

**MINUTES OF THE MEETING  
OF THE  
LOUISVILLE METRO PLANNING COMMISSION MEETING  
December 17, 2020**

A meeting of the Louisville Metro Planning Commission was held on Thursday, December 17, 2020 via Webex.

**Commissioners present:**

Vince Jarboe, Chair  
Marilyn Lewis, Vice Chair  
Te'Andre Sistrunk  
Robert Peterson  
Lula Howard  
Ruth Daniels  
Jeff Brown  
Patricia Seitz  
Jim Mims

**Commissioners absent:**

Rich Carlson

**Staff members present:**

Emily Liu, Director, Planning & Design Services  
Joe Reverman, Assistant Director, Planning & Design Services  
Brian Davis, Planning & Design Manager  
Julia Williams, Planning Supervisor  
Dante St. Germain, Planner II  
Joel Dock, Planner II  
Laura Ferguson, Legal Counsel  
Beth Stuber, Transportation Planning  
Mark Sites, MSD  
Chris Cestaro, Management Assistant (minutes)

The following matters were considered:

**PLANNING COMMISSION MINUTES**  
**December 17 2020**

**APPROVAL OF MINUTES**

**Approval of the Minutes for the December 3, Planning Commission public hearing.**

00:35:116 On a motion by Commissioner Howard, seconded by Commissioner Sistrunk, the following resolution was adopted:

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** the minutes of the Planning Commission public hearing conducted on December 3, 2020.

**The vote was as follows:**

**YES: Commissioners Lewis, Peterson, Brown, Mims, Howard, Daniels, Seitz, Sistrunk, and Jarboe.**

**ABSENT: Commissioner Carlson.**

**PLANNING COMMISSION MINUTES**  
**December 17, 2020**

**CONSENT AGENDA**

**CASE NO. 20-STRCLOSURE-0017**

Request: Bohannon Ave road closure  
Project Name: Bohannon Avenue  
Location: 13915, 14201, & 15012 Bohannon Avenue  
Owner: Louisville Metro  
Applicant: LDG Land Holdings, LLC  
Representative: Dinsmore & Shohl, LLP  
Jurisdiction: Louisville Metro  
Council District: 14 - Cindi Fowler

**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. (The staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

**Agency Testimony:**

00:36:45 Joel Dock said he had no additional information to add. This is a street closure with 100% consent.

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

00:37:42 On a motion by Commissioner Howard, seconded by Commissioner Peterson, the following resolution was adopted:

**RESOLVED**, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the requested Consent Agenda item be **APPROVED**.

**The vote was as follows:**

**PLANNING COMMISSION MINUTES**  
**December 17, 2020**

**CONSENT AGENDA**

**CASE NO. 20-STRCLOSURE-0017**

**YES: Commissioners Lewis, Peterson, Brown, Mims, Howard, Daniels, Seitz, Sistrunk, and Jarboe.**

**ABSENT: Commissioner Carlson.**

**PLANNING COMMISSION MINUTES**  
**December 17, 2020**

**PUBLIC HEARING**

**2021 Meeting Calendar**

Adoption of the proposed Planning Commission and subcommittee meeting calendar for 2021.

**Agency Testimony:**

00:38:40 Brian Davis, Planning & Design Manager, showed and briefly discussed the proposed calendar for the Planning Commission, LD&T, DRC, and BOZA. Emily Liu, Director of Planning & Design Services, noted that the next Planning Commission hearing is scheduled for January 7, 2021. Marilyn Lewis, as current Vice Chair, will be chairing that meeting. On January 21, 2021, the Commissioners will elect a Chair and Vice Chair during their Annual Meeting, scheduled on that date.

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

00:40:09 On a motion by Commissioner Peterson, seconded by Commissioner Daniels, the following resolution was adopted:

**RESOLVED**, the Louisville Metro Planning Commission does hereby **ACCEPT** the proposed calendar for the Planning Commission and related subcommittees for 2021.

**The vote was as follows:**

**YES: Commissioners Lewis, Peterson, Brown, Mims, Howard, Daniels, Seitz, Sistrunk, and Jarboe.**

**ABSENT: Commissioner Carlson.**

**PLANNING COMMISSION MINUTES  
December 17, 2020**

**PUBLIC HEARING**

**CASE NO. 20-STRCLOSURE-0002 AND 20-ZONE-0010**

**\*NOTE: These two cases were heard together but voted on separately. They are both associated with the same project.**

**Case No. 20-STRCLOSURE-0002**

Request: Street Closure of Tucker Road  
Project Name: Tucker Creek Apartments  
Location: 9311 Old Six Mile Lane  
Owner: City of Jeffersontown  
Applicant: Ramage Company  
Representative: Bardenwerper, Talbott, & Roberts, PLLC  
Jurisdiction: City of Jeffersontown  
Council District: 11 - Kevin Kramer

**Case Manager: Joel P. Dock, AICP, Planner II**

**Case No 20-ZONE-0010**

Request: Change in zoning from R-4 to R-6 with detailed district development plan  
Project Name: Tucker Creek Apartments  
Location: 9311 Old Six Mile Lane  
Owner: 9311 Old Six Mile, LLC  
Applicant: Ramage Company  
Representative: Bardenwerper, Talbott, & Roberts, PLLC  
Jurisdiction: City of Jeffersontown  
Council District: 11 - Kevin Kramer

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

**Agency Testimony:**

**PLANNING COMMISSION MINUTES**  
**December 17, 2020**

**PUBLIC HEARING**

**CASE NO. 20-STRCLOSURE-0002 AND 20-ZONE-0010**

00:41:24 Joel Dock presented the case and showed a Power Point presentation (see recording for detailed presentation.)

00:46:49 In response to a question from Commissioner Howard, Mr. Dock discussed "Missing Middle Housing".

00:47:46 Commissioner Jarboe said an opposition letter claimed that there were already "700 apartments in close proximity to" this site. He asked if that was true; also, would that factor be considered when determining if this project is following the Land Development Code? Mr. Dock said there is not a Plan 2040 land use and development policy that allows staff to look at how many multi-family are currently constructed in the area. See recording for detailed discussion.

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

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

Kathy Linares, Mindel Scott & Associates, 5151 Jefferson Blvd, Louisville, KY 40219

Alex Nolan, The Ramage Company, 900 East Jefferson Street, Louisville, KY 40206

Doug Woosley, 9303 Old Six Mile Lane, Louisville, KY

**Summary of testimony of those in support:**

00:49:25 Paul Whitty, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.)

01:04:17 In response to a question from Commissioner Daniels, Mr. Whitty discussed tree removal and said trees will be planted on the site to meet the tree canopy requirement.

01:05:29 Mr Whitty said an adjoining neighbor, Mr. Doug Woosley, has sent an e-mail in support. Mr. Woosley spoke in support and said he had been in communication with Mr. Nolin regarding the project.

01:09:29 Mr. Dock said the plan currently shows a proposed 6-foot screen fence. He asked Mr. Woosley if that was what he wanted, or if some binding element language needs to be added to ensure a vegetative screen instead of a fence. Mr. Whitty said Mr. Nolin had worked that out with Mr. Woosley and would be willing to add a binding

**PLANNING COMMISSION MINUTES**  
**December 17, 2020**

**PUBLIC HEARING**

**CASE NO. 20-STRCLOSURE-0002 AND 20-ZONE-0010**

element. Alex Nolan described in detail how many trees and hedges were planned along Mr. Woosley's property line (see recording for detailed discussion.)

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

Tara Graves, 3628 Stony Run Drive, Louisville, KY

Tom Greenwood, 22 Hilltop Road, Philadelphia PA

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

01:13:02 Tara Graves said she is the one who purchased the house that was burned, across the street. She said she is restoring this historic home, and now she found out about the apartments going in across the street. She said there are "a lot" of apartments along this street. She is concerned about declining property value and adding traffic on a narrow street.

01:15:59 Tom Greenwood is a part owner of the company which owns the Harper Apartments next to this property. He said they do not oppose the zoning change, but do oppose the street closure. He said the applicant's proposed 3-story buildings will be taller than his 2 ½ story buildings, and with the street closure, the buildings will only be 75 feet apart. There is no fence proposed and very little if any landscape buffer.

**Rebuttal:**

01:17:57 Mr. Whitty delivered rebuttal (see recording for detailed presentation.) He also noted that the applicant was prompted to close the unimproved road by the City of Jeffersontown.

**01:21:07 Commissioners' deliberation.**

01:25:59 A proposed binding element was added by Mr. Dock to read as follows:

*A six-foot vegetative screen shall be provided along the western property line.*

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



**PLANNING COMMISSION MINUTES**  
**December 17, 2020**

**PUBLIC HEARING**

**CASE NO. 20-STRCLOSURE-0002 AND 20-ZONE-0010**

**Street Closure – Case No. 20-STRCLOSURE-0002**

01:26:32 On a motion by Commissioner Brown, seconded by Commissioner Howard, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

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

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

**WHEREAS**, the Commission further finds that the request to close an unimproved section of Tucker Road between Taylorsville Road and Old Six Mile Lane follows the land use and development policies of Plan 2040. Plan 2040 calls for developments to be evaluated for their impact on the transportation network (including the street, pedestrian, transit, freight movement and bike facilities and services) and air quality. The proposed section of right-of-way to be closed is not in use and it is unimproved. Alternative means of connectivity to Taylorsville Road from Old Six Mile Lane is available from nearby public roadways. Connectivity from Old Six Mile Lane to Taylorsville Road at a lighted intersection is available via Patti Lane to the east of the subject site. Connectivity is also provided by Gleeson Lane to the west of the site. Alternative private roadways also provide connectivity to improved sections of Tucker Road from adjacent development; and

**WHEREAS**, the Commission further finds that the road closure is being requested in conjunction with a change in zoning and detailed district development plan; now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the City of Jeffersontown that the requested Street Closure be **APPROVED**.

**PLANNING COMMISSION MINUTES**  
**December 17, 2020**

**PUBLIC HEARING**

**CASE NO. 20-STRCLOSURE-0002 AND 20-ZONE-0010**

The vote was as follows:

**YES: Commissioners Lewis, Peterson, Brown, Mims, Howard, Daniels, Seitz, Sistrunk, and Jarboe.**

**ABSENT: Commissioner Carlson.**

**Change-in-Zoning – Case No. 20-ZONE-0010**

01:27:33 - On a motion by Commissioner Brown, seconded by Commissioner Howard, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the intents of Land Use & Development Goal 1: Community Form because the proposed district is located with access to Taylorsville Road, a major transportation corridor which provides access to and contains employment and activity centers; and the proposed district is adjacent to similar densities. Appropriate transitions will be provided as required; and

**WHEREAS** the Commission further finds that the proposal meets the intents of Land Use & Development Goal 2: Community Form because the land contains a single structure and the proposed district will result in residential development; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of 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; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Land Use & Development Goal 4: Community Form because the site does not appear to contain distinctive cultural features; and structures on site are not individually eligible for listing on the National Register of Historic Places due to loss of historic integrity. They also do not qualify as contributing to a potential historic district due to the loss of historic context; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Land Use & Development Goal 1: Mobility because the proposed district is located with access to Taylorsville Road, which provides primary and secondary activities and services. Taylorsville Road also provides for public transit service to employment and activity centers downtown or elsewhere along the corridor; and

**PLANNING COMMISSION MINUTES**  
**December 17, 2020**

**PUBLIC HEARING**

**CASE NO. 20-STRCLOSURE-0002 AND 20-ZONE-0010**

**WHEREAS**, the Commission further finds that the proposal meets the intents of Land Use & Development Goal 2: Mobility because the proposed district is located in a mixed density area within close proximity to Taylorsville Road, which provides primary and secondary activities and services. Access to the proposed district would not create a significant nuisance given these conditions; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Land Use & Development Goal 3: Mobility because the proposed district encourages a mixture of compatible land uses that are easily accessible by bicycle, car, transit, pedestrians and people with disabilities; sidewalks and pedestrian connections will be provided as required; the development will provide all required improvements to the network to ensure that the site is accessible; transportation facilities and services are adequate to serve the proposed district; right-of-way dedication will be provided as required to Old Six Mile Lane; and no direct access to high speed roadways is provided for individual units; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Land Use & Development Goal 2: Community Facilities because the proposal is located in an area served by existing utilities or planned for utilities as evidenced by adjacent development; the proposal would appear to have access to an adequate supply of potable water and water for fire- fighting purposes as evidenced by adjacent development; and MSD preliminary approval has been received Ensure that all development has adequate means of sewage treatment and disposal to protect public health; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Land Use & Development Goal 1: Livability because the development site is not heavily treed with large portions of the exiting tee being located along the perimeter where buffers are required; a karst survey has been performed for the subject property. If karst features are encountered during site construction a geotechnical engineer should be retained for remediation methods; and the development site is not located in the floodplain; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Land Use & Development Goal 1: Housing because the proposed district encourages a continued variety of housing at a location near major transportation, services, and amenities; and the proposed district promotes housing options and environments that support aging in place as senior, independent, and assisted living are permitted within the district. The district is located within proximity to Taylorsville Road, which contains or provides convenient access to shopping, transit routes, medical and other supportive facilities; and

**PLANNING COMMISSION MINUTES**  
**December 17, 2020**

**PUBLIC HEARING**

**CASE NO. 20-STRCLOSURE-0002 AND 20-ZONE-0010**

**WHEREAS**, the Commission further finds that the proposal meets the intents of Land Use & Development Goal 2: Housing because the proposal district supports intergenerational and mixed-income development that is connected to the neighborhood; and the subject site is within proximity to multi-modal transportation corridors providing safe and convenient access to employment opportunities. The proposed district is located within proximity to Taylorsville Road, which contains or provides convenient access to shopping, transit routes, medical and other supportive facilities; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Land Use & Development Goal 3: Housing because the proposed district encourages fair and affordable housing by allowing a variety of ownership options and unit costs throughout Louisville Metro; the district expands opportunities for people to live in quality, variably priced housing in locations of their choice by enabling the provision of affordable and accessible housing in dispersed locations throughout Louisville Metro; the proposed district allows for increased opportunity for housing; and the proposed district encourages the use of innovative design methods by expanding the ability to provide a variety of housing types and styles. The proposed district allows for an increase of housing options to be located on a site where single-family zoning currently limits the production of fair and affordable housing; now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the City of Jeffersontown that the requested change in zoning from R-4, single-family to R-6, multi-family residential on property described in the attached legal description be **APPROVED**.

**The vote was as follows:**

**YES: Commissioners Lewis, Peterson, Brown, Mims, Howard, Daniels, Seitz, Sistrunk, and Jarboe.**

**ABSENT: Commissioner Carlson.**

**Detailed District Development Plan – Case No. 20-ZONE-0010**

01:28:26 On a motion by Commissioner Brown, seconded by Commissioner Daniels, the following resolution, based on the Standard of Review and Staff Analysis, and evidence and testimony heard today, was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that the 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

**PLANNING COMMISSION MINUTES**  
**December 17, 2020**

**PUBLIC HEARING**

**CASE NO. 20-STRCLOSURE-0002 AND 20-ZONE-0010**

views, and historic sites will be conserved as the site does not appear to adversely impact these features. All required tree canopy and planting/screening material will be provided as required by Ch. 10 of the Land development Code. The site is not heavily treed and it would appear that a large portion of canopy is located along shared property lines. The site does not contain protected waterways or steep slopes; and

**WHEREAS**, the Commission further finds that provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community will be provided as public sidewalks are currently available and will be repaired as required by the City of Jeffersontown. Pedestrian connectivity will be provided from the development site to public sidewalks; and

**WHEREAS**, the Commission further finds that the provision of sufficient open space (scenic and recreational) to meet the needs of the proposed development will be provided as required by Land Development Code, section 5.11.9; 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 proposal is compatible within the scale and site design of nearby existing development and with the form district's pattern of development as compliance with site and building design standards contained in the Land Development Code as adopted by the City of Jeffersontown have been demonstrated; and

**WHEREAS**, the Commission further finds that the proposed development plan conforms to Plan 2040 as the proposal provides for provide housing at a location with convenient access to shopping, transit routes, medical and other supportive facilities and services; now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the City of Jeffersontown that the requested Detailed District Development Plan and binding elements be **APPROVED**, 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

**PLANNING COMMISSION MINUTES**  
**December 17, 2020**

**PUBLIC HEARING**

**CASE NO. 20-STRCLOSURE-0002 AND 20-ZONE-0010**

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 City of Jeffersontown, 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. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
  - c. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the December 17, 2020 Planning Commission meeting. A copy of the approved rendering will be available in the case file on record in the offices of the Louisville Metro Planning Commission.
  - d. A road closure for Tucker Road as shown on the approved district development plan and in case 20-STREETS-0002 must be approved and recorded.
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.

**PLANNING COMMISSION MINUTES**  
**December 17, 2020**

**PUBLIC HEARING**

**CASE NO. 20-STRCLOSURE-0002 AND 20-ZONE-0010**

5. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
6. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
7. The developer shall be responsible for maintenance of all drainage facilities and undeveloped lots ensuring prevention of mosquito breeding, until such time as the drainage bond is released.
8. A six-foot vegetative screen shall be provided along the western property line.

**The vote was as follows:**

**YES: Commissioners Lewis, Peterson, Brown, Mims, Howard, Daniels, Seitz, Sistrunk, and Jarboe.**

**ABSENT: Commissioner Carlson.**

**PLANNING COMMISSION MINUTES**  
**December 17, 2020**

**PUBLIC HEARING**

**CASE NO. 20-ZONE-0079**

Request: Change in Zoning from U-N to R-6 Multi-Family Residential with Conditional Use Permit for Boarding and Lodging House, Detailed District Development Plan, Binding Elements, and Associated Waiver

Project Name: Page 89 House

Location: 531 E Kentucky Street

Owner: Jennifer Terry

Applicant: Jennifer Terry

Representative: Jennifer Terry

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. (The staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

**Agency Testimony:**

01:29:54 Dante St. Germain presented the case and showed a Power Point presentation (see recording for detailed presentation.)

01:38:29 In response to a question from Commissioner Mims, Ms. St. Germain listed some of the requirements for boarding houses.

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

Jennifer Terry, 1711 Lily Lane, New Albany, IN

**Summary of testimony of those in support:**

01:39:28 Jennifer Terry, the applicant, presented her case (see recording for her detailed presentation.) The intended purpose of the project is as housing for women in recovery.



**PLANNING COMMISSION MINUTES**  
**December 17, 2020**

**PUBLIC HEARING**

**CASE NO. 20-ZONE-0079**

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

No one spoke.

**01:43:23 Commissioners' deliberation.**

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

00:19:31 On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution was adopted:

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

01:48:01 On a motion by Commissioner Brown, seconded by Commissioner Howard, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the intents of Community Form: Goal 1 because the site is located one-half block from a transit corridor at S Jackson Street; the neighborhood is a mix of uses including several small activity centers; and the proposed use is not substantially different in scale, intensity or density from adjoining uses; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Community Form: Goal 2 because the proposal re-uses an existing building on the site; and

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

**WHEREAS**, the Commission further finds that the proposal meets the intents of Community Form: Goal 4 because the proposal re-uses an existing building on the site; and

**PLANNING COMMISSION MINUTES**  
**December 17, 2020**

**PUBLIC HEARING**

**CASE NO. 20-ZONE-0079**

**WHEREAS**, the Commission further finds that the proposal meets the intents of Mobility: Goal 1 because the neighborhood has several small activity centers and transit is available one-half block from the site; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Mobility: Goal 2 because access to the site is via E Kentucky Street, a primary collector at this location; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Mobility: Goal 3 because the site is accessible by bicycle, car, transit, pedestrians and people with disabilities; Transportation Planning has approved the proposal; and no direct residential access to high speed roadways is proposed; and

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

**WHEREAS**, the Commission further finds that the proposal meets the intents of Livability: Goal 1 because no natural resources are evident on the site. Street tree requirements will be met; the site is not located on karst terrain; and the site is not located within the regulatory floodplain; and

**WHEREAS** the Commission further finds that the proposal meets the intents of Housing: Goal 1 because the existing structure is to be maintained, reflecting the Form District pattern. The proposed zoning district would permit an increase in the variety of housing in the neighborhood by permitting small-scale multi-family development; and the proposal would support aging in place by permitting an increase in the variety of housing in the neighborhood. While the current proposal is for a boarding and lodging house, future small-scale multi-family development will be permitted by the proposed zoning district; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Housing: Goal 2 because the site is connected to the neighborhood and to the surrounding area. The proposal would permit mixed-income development; and the site is located in proximity to a multi-modal transportation corridor providing safe and convenient access to employment opportunities, as well as to amenities providing neighborhood goods and services; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Housing: Goal 3 because the proposed zoning district would permit small-scale multi-family development, increasing the variety of ownership options and unit costs in

**PLANNING COMMISSION MINUTES**  
**December 17, 2020**

**PUBLIC HEARING**

**CASE NO. 20-ZONE-0079**

Louisville Metro; no residents will be displaced by the proposed zoning district; and the proposed zoning district would permit innovative methods of housing; now, therefore be it

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

**The vote was as follows:**

**YES: Commissioners Lewis, Peterson, Brown, Mims, Howard, Daniels, Seitz, Sistrunk, and Jarboe.**

**ABSENT: Commissioner Carlson.**

**Waiver from 10.2.10 to allow a Vehicular Use Area to encroach into the required VUA Landscape Buffer Area (LBA) (20-WAIVER-0115)**

01:48:56 On a motion by Commissioner Brown, seconded by Commissioner Howard, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that the waiver will not adversely affect adjacent property owners as the conditions of encroachment will be created with the zoning change. The current parking area for the site is in the same location with no known adverse effects. The parking is located in the rear off the alley, which is the customary location for parking in Traditional Neighborhoods; and

**WHEREAS**, the Commission further finds that 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 proposed zoning district and proposed use are not substantially different in intensity or density compared with the intensity and density of the adjacent uses; and

**WHEREAS**, the Commission further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as it is infeasible to put the parking in any other location on the site. Parking off the alley is the customary location for parking in Traditional Neighborhoods; and

**PLANNING COMMISSION MINUTES**  
**December 17, 2020**

**PUBLIC HEARING**

**CASE NO. 20-ZONE-0079**

**WHEREAS**, the Commission further finds that strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant because it would be impossible to fit parking on the site with the required LBAs; now therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Waiver from 10.2.10 to allow a Vehicular Use Area to encroach into the required VUA Landscape Buffer Area (LBA) (20-WAIVER-0115).

**The vote was as follows:**

**YES: Commissioners Lewis, Peterson, Brown, Mims, Howard, Daniels, Seitz, Sistrunk, and Jarboe.**

**ABSENT: Commissioner Carlson.**

**Conditional Use Permit**

01:49:46 On a motion by Commissioner Brown, seconded by Commissioner Howard, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal does not conflict with any Comprehensive Plan policies. Plan 2040 encourages the provision of increased quantities of fair and affordable housing in Jefferson County. The proposed Conditional Use Permit would allow for small-scale housing in the form of a boarding and lodging house; and

**WHEREAS**, the Commission further finds that the proposal is compatible with the surrounding land uses and neighborhood. A boarding and lodging house is a relatively low-intensity use and the single-family character of the existing structure is to be maintained; and

**WHEREAS**, the Commission further finds that the subject property is served by existing public utilities and facilities. The proposal will not create substantial additional requirements for the site. Required parking is being provided and transit is available nearby; and

**WHEREAS**, the Commission further finds that the proposal complies with the specific standards required to obtain the requested conditional use permit:

**PLANNING COMMISSION MINUTES**  
**December 17, 2020**

**PUBLIC HEARING**

**CASE NO. 20-ZONE-0079**

**4.2.11 Boarding and Lodging Houses**

Boarding and lodging houses may be allowed in the R-R, R-E, R-1, R-2, R-3, R-4, R-5, R-6, R-7, and R-8A districts upon the granting of a Conditional Use Permit and compliance with the following requirements.

A. Boarding and lodging houses located in R-E, R-R, R-1, R-2, R-3, R-4 and R-5 single-family districts shall have a maximum of 3 boarders in addition to resident family members of the boarding and lodging house keeper. Those boarding and lodging houses located in other districts shall have a maximum of 8 boarders.

**STAFF: The proposal is for 7 boarders.**

B. All boarding and lodging houses shall comply with the administrative and maintenance requirements established in 902 KAR 20:350, only applicable when meals are served at the facility.

**STAFF: The boarding and lodging house shall comply with this requirement.**

C. Boarding and lodging houses shall not have any signage which identifies the use.

**STAFF: No signage is proposed.**

D. Boarding and lodging houses shall be located on or near a collector or arterial street with reasonable access to public transportation.

**STAFF: The site is located on E Kentucky Street, a primary collector at this location. Public transit is available one-half block from the site.**

E. Sufficient on-site parking shall be provided as required by the Land Development Code.

**STAFF: Parking is compliant with the Land Development Code.**

F. All boarding and lodging houses shall comply with applicable building code and health department regulations.

**STAFF: The boarding and lodging house shall comply with this requirement.**

G. The Board of Zoning Adjustment shall take into account the location of other boarding and lodging houses, transitional housing, homeless shelters or rehabilitation homes in its analysis of Conditional Use Permit applications for

**PLANNING COMMISSION MINUTES**  
**December 17, 2020**

**PUBLIC HEARING**

**CASE NO. 20-ZONE-0079**

boarding and lodging houses.

H. The following information shall be for all boarding and lodging house Conditional Use Permit applications:

1. Type of resident population intended to be served, if any (e.g. veterans, a victim group, persons recovering from substance abuse (without on-site assistance services or supervision), college students, contract/seasonal workers, parolees (without on-site assistance or supervision), single persons, etc.);
2. Site plan and floor plans;
3. Rules of conduct and business management plan;
4. Support services to be provided and projected staffing level, if any;
5. Proposed maximum stay for each resident;
6. Any other information the Board of Zoning Adjustment deems necessary to evaluate the application; and
7. Any Changes to the foregoing information submitted in connection with the Conditional Use permit application shall require the Conditional Use Permit holder to apply for a modified Conditional Use Permit from the Board of Zoning Adjustment.

**STAFF: The proposed population to be served is women recovering from alcohol or substance abuse and dealing with other mental health issues. The boarding and lodging house shall comply with all other requirements.**

I. The operator(s) of a boarding and lodging house shall maintain a registry of residents, which shall document the terms of stay of each resident. This registry shall be made available for inspection by a Code Enforcement Officer in order to determine the total number of residents residing in the boarding and lodging house at a given time and whether or not a term of stay is temporary or permanent. However, under these provisions, the operator is not required to collect and/or maintain records that may be used for discriminatory purposes under the Fair Housing Acts, including but not limited to records relating to the race, religion, gender, national origin, family status and/or disability of any resident.

**STAFF: The boarding and lodging house shall comply with this requirement.**

J. Board of Zoning Adjustment shall, to the best of their abilities, find that the establishment of the facility will not result in harm to the health, safety or general welfare of the surrounding neighborhood, and that substantial adverse impacts on adjoining properties or land uses will not result from the facilities' operations.

**PLANNING COMMISSION MINUTES**  
**December 17, 2020**

**PUBLIC HEARING**

**CASE NO. 20-ZONE-0079**

K. The Board of Zoning Adjustment shall find that the facility is compatible with the character of the surrounding neighborhood.

L. No boarding and lodging house shall operate until it has received a license pursuant to Louisville Metro Code of Ordinances Section 115 and, if required, a license from the Commonwealth of Kentucky pursuant to KRS 21B.

**STAFF: The applicant has begun the process to obtain a license from Codes and Regulations**

M. Operation of a boarding and lodging house without the required license may constitute grounds for denial of a related Conditional Use Permit by the Board of Zoning Adjustment.

Now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Conditional Use Permit for a boarding and lodging house (LDC 4.2.11) (20-CUP-0109).

**The vote was as follows:**

**YES: Commissioners Lewis, Peterson, Brown, Mims, Howard, Daniels, Seitz, Sistrunk, and Jarboe.**

**ABSENT: Commissioner Carlson.**

**Detailed District Development Plan with Binding Elements**

01:50:53 On a motion by Commissioner Brown, seconded by Commissioner Howard, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that the existing structure is proposed to be reused and maintained. No natural resources are evident on the 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

**PLANNING COMMISSION MINUTES**  
**December 17, 2020**

**PUBLIC HEARING**

**CASE NO. 20-ZONE-0079**

has been provided, and Metro Public Works has approved the preliminary development plan; and

**WHEREAS**, the Commission further finds that no open space requirements are pertinent to the proposal; and

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

**WHEREAS**, the Commission further finds that the overall site design is compatible with the existing and future development of the area. The neighborhood is characterized by a mix of uses and zoning districts; and

**WHEREAS**, the Commission further finds that the development plan conforms to applicable guidelines and policies of the Land Development Code with the exception of the requested waiver; now, therefore be it

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

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



**PLANNING COMMISSION MINUTES**  
**December 17, 2020**

**PUBLIC HEARING**

**CASE NO. 20-ZONE-0079**

4. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested:
  - a. The development plan must receive full construction approval from Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.
  - b. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a certificate of occupancy. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
  - c. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
  - d. The residential character of the structure shall be maintained. Changes to the following items shall not be made without prior approval of the Planning Commission or its designee:
    - i. roof line
    - ii. building material
    - iii. porch
    - iv. windows
5. No signage which identifies the boarding and lodging house shall be permitted on the site.
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. 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

**PLANNING COMMISSION MINUTES  
December 17, 2020**

**PUBLIC HEARING**

**CASE NO. 20-ZONE-0079**

land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.

**The vote was as follows:**

**YES: Commissioners Lewis, Peterson, Brown, Mims, Howard, Daniels, Seitz, Sistrunk, and Jarboe.**

**ABSENT: Commissioner Carlson.**

**PLANNING COMMISSION MINUTES**  
**December 17, 2020**

**PUBLIC HEARING**

**CASE NO. 20-ZONE-0056**

Request: Change in Zoning from R-4 to R-5A with Detailed District Development Plan, Binding Elements, and Associated Waivers and Variance  
Project Name: S English Station Road Multi-Family Location: 999 & 1007 S English Station Road  
Owner: 1007 S English Station Road  
Applicant: Sunshine English Station Development LLC  
Representative: Bardenwerper Talbott & Roberts  
Jurisdiction: Louisville Metro  
Council District: 20 - Stuart Benson

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

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

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

**Agency Testimony:**

01:59:45 Dante St. Germain presented the case and showed a Power Point presentation (see recording for detailed presentation.)

02:11:11 Ms. St. Germain discussed proposed binding elements.

**02:12:47 Commissioner Mims disclosed that he does have some ownership interest in the apartment community across the street from this site; however, he said that should not affect his ability to fairly review this case.**

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

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

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

**PLANNING COMMISSION MINUTES**  
**December 17, 2020**

**PUBLIC HEARING**

**CASE NO. 20-ZONE-0056**

Derek Triplett, Land Design & Development, 503 Washburn Avenue, Louisville, KY 40222

Diane Zimmerman, traffic engineer (was present but did not speak)

**Summary of testimony of those in support:**

02:13:21 William Bardenwerper, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.)

02:25:58 Derek Triplett, an applicant's representative, discussed topography, drainage, tree canopy, project design, and road improvements along South English Station Road (including turning lanes).

02:30:19 Mr. Bardenwerper resumed his presentation.

02:33:13 Referring to a slide in his presentation, Mr. Bardenwerper discussed in more detail the proposed binding elements.

02:39:08 Joe Reverman, Assistant Director of Planning & Design Services asked for more clarification on roadways. The entrance on the south will require a bond on that road - is that included on the Tract 1 road-bonding? Mr. Bardenwerper said a bond is required whenever a developer does any work in a public right-of-way. The main road through the patio homes communities would be bonded; the road on the south that goes into the apartments would not be bonded, because it doesn't connect with anything. Mr. Reverman said Metro would likely require that to be bonded as a private street. See recording for detailed discussion.

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

No one spoke.

**02:42:49 Commissioners' deliberation.**

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

**PLANNING COMMISSION MINUTES**  
**December 17, 2020**

**PUBLIC HEARING**

**CASE NO. 20-ZONE-0056**

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

02:48:58 On a motion by Commissioner Brown, seconded by Commissioner Howard, the following resolution, based on the Standard of Review and Staff Analysis, evidence and testimony heard today, and the applicant's findings of fact, was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that this "Application Package" complies with Plan Element 4.1, its five Goals and their Objectives plus the following Policies; as to Goal 1, Policies 2, 2.1, 3.1.3, 4, 5, 6, 7, 9 10, 11, 12, 14, 16, 17, 18, 19, 20 and 23, it complies as follows, in addition to the other ways set forth above and below: the site is located in the Neighborhood Form District which encourages medium and high density uses and a range of housing opportunities, notably including multi-family dwellings which can be condominium patio homes and rental apartments, which this plan proposes; proposed density in this instance is barely in the medium range, as contemplated by these Policies; stacked 3-story apartments constitute 172 of the planned units, and patio homes make up the other 54 units; their designs, square footages, rental rates and sales prices are also contemplated by these Policies as appropriate for this Form District and this specific neighborhood; located as this proposed multi-family zoned community is just a short drive south down S. English Station Road from a sizeable commercial activity center and a very short distance from Christian Academy school, travel distances for purposes of shopping and school are reduced, and walking and biking become very real possibilities; this helps contribute to improved air quality; the frontage improvements along S. English Station Road to add a center turn lane will improve the existing condition of the frontage and stub streets are being provided to the east and north; the brick and quality siding components and traditional style and design of these buildings assure compatibility with the north-adjointing patio home style condominium buildings and also nearby apartment buildings across S. English Station Road; landscaping, screening and buffering beyond the bare minimums also helps assure appropriateness for the neighborhood and compatibility with adjoining residential uses; and as a consequence of what surrounds this proposal and the fact that this is a proposed multi-family community, same as the north and west adjoining uses, impacts such as traffic, odors, lighting, noise and aesthetic factors will not prove to be nuisance factors; and

**WHEREAS**, the Commission further finds that, as to Goal 2, Policies 1, 2, 3, 6, 7, 8, 9, 11, 12, 13, 14, 15, 16 and 17, it complies as follows, in addition to the other ways set forth above and below: the proposed multi-family community is located in a Neighborhood Form District, very near already built shopping and other multi-family zoned communities and in close proximity to a school; as such, and with good pedestrian and vehicular access along S. English Station Road with street and sidewalk connections to other neighborhoods, the proposed multi-family community is part of a

**PLANNING COMMISSION MINUTES**  
**December 17, 2020**

**PUBLIC HEARING**

**CASE NO. 20-ZONE-0056**

large mixed residential, retail and school activity center; also, as such, it will add to the opportunities existing and planned in this high growth area of Louisville Metro to reside in close and convenient proximity to places of employment, food, shopping and education; and given all that is proximate to and surrounds this particular site, and given the particular design of this proposed multi-family community, it appears as though this development and the larger community, including the activity center of which this development is a part, has the overriding feel of having been always planned this way; and

**WHEREAS**, the Commission further finds that, as to Goal 3, Policies 1, 2, 3, 6, 9, 10 and 13, it complies as follows, in addition to the other ways set forth above and below: the detailed district development plan (DDDP) filed with the rezoning application for this proposed multi-family community includes a community clubhouse and communal open space for use by residents (both of the apartments and condominium owners); and those spaces will be maintained in perpetuity by the owner of the apartment community; and

**WHEREAS**, the Commission further finds that, as to Goal 4, this is not a historic site with historic buildings; and

**WHEREAS**, the Commission further finds that, as to Goal 5, this proposed multi-family community is neither large nor public enough to include an element of public art; and

**WHEREAS**, the Commission further finds that this Application Package complies with Plan Element 4.2, its three Goals and their Objectives plus the following Policies; as to Goal 1, Policies 1, 2, 3, 4 and 6; Goal 2, Policies 1, 2, 3, 4, 5, 6, 7 and 8; and Goal 3, Policies 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 14, 15, 17, 18, 19, 20 and 21, it complies as follows, in addition to the other ways set forth above and below: This proposed multi-family community (located as it is within an existing and growing mixed use activity center, with good access off both arterial and local streets and thereby well connected as it is proposed to be close to a nearby school, restaurants, retail shopping and other residential developments and communities) is clearly part and parcel of good pedestrian, bicycle and road networks; locating their development along and with access to and from those networks, the aforementioned developer will at its cost construct sidewalks and the S. English Station Road right-of-way improvements to add a turn lane as depicted at the public hearing; in doing so, it will prepare construction plans that will assure safe access with good site distances and turning radii; bike racks and handicapped parking spots will be installed as and where required near buildings; all drive lanes, parking spaces and stub connections are designed in accordance with Metro Public Work and Transportation Planning (MPW&TP) requirements; also a Traffic Impact Study (TIS) was completed by Diane Zimmerman and was submitted in accordance with MPW&TP requirements; TARC service is generally unavailable in

**PLANNING COMMISSION MINUTES**  
**December 17, 2020**

**PUBLIC HEARING**

**CASE NO. 20-ZONE-0056**

areas like this, but is available nearby along Shelbyville Road; and all necessary utilities are located proximate to this site and accessible by it via public right of way or easements; and

**WHEREAS**, the Commission further finds that this Application Package complies with Plan Element 4.3, its three Goals and their Objectives plus the following Policies; as to Goal 2, Policies 1, 2 and 3, it complies as follows, in addition to the other ways set forth above and below: Christian Academy school is located across S. English Station Road with an access road to it situated almost directly across from the proposed principal point of access to this proposed multi-family community; a fire station is located a short distance away down Shelbyville Road at Urton Lane; and a public library and community center are located in the heart of Middletown, the nearest municipality to this site; and

**WHEREAS**, the Commission further finds that this Application Package complies with Plan Element 4.4, its two Goals and their Objectives, plus the following Policies; as to Goal 2, Policies 1 and 3, it complies as follows, in addition to the other ways set forth above and below: as Louisville Metro's population continues to grow, so does demand for housing of all types; this proposed multi-family community is part of a developer response to that demand, and as such both stabilizes and offers increased opportunities for employment in the building trades and associated industries; and it also increases the tax base essential to the provision of government services; and

**WHEREAS**, the Commission further finds that this Application Package complies with Plan Element 4.5, its four Goals and their Objectives plus the following Policies; as to Goal 1, Policies 5, 7, 8, 10, 11, 12, 13, 15, 16, 23, 26, 27, 28, 29, 30, 31, 32, 33 and 35; and Goal 4, Policies 1 and 2, it complies as follows, in addition to the other ways set forth above and below: the DDDP filed with this application shows how storm water is proposed to be addressed, including where detention is anticipated to be located such that post development rates of run-off will not exceed pre-development conditions; sanitary sewer service is available at the nearby Floyds Fork regional wastewater treatment plant; it can be accessed via lateral extension to and from an existing nearby manhole; there are no minimally impacted regulated streams or other protected waterways that are directly affected by this proposed development, although measures will be taken to assure that erosion and sediment impacts are fully controlled and/or mitigated; as mentioned above, given the location of this proposed multi-family community in a large existing and expanding activity center, air quality impacts will be minimized because vehicle miles travelled are reduced; and

**WHEREAS**, the Commission further finds that this Application Package complies with Plan Element 4.6, its three Goals and their Objectives, plus the following Policies; as to Goal 1, Policies 1, 2 and 3; Goal 2, Policies 1, 2 and 3; and Goal 3, Policies 1, 3 and 4,

**PLANNING COMMISSION MINUTES**  
**December 17, 2020**

**PUBLIC HEARING**

**CASE NO. 20-ZONE-0056**

it complies as follows, in addition to the other ways set forth above: designed as it is as part stacked apartment buildings in close proximity to I-64 and part patio homes adjacent to other patio homes, this proposed multi-family community will serve a different role and purpose as other similarly designed patio home and apartment style communities in this area of Louisville Metro; because of the number of bedrooms, it's possible that renters and condominium owners, taking advantage of proximity to the nearby Christian Academy school, will have children; and because of the different style and design of the patio home units, they can probably expect empty-nesters are their principal occupants; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Community Form: Goal 1 because the requested zoning district would not allow for higher density or intensity uses; and the requested zoning district would not allow uses that are substantially different in scale and intensity compared with existing development; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Community Form: Goal 2 because the proposal would permit new development of residential uses; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Community Form: Goal 3 because no wet or highly permeable soils are evident on the site. Development on severe, steep or unstable slopes shall conform to the geotechnical report recommendations; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Community Form: Goal 4 because no distinctive cultural features are evident on the site. The historic building has been documented and demolished; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Mobility: Goal 1 because the proposed zoning district would not permit higher density and intensity uses; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Mobility: Goal 2 because access to the site is via S English Station Road, a secondary collector at this location, and is routed through areas of similar intensity development; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Mobility: Goal 3 because Transportation Planning has approved the proposal; and no direct residential access to high speed roadways is proposed; and



**PLANNING COMMISSION MINUTES**  
**December 17, 2020**

**PUBLIC HEARING**

**CASE NO. 20-ZONE-0056**

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

**WHEREAS** the Commission further finds that the proposal meets the intents of Livability: Goal 1 because tree canopy will be preserved on the site as well as slopes and water courses; the site is located on karst terrain. No karst features were evident on the site; and the site is not located in the regulatory floodplain; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Housing: Goal 1 because the proposed zoning district would permit a variety of housing types which would reflect the Form District pattern; and the proposal would permit aging in place by increasing the variety of housing available in the neighborhood; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Housing: Goal 2 because the proposal would encourage inter- generational, mixed-income development; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Housing: Goal 3 because the proposal would increase the variety of ownership options and unit costs throughout Louisville Metro; no existing residents will be displaced by the proposal; and the proposal would permit the use of innovative methods of housing; now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the proposed Change in zoning from R-4 Single Family Residential to R-5A Multi-Family Residential be **APPROVED**.

**The vote was as follows:**

**YES: Commissioners Lewis, Peterson, Brown, Mims, Howard, Daniels, Seitz, Sistrunk, and Jarboe.**

**ABSENT: Commissioner Carlson.**

**Variance from Table 5.3.1 to reduce the side yard setback on Tracts 1 and 2 from 5' to 0' (5' variance) as shown on the development plan (20-VARIANCE-0129)**

02:50:06 On a motion by Commissioner Brown, seconded by Commissioner Howard, the following resolution, based on the Standard of Review and Staff Analysis evidence and testimony heard today, was adopted:

**PLANNING COMMISSION MINUTES**  
**December 17, 2020**

**PUBLIC HEARING**

**CASE NO. 20-ZONE-0056**

**WHEREAS**, the Louisville Metro Planning Commission finds that the requested variance will not adversely affect public health safety or welfare as the only affected properties are the ones on the site; and

**WHEREAS**, the Commission further finds that the requested variance will not alter the essential character of the general vicinity as the variance is unlikely to be noticeable from the public street; and

**WHEREAS**, the Commission further finds that the requested variance will not cause a hazard or nuisance to the public as sight lines will not be affected by the proposed variance; and

**WHEREAS**, the Commission further finds that the requested variance will not allow an unreasonable circumvention of zoning regulations as the proposed lots are irregular in shape and the variance is needed in order to have the lots and buildings in their proposed configuration; 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 because the total site is constrained with slopes and streams, so that the buildable areas of the site are reduced; and

**WHEREAS**, the Commission further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant by requiring the lot lines and structures to be redesigned, resulting in fewer allowed units; and

**WHEREAS**, the Commission further finds that 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; now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Variance from Table 5.3.1 to reduce the side yard setback on Tracts 1 and 2 from 5' to 0' (5' variance) as shown on the development plan (20-VARIANCE-0129)

**The vote was as follows:**

**YES: Commissioners Lewis, Peterson, Brown, Mims, Howard, Daniels, Seitz, Sistrunk, and Jarboe.**

**ABSENT: Commissioner Carlson.**

**PLANNING COMMISSION MINUTES**  
**December 17, 2020**

**PUBLIC HEARING**

**CASE NO. 20-ZONE-0056**

**Waivers:**

- **#1** from 10.2.10 to omit the required Vehicular Use Area Landscape Buffer Area (VUA LBA) on Tracts 1 and 2 as shown on the development plan (20-WAIVER-0094)
- **#2** from 10.2.7 to not provide the required tree plantings within the 35' LBA on the southern property line on Tract 2 (20-WAIVER-0095)

02:51:23 On a motion by Commissioner Brown, seconded by Commissioner Peterson, the following resolution, based on the Standard of Review and Staff Analysis evidence and testimony heard today, was adopted:

**(Waiver #1) WHEREAS**, the Louisville Metro Planning Commission finds that the waiver will not adversely affect adjacent property owners as the only affected properties are on the subject site; and

**WHEREAS**, the Commission further finds that 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 two properties affected are of similar intensity and density, and will be the same zoning district. The lack of VUA LBA will be on both sides of the property line; and

**WHEREAS**, the Commission further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as putting the property line in another location to permit the required VUA LBA would unnecessarily require the shifting of some of the buildings from their current proposed configuration; and

**WHEREAS**, the Commission further finds that strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant because the new property line would have to be moved to a less advantageous position, and require the site be reconfigured to permit the required VUA LBA; and

**(Waiver #2) WHEREAS**, the Commission further finds that the waiver will not adversely affect adjacent property owners as the adjacent property contains I-64; and

**WHEREAS**, the Commission further finds that the waiver will not violate specific guidelines of Plan 2040 as there will be considerable tree canopy remaining to buffer the view from I-64 on the interstate right-of-way. Tree canopy on the subject site within the proposed LBA does not exist currently as a result of the transmission lines; and

**PLANNING COMMISSION MINUTES**  
**December 17, 2020**

**PUBLIC HEARING**

**CASE NO. 20-ZONE-0056**

**WHEREAS**, the Commission further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the overhead electric transmission lines prevent the required tree plantings from being placed within the required LBA; and

**WHEREAS**, the Commission further finds that strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant because the transmission lines extend parallel to the property line and I-64, so there is nowhere else within the required LBA that the plantings could be placed. Total required tree canopy will be provided on the site; now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Waiver #1 from 10.2.10 to omit the required Vehicular Use Area Landscape Buffer Area (VUA LBA) on Tracts 1 and 2 as shown on the development plan (20-WAIVER-0094); **AND** Waiver #2 from 10.2.7 to not provide the required tree plantings within the 35' LBA on the southern property line on Tract 2 (20-WAIVER-0095).

**The vote was as follows:**

**YES: Commissioners Lewis, Peterson, Brown, Mims, Howard, Daniels, Seitz, Sistrunk, and Jarboe.**

**ABSENT: Commissioner Carlson.**

**Detailed District Development Plan**

02:56:24 On a motion by Commissioner Brown, seconded by Commissioner Seitz, the following resolution, based on the Standard of Review and Staff Analysis evidence and testimony heard today, was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that tree canopy, slopes and water courses will be conserved to the greatest extent possible on the site. No historic assets are evident on the 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

**PLANNING COMMISSION MINUTES**  
**December 17, 2020**

**PUBLIC HEARING**

**CASE NO. 20-ZONE-0056**

**WHEREAS**, the Commission further finds that open space in excess of the required minimums are being provided on the site, through amenities shared between Tract 1 and Tract 2; and

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

**WHEREAS**, the Commission further finds that the overall site design is compatible with the existing and future development of the area. The neighborhood is characterized by relatively recent multi-family and single-family development; and

**WHEREAS**, the Commission further finds that the development plan conforms to applicable guidelines and policies of the Land Development Code with the exception of the requested waivers and variance; now, therefore be it

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

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

**PLANNING COMMISSION MINUTES**  
**December 17, 2020**

**PUBLIC HEARING**

**CASE NO. 20-ZONE-0056**

- a. The development plan must receive full construction approval from Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.
  - b. A minor plat or legal instrument shall be recorded creating the property lines as shown on the development plan. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of the approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
  - c. 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; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument. Said instrument shall state, in addition to other provisions, that occupants of Tract 1 shall be permitted to utilize the open space amenities of Tract 2 and vice versa.
  - 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 certificate of occupancy. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
  - e. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
  - f. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the December 17, 2020 Planning Commission meeting. A copy of the approved rendering is available in the case file on record in the offices of the Louisville Metro Planning Commission.
5. 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.

**PLANNING COMMISSION MINUTES**  
**December 17, 2020**

**PUBLIC HEARING**

**CASE NO. 20-ZONE-0056**

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. Prior to developer requesting a Certificate of Occupancy ("CO") on the first patio home units, developer shall request Metro Public Works ("Public Works") to inspect the the road infrastructure to the access roads leading to the patio homes to determine what amount of bond, if any, the developer shall be required to post prior to CO issuance. The stub road to the property line to the east shall be built to the east property line prior to release of said bond, if applicable. The developer can request a bond release and Public Works to inspect the road infrastructure to the patio homes for same whenever the road infrastructure construction is complete.
8. The roadway connections on the patio home Tract 1 to the north and east shall remain open and available to thru traffic.
9. The proposed roadway improvements to S. English Station Rd. shall be substantially similar to the exhibits presented at the 12/17/20 Planning Commission hearing. Detailed design to be coordinated with Public Works and Transportation Planning during construction plan process. The proposed roadway improvements shall be completed prior to issuance of the certificate of occupancy for the fourth apartment building on the site.

**The vote was as follows:**

**YES: Commissioners Lewis, Peterson, Brown, Mims, Howard, Daniels, Seitz, Sistrunk, and Jarboe.**

**ABSENT: Commissioner Carlson.**

**PLANNING COMMISSION MINUTES  
December 17, 2020**

**PUBLIC HEARING**

**LDC Reform Update – 12.03.20**

Project Name: LDC Reform Update

**Case Manager: Emily Liu, Director, Planning & Design Services**

\*NOTE: This was an informational update only. No action was taken.

02:57:29 Emily Liu presented updated information about the LDC reform. See recording for detailed presentation.



**PLANNING COMMISSION MINUTES**

**December 17, 2020**

**ADJOURNMENT**

The meeting adjourned at approximately 4:04 p.m.

DocuSigned by:  
*Marilyn Lewis*  
Chairman

DocuSigned by:  
*Lyn*  
Division Director