypoint.

04:30:58 Mr. Ashburner spoke about the requests for a change in zoning from R-4 to R-6, a variance, and a district development plan. The applicant has agreed with the

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adjacent property owner to allow an access easement along the access point from Meridian Hills Drive. He read allowed to additional proposed binding elements. A shuttle service will be provided to the tenants.

04:38:20 Commissioners' deliberation

Change in Zoning & District Development Plan

04:43:13 On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution was adopted:

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

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

WHEREAS, the Commission further finds that open space requirements are being met on the site, and

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

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

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

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

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CASE NUMBER 17ZONE1011

RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** that the City of Middletown **APPROVE (1)** the change in zoning from R-4 to R-6 and **(2)** the district development plan, **SUBJECT** to the following binding elements:

Binding Elements

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee and to the City of Middletown 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) is requested:
 - a. The development plan must receive full construction approval from Develop Louisville, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. A minor subdivision plat or legal instrument shall be recorded creating the lot lines as shown on the development plan. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services prior to obtaining a building permit.
 - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - d. A major subdivision plat creating the roadway as shown on the approved district development plan shall be recorded prior to issuance of any building permits.

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- e. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
5. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
6. 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 materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the June 29, 2017 Planning Commission meeting.
8. The applicant shall submit a revised detailed district development plan showing the utility extensions to the property to the south shown on the utility exhibit provided at the June 29, 2017 public hearing. The applicant shall construct the sewer line extension to the property line of the property to the south before receiving a certificate of occupancy.
9. The applicant shall provide an access easement to the property to the south from its access drive at a location to be determined through consultation with the applicant, the adjacent property owner, and Louisville Metro Public Works at the time a plan is submitted for the adjacent property to the south. Any shared access shall be on commercially reasonable terms with regard to maintenance, repair, and replacement, and any connection shall be made at the adjacent property owner's expense, to include any expense for plan revisions necessary to the subject property.

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The vote was as follows:

Yes: Brown, Carlson, Lewis, Ferguson, Tomes and Lindsey

Absent: Howard, Peterson, Jarboe, and Smith

Abstain: None

No: None

Variance & Preliminary Subdivision Plan

04:45:10 On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the requested variance will not adversely affect public health safety or welfare since the buildings are located away from the closest residential development which is also 3 stories tall, and

WHEREAS, the Commission further finds that the requested variance will not alter the essential character of the general vicinity since the 3 story structure is located mainly interior to the site and adjacent to another multi-family development with 3 story tall buildings, and

WHEREAS, the Commission further finds that the requested variance will not cause a hazard or nuisance to the public since the 3 story structure is located mainly interior to the site and adjacent to another multi-family development with 3 story tall buildings, and

WHEREAS, the Commission further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations since the 3 story structure is located mainly interior to the site and adjacent to another multi-family development with 3 story tall buildings, and

WHEREAS, the Commission further finds that the requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone since the 3 story structure is located mainly interior to the site and adjacent to another multi-family development with 3 story tall buildings, and

WHEREAS, the Commission further finds that the strict application of the provisions of the regulation would deprive the applicant of reasonable use of the land since the 3 story structure is located mainly interior to the site and adjacent to another multi-family development with 3 story tall buildings, and

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

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

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE (1)** the variance to permit a building height of 40.5' instead of the required 35' (5.5' Variance) and **(2)** the preliminary subdivision plan.

The vote was as follows:

Yes: Brown, Carlson, Lewis, Ferguson, Tomes and Lindsey

Absent: Howard, Peterson, Jarboe, and Smith

Abstain: None

No: None

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PUBLIC HEARING

CASE NUMBER 17STREETS1006 & 17DEVPLAN1053

NOTE: Case numbers 17STREETS1006 and 17DEVPLAN1053 were heard together.

Project Name:	St. Matthews Mixed Use Re-Development
Location:	4156, 4158, & 4170 Shelbyville Road & 4303 &4315 S Church Way
Owner:	David Peterson Group LLC; 4170 Shelbyville Road LLC
Applicant:	Investment Properties Advisors LLC
Representative:	Sabak, Wilson, and Lingo Inc.; Wyatt Tarrant & Combs LLP
Jurisdiction:	City of St. Matthews
Council District:	9-Bill Hollander
Case Manager:	Julia Williams, RLA, AICP, Planning Supervisor

17STREETS1006

Request: Partial Street Closure of North and South Church Way and a 20' public passway

17DEVPLAN1053

Request: Revised District Development Plan

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 reports prepared for these cases were incorporated into the record. The Commissioners received the reports in advance of the hearing, and the reports were available to any interested party prior to the public hearing. (Staff reports are part of the case files maintained in Planning and Design Services offices, 444 S. 5th Street.)

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

Agency Testimony:

04:47:17 Julia Williams presented the cases (see Staff Reports and recording for detailed presentation).

The following spoke in favor of the request:

Jon Baker, 500 W Jefferson Street, Suite 2800, Louisville, KY 40202
Pat Dominik, 608 S 3rd Street, Louisville, KY 40202
Chase Sorrick, 1800 Stevens Avenue, Louisville, KY 40505
John Fischer, 1532 Rosewood Avenue, Louisville, KY 40204

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PUBLIC HEARING

CASE NUMBER 17STREETS1006 & 17DEVPLAN1053

Dr. John Gilderbloom, 1405 Highland Avenue, Louisville, KY 40204

Alec Taylor, 304 Breckenridge Lane, Louisville, KY 40207

Paul Gelhausen, 2537 Kings Highway, Louisville, KY 40205

Andrew Mays, 1911 Lowell Avenue, Louisville, KY 40205

Summary of testimony of those in favor:

04:56:07 Jon Baker spoke on behalf of the applicant who is requesting approval for a revised district development plan and a partial street closure of North and South Church Way with a 20' public passway. This is a mixed use development with the first floor being commercial and the other seven floors being residential with variations of 1, 2, and 3-bedroom units. All existing curb cuts will be used, and no new curb cuts are being proposed. Mr. Baker discussed the street closure as well.

05:06:39 Pat Dominik spoke in more detail about site planning and engineering. He stated this project will be 276 units total (83 one-bedroom; 110 two-bedroom; 83 three-bedroom). The ground floor will be retail facing Shelbyville Road. Once the road is closed and incorporated into the mixed use development, the combined property will be approximately 6.6 acres. There will be 481 parking spaces. A summary of the traffic study conducted by Diane Zimmerman was provided the Commissioners.

05:19:50 Chase Sorrick with Investment Property Advisors (IPA) spoke about the types of projects they work on and gave examples of what this project will look like.

05:29:35 Mr. Baker completed his presentation.

05:33:40 John Fischer frequently visits this area with his family for shopping and entertainment. He is supportive of this project for three reasons: infill is a desired practice specifically in cornerstone 2020, mixed use development is preferred, and this is a major visual upgrade in the area and could influence the aesthetics of future projects.

05:35:37 Dr. John Gilderbloom is a professor with the University of Louisville who has an extensive background in the field of research. He was asked to estimate how many jobs would be created as a result of this development. According to his research, there will be 454 jobs created directly or indirectly and 134 permanent jobs. He feels the green aspects of the development should be emphasized.

05:42:52 Alec Taylor is a resident who lives near the subject property. He stated that history has not been kind to areas that reject development. This seems like an ideal location for this project, and this is the best way to add residential density to the area.

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05:45:04 Paul Gelhausen is an employee of US Bank who has worked with IPA for the past seven years and has been involved in various projects with them. As a company, they are transparent and work well with neighborhood communities.

05:46:36 Andrew Mays has lived in and around St. Matthews most of his life. As a business man in Louisville, he is supportive of economic development and wants to live in a thriving, growing community. He feels this project will benefit the St. Matthews area and he would rather see this than another fast food restaurant.

The following spoke in opposition to the request:

Michael Fouts, 4307 Norbourne Blvd., St. Matthews, KY 40207

Catherine Clark, 4312 S Church Way, Louisville, KY 40207

Kenny Doerhoefer, 4301 Norbourne Blvd., St. Matthews, KY 40207

Rae Taylor, 214 Gibson Road, Louisville, KY 40207

Summary of testimony of those in opposition:

05:48:36 Michael Fouts is a resident of St. Matthews. He stated that he is in agreement with a letter of opposition that was submitted to the Commissioners. He is concerned with the increase in traffic this development will bring. He and his wife retired in 2012 and moved to the area to downsize and live comfortably. They fear that Church Way, which is a quiet street, will become a throughway because of the increase in traffic.

05:52:52 Catherine Clark lives next-door to the subject property. She is not opposed to a building in general, but she is opposed to an eight-story building. She is concerned that there are not enough parking spaces for future tenants and their guests, and parking will spill into the adjacent neighborhoods which are already crowded. She feels that the applicant is requesting a partial street closure because they know traffic will increase and residents will not be able to pull out directly onto Shelbyville Road. She also feels that the trees they are cutting down are bigger, healthier trees than the ones they are not removing. She would be supportive of a smaller development.

05:56:10 Kenny Doerhoefer thinks this is a good project, but it is too big and too tall. He does not agree with the partial street closure which he feels will cause car accidents. Residents of this new development will use the back roads through the neighborhood rather than the access to Shelbyville Road. There should be a buffer between the pool area and adjacent residents.

06:00:04 Rae Taylor lives across Shelbyville Road north of the subject site. He feels the building is too tall and there are no other buildings of this height in the area.

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Traffic will increase in the surrounding neighborhoods. He does not feel this project will be environmentally friendly.

Rebuttal:

06:02:07 Mr. Baker spoke in rebuttal. He stated that this development will not have a large demand for parking because there will be numerous units with only one car, and there will be access to the new TARC shelter. The parking garage will be directed to Hubbards Lane which provides access to numerous streets that run parallel to Shelbyville Road. The traffic study conducted shows that this development will not negatively impact traffic. IPA is committed to building with green technology.

06:05:17 Mr. Dominik stated that this is an outstanding redevelopment opportunity that does not come around often. What makes these types of developments work is providing a core of density in an area that has the services and support that can meet the needs of the project. Mr. Dominik discussed the access to Church Way. The trees that will remain are evergreen trees and will provide some year-round tree cover. The applicant would be willing to add more trees as an additional buffer in the courtyard area. He feels that residents who wish to go west on Shelbyville Road will use the access on Hubbards Lane.

06:12:10 In response to Commissioner Carlson, Mr. Sorrick stated that they intend to sell Lot 2. The building shown at this time is just a place holder to show the size of building that may be able to fit on that out lot.

06:15:05 Commissioners' deliberation

Commissioner Tomes feels the applicant has done a fantastic job of presenting a case that he had concerns about. He hopes that more car dealerships leave this area and are replaced with residential units. The building itself is a great looking urban project, and he appreciates the green technology and underground water collection system. The number of units is well within the range allowed for this density.

Commissioner Brown feels that the applicant adequately mitigated the impact of the road closure and that they have remained consistent with the character of Church Way. He feels the development plan is appropriate for the zoning.

Commissioner Lindsey is concerned about the impact of this development on the community for the long-term. She is concerned about who will be living there and if will there will be continued disparity between the haves and have nots in the community. Real estate and land development really impacts quality of life for all neighborhoods.

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Commissioner Carlson agrees that there could be worse uses in this lot than a residential building, but he can see the opposition's point of view as well. Unfortunately, vacant land is bought and sold and does not stay vacant forever. He is in favor of the proposal because the positives outweigh the negatives.

Chair pro tem Lewis stated that the presentation has alleviated a lot of the concerns she had initially. She applauds the green design and traffic mitigation. The road closure appears to be a minor change. She feels it is a well thought out development and it is appropriate for the current zoning.

17STREETS1006

06:25:03 On a motion by Commissioner Brown, seconded by Commissioner Tomes, the following resolution was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that, based on the staff report, evidence and testimony presented at the public hearing, and the applicant's proposed findings of fact, the applicant's proposal to close a portion of North and South Church Way meets the guidelines of the comprehensive plan and requirements of the Development Code because all of the lots surrounding the section of North and South Church Way to be closed are under common ownership and will be reconfigured as shown on the proposed development plan; the area of the closure does not affect the on-street use of abutting property owners on Church Way; access between North and South Church Way will be maintained through the creation of a 30' public access and utility easement.; this access easement will be designed to accommodate both through traffic and emergency vehicles; therefore, the section of North and South Church Way proposed to be closed are no longer required for access; the owner of 100% of the property adjacent to the right-of-way to be closed agrees to the proposed closure and will submit a form evidencing notarized consent to said proposed closure, and

WHEREAS, the Commission further finds that the portion of the subject property that includes the request to close N. and S. Church Way lies within the Neighborhood Form District; according to Guidelines 1, 7, 8, and 9 of Cornerstone 2020, the Comprehensive Plan, the subject property should provide for accessibility and connectivity between adjacent uses and neighborhoods by automobile, pedestrian, bicycles, and transit; the proposed development provides multiple vehicular, pedestrian and bicycle connections to Church Way, S. Hubbards Lane and Shelbyville Road, as well as a transit connection via nearby TARC stop on Shelbyville Road; accordingly, the Commission finds proposed closure of the section of N. and S. Church Way will have no impact on accessibility and connectivity with adjacent properties, and

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WHEREAS, the Commission further finds that the requested street closure will not result in a demand on public facilities and services that exceeds the capacity of such facilities; as mentioned, sufficient vehicular access between N. and S. Church Way will be maintained via 30' access and utility easement created for the public's use; therefore, the proposed closure of this section of N. and S. Church Way will not interfere with or exceed the capacity of the existing roadway infrastructure, and

WHEREAS, the Commission further finds that once the proposed section of N. and S. Church Way is formally closed, the property will be consolidated into one lot as shown on the proposed development plan; to the extent determined necessary by affected utilities, easements will be reserved within the right-of-way to be closed. As such, the proposed street closure request complies with the applicable Development Code and the Guidelines 7.6, 7.13, 7.16, and 8.11 of the Comprehensive Plan; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** that the City of St. Matthews **APPROVE** the partial street closure of North and South Church Way and a 20' public passway.

The vote was as follows:

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

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06:26:10 On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that, based on the staff report, evidence and testimony presented at the public hearing, and the applicant's proposed findings of fact, that the subject properties comprising the development site are already fully-developed as auto sales and service; the existing site condition consists of over 90% impervious cover, including vehicular use areas, sidewalks, and buildings with periodic landscape island; there are no steep slopes, water courses, floodplains, soils, air quality, scenic views or historic properties present on the site; and, as a result, the proposed development of the site as a mixed-use community will not impact existing natural resources, but, instead, will add additional plantings, tree

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canopy, green roofs and other green best management practices to enhance the scenic character of the site, and

WHEREAS, the Commission further finds that the proposed development provides safe and efficient vehicular and pedestrian transportation both within the development and the surrounding community because access to the property is furnished by ingress/egress points from Shelbyville Road (2 curb cuts), a major arterial and primary commercial corridor in Jefferson County, S. Hubbards Lane, a minor arterial, where traffic can safely access Shelbyville Road via a signalized intersection, and via Church Way, a local roadway; the proposed development can rely on existing access points to the local roadway network and require no additional curbs cuts to serve it; consequently, because the proposed development will utilize multiple points of ingress/egress on the site, the proposed development will efficiently disseminate rather than concentrate vehicular trips generated by the proposed development; based on 2010 traffic projections from the Kentucky Transportation Cabinet (KTC), approximately 40,000 cars/day use this segment of Shelbyville Road; As it relates to the proposed re-use of the property, a submitted traffic study addresses trip generation and distribution and reports that the proposed trips forecasted from the proposed mixed-use community will have inconsequential impacts on existing traffic in the area and will introduce minimal trips onto Church Way, the local roadway to the south; a portion of Church Way – a local public roadway – is to be closed, but replaced by a public access and utility easement; as a result vehicular connectivity will be preserved along North and South Church Way; bike racks will be provided on the site to encourage the use of bicycles as a form of transportation; Furthermore, the design of this proposed mixed-use development, together with its points of access, comply with the standards applied by KTC and Metro Transportation Planning and Public Works, which has reviewed and approved the RDDP in accord with its aforementioned standards; consequently, Transportation Planning's and Public Works' review and preliminary stamp of approval will assure that the applicable standards for corner clearances, access, connectivity, internal circulation and parking minimums are all satisfied, and

WHEREAS, the Commission further finds that the proposed development provides safe and efficient vehicular and pedestrian transportation both within the development and the surrounding community because the parking and vehicular use areas on the proposed revised district development plan (RDDP) are designed to safely move automobile traffic around the property without conflicting with the movement of pedestrians; the request also includes constructing a new sidewalk along Shelbyville Road which will replace the existing sidewalk easement, which is to be released; the site provides multiple pedestrian access opportunities which will link the site to Shelbyville Road, S. Hubbards Lane and Church Way; sidewalk connectivity will also extend to a non-contiguous property under common ownership at 4124 Shelbyville Road that will serve employees, patrons and guests of the proposed mixed-use

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development; Shelbyville Road is classified as a major arterial roadway and multiple TARC routes run along this portion of the Shelbyville Road; the applicant has agreed to construct and maintain a new TARC shelter to encourage the use of multi-modal transportation, ensuring an adequate level of transit service to the property; Given the site's location along a major arterial roadway, no change in the number of curb cuts to Shelbyville Road, utilizing shared access points with the adjoin car dealership, access to TARC service, development of this site as proposed is an appropriate use of the property and supports safe and efficient vehicular and pedestrian circulation, and

WHEREAS, the Commission further finds that while the existing site supplies no scenic natural areas, recreational/open space amenities, the proposed development will provide open and recreational space internal to the development for the benefit of the residents; these recreational/open space amenities include a 3,464sf fitness cross-fit training facility and a swimming pool, as well as over 18,000sf of green roofs / outdoor terraces, which will also afford its residents rooftop amenities, benefitting adjacent and overlooking residential units; the design features proposed with this mixed-use rental community are specifically designed to meet the needs of the residents, and

WHEREAS, the Commission further finds that the proposed storm water management plan will meet or exceed the requirements of MSD; special provisions will be made to reduce the 100-yr post-developed storm water condition to the 10-yr pre-developed condition; this will have the effect of reducing downstream storm water runoff impacts – even though the current condition is fully developed and over 90% impervious; the applicant will also provide a menu of “green” best management practices (BMP's) designed to infiltrate/treat storm water on-site, which may include underground infiltration basins, permeable pavers, bio-swales, and/or green roofs; in addition to runoff volume mitigation, these improvements are designed to improve storm water quality; the applicant has direct local experience working with MSD in providing these types of innovative practices at Cardinaltowne, near the UofL Belknap campus, which provided significant storm water reductions to the existing combined sewer system; the net result of these design features is to reduce drainage problems associated with the redevelopment of this site from occurring within the community and improve water quality, and

WHEREAS, the Commission further finds that the overall site design and land uses of the proposed mixed-use community are compatible with the existing and projected future development of the area because the subject property is located within an existing activity center amid a mixture of commercial uses, including retail, restaurant and business uses along the Shelbyville Road Suburban Marketplace Corridor and office, residential, and civic uses along Church Way; the proposed site design for the property includes 276 apartment units, 15,345sf of first floor retail/restaurant space, related interior leasing and amenity space (including a cross-fit facility and swimming

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pool) and a parking structure containing 219 parking spaces; in addition, the RDDP includes an out lot containing 3,675sf of commercial space at the west end of the subject property fronting Shelbyville Road; the mixed-use nature of the development provides for the internal consolidation of trips by providing the residents of the development with retail/dining options on-site; Residents of the development will also be within convenient walking distance to other shopping, dining, employment, and service opportunities along Shelbyville Road; the floor area ratio (F.A.R.) of under 0.30 is compatible with surrounding land uses; being an infill development within an established commercial area, the proposal results in an efficient use of land that utilizes existing infrastructure; the proposed development will utilize the practice of shared access and parking to minimize impervious areas and impacts to surrounding uses, and

WHEREAS, the Commission further finds that parking lots and associated vehicular use areas contain appropriate planting and interior landscape areas, where none exist today, and will serve to break up parking areas and enhance the aesthetics of the site; A 5' linear landscape buffer is provided along Shelbyville road and will help screen parking areas from Shelbyville Road; the required 5' buffer areas are also provided along the Site's shared property lines with the abutting properties on North and South Church Way, which will adequately screen vehicular use areas from the adjoining properties; thus the proposed landscaping and buffer areas are consistent with the existing pattern of development within the area and ensure the development is compatible with nearby uses; interior sidewalks will connect to Shelbyville Road, S. Hubbards Lane and North and South Church Way, providing pedestrian connectivity to the local sidewalk network. The proposed development is therefore compatible with the existing and projected development pattern in the area, and

WHEREAS, the Commission further finds that the proposed RDDP complies with the applicable policies and guidelines of Cornerstone 2020 and the regulations set forth in the Development Code because subject property is primarily zoned C-2 Commercial and located in the Suburban Marketplace Corridor, with a smaller component of R-7 Multi-family Residential toward the rear of the property, fronting on Church Way, which is located within the Neighborhood Form District; the site is also strategically located between a Regional Center (shopping malls) to the east and the City of St. Matthews Town Center to the west; as such, the site is part of an important link containing supporting retail, business and residential uses for both districts; the mixed-use nature, size and scale of the proposed use is appropriate given the site's context and are consistent with the guidelines of the Suburban Marketplace Corridor; It also serves as an important transitional use to lower intensity uses to the south in the Neighborhood Form District; the subject property will contain perimeter and interior landscape areas with plantings that meet or exceed Development Code requirements and greatly improve from the lack of greenery on the property, which will ensure an appropriate transition between the subject property and the surrounding use; outdoor lighting will be

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fully shielded and will not be directed toward surrounding residential uses; the proposal meets the requirements of the C-2 and R-7 Zoning Districts and the requirements of the St. Matthews Development Code; the proposal also complies with many of the guidelines contained in the Comprehensive Plan, including its prime location on a major arterial roadway, the redevelopment of and reinvestment to existing property, encouraging mixed-use developments, re-using existing rather than extending existing utilities and infrastructure, utilizing existing curb cuts/entrances onto major roadways, and promoting vehicular and pedestrian connectivity. Specifically, and for all the reasons set forth herein, this proposal for a mixed-use community complies with the following guidelines: 2.5, 2.6, 2.13, 2.15, 3.3, 3.11, 3.22, 3.24, 3.25, 6.3, 7.3, 7.10, 7.13, 7.16, 9.1, 9.3, 9.11, 12.7; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** that the City of St. Matthews **APPROVE** the revised district development plan.

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 and to the City St. Matthews 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) is requested:
 - a. The development plan must receive full construction approval from Develop Louisville, Louisville Metro Public Works and the Metropolitan Sewer District.

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- b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
 - c. A minor subdivision plat or legal instrument shall be recorded creating the lot lines as shown on the development plan. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services prior to obtaining a building permit.
 - d. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Article 12 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - e. A minor plat or legal instrument shall be recorded consolidating the property (Lot 1 on the development plan). A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services prior to obtaining a building permit.
 - f. A reciprocal access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be created between the adjoining property owners and recorded. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services prior to obtaining a building permit.
 - g. A road closure approval for a portion of North and South Church Way as well as a 20' public passway (as shown on the development plan) shall be approved prior to requesting a building permit.
5. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission and the City of St. Matthews.
6. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system.
7. A legal instrument providing for the long-term use of the joint-use parking spaces, as shown on the approved development plan and in accordance with Section 9.1.6 Joint Use Parking, shall be submitted and approved by the Planning Commission legal counsel and recorded in the County Clerk's office. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services prior to obtaining a building permit.

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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. There shall be no outdoor storage on the site.
10. Outdoor lighting shall be directed down and away from surrounding residential properties. Lighting fixtures shall have a 90 degree cutoff and height of the light standard shall be set so that no light source is visible off-site. Light levels due to lighting on the subject site shall not exceed .5 foot candles measured at the property line. The applicant shall obtain certification by a qualified expert in measurement of lighting levels prior to requesting a certificate of occupancy. Such certification shall be maintained on site at all times thereafter. This Binding Element shall not apply to existing outdoor lighting on the site.
11. All exterior lighting, whether freestanding or attached to any structure, including street lights, lot lights, and lighting for any signage, shall be fully shielded, shall utilize flat or hidden lenses, and shall be pointed directly to the ground.
12. No LED or metal halide lighting shall have a correlated color temperature (CCT) exceeding 3,000 Kelvins.
13. Parking lot light fixtures shall be no more than fourteen feet high, measured from ground level.
14. No lighted signage shall be placed above the first-floor level.
15. No changing image or moving signs shall be permitted.
16. No heavy construction traffic shall utilize North or South Church Way to access the construction site of the subject property.
17. Deliveries shall be instructed NOT to utilize North or South Church Way to access the property.

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18. When moving in or out of the building on the property, tenants who use a moving truck or rely on commercial moving services that use trucks to load or unload items to/from the property shall be instructed NOT to utilize North or South Church Way and shall instruct any commercial moving not to utilize North or South Church Way.

The vote was as follows:

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

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CLOSED SESSION DISCUSSION

06:28:42 A motion was made by Commissioner Carlson, seconded by Commissioner Tomes, to go into Closed Session pursuant to KRS 61.810 to discuss pending litigation against the Commission. The motion carried by the following vote:

The vote was as follows:

Yes: Brown, Carlson, Lewis, Ferguson, Tomes and Lindsey

Absent: Howard, Peterson, Jarboe, and Smith

Abstain: None

No: None

06:30:10 Chair Lewis stated the Commission has returned to Open Session and there were no final decisions made during Closed Session.

06:30:44 A motion was made by Commissioner Carlson, seconded by Commissioner Lindsey, that the Planning Commission will consider the revised settlement plan under the old regulations to settle pending litigation in 14SUBDIV1009. The motion carried by the following vote:

The vote was as follows:

Yes: Brown, Carlson, Lewis, Ferguson, Tomes and Lindsey

Absent: Howard, Peterson, Jarboe, and Smith

Abstain: None

No: None