

**MINUTES OF THE MEETING  
OF THE  
LOUISVILLE METRO PLANNING COMMISSION MEETING  
February 20, 2020**

A meeting of the Louisville Metro Planning Commission was held on Thursday, February 20, 2020 at 1:00 p.m. at the Old Jail Building, located at 514 W. Liberty Street, Louisville, KY 40202.

**Commissioners present:**

Vince Jarboe, Chair  
Marilyn Lewis, Vice Chair  
Robert Peterson  
Lula Howard  
Rich Carlson  
Ruth Daniels  
Jeff Brown  
Jim Mims

**Commissioners absent:**

David Tomes

**Staff members present:**

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  
Tony Kelly and Mark Sites (sp), MSD  
Chris Cestaro, Management Assistant

The following matters were considered:

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**APPROVAL OF MINUTES**

**00:03:00 NOTE:** Before the minutes were voted on, Tony Kelly from MSD introduced Mark Sites (sp), also from MSD.

**Approval of the Minutes for the February 6, 2020 Planning Commission public hearing at 1:00 p.m.**

00:03:57 On a motion by Commissioner Howard, seconded by Commissioner Carlson, the following resolution was adopted:

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** the minutes of the hearing conducted on February 6, 2020.

**The vote was as follows:**

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

**NOT PRESENT: Commissioner Tomes.**

**PLANNING COMMISSION MINUTES**  
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**PUBLIC HEARING**

**CASE NO. 19-ZONE-0088**

Request: Change in zoning from R-4 and C-1 to C-2, with a waiver and Revised Detailed District Development Plan –  
**REQUESTING CONTINUANCE TO MARCH 5, 2020 PC**

Project Name: 6517 Dixie Highway  
Location: 6517 Dixie Highway  
Owner: Ruby Real Estate Kentucky, LLC  
Applicant: Ruby Real Estate Kentucky, LLC  
Representative: Ruby Real Estate Kentucky, LLC  
Jurisdiction: Louisville Metro  
Council District: 12 – Rick Blackwell

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

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

**Agency Testimony:**

00:04:57 Brian Davis, Planning & Design Manager, said the case needs to be continued because the Courier-Journal failed to run the applicant's legal notice.

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

No one spoke.

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

No one spoke.

**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.**

00:05:30 Commissioners' discussion. The Commissioners and Mr. Davis discussed what else is already scheduled for the March 5, 2020 Planning Commission hearing.

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**CASE NO. 19-ZONE-0088**

00:07:53 On a motion by Commissioner Carlson, seconded by Commissioner Peterson, the following resolution was adopted::

**RESOLVED**, the Louisville Metro Planning Commission does hereby **CONTINUE** this case to the **March 5, 2020 Planning Commission public hearing.**

**The vote was as follows:**

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

**NOT PRESENT: Commissioner Tomes.**

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**PUBLIC HEARING**

**CASE NO. 19-WAIVER-0097**

Request: Waiver for a changing image sign - **REQUESTING CONTINUANCE TO MARCH 5, 2020 PC**  
Project Name: Sign Waiver  
Location: 930 Ormsby Lane  
Owner: Assumption Greek Orthodox Church  
Applicant: Smart LED Signs & Lighting  
Jurisdiction: Louisville Metro  
Council District: 18 – Marilyn Parker

**Case Manager: Beth Jones, AICP, Planner II**

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

**Agency Testimony:**

00:08:31 Brian Davis, Planning & Design Manager, said the attorney for the applicant had a conflict come up, which is why the applicant is requesting a continuance. He noted that this case has been before the Development Review Committee (DRC), and Planning & Design has received most of the information that the DRC Committee had requested.

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

No one spoke.

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

No one spoke.

**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.**

00:09:17 On a motion by Commissioner Carlson, seconded by Commissioner Howard, the following resolution was adopted:

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**CASE NO. 19-WAIVER-0097**

**RESOLVED**, THE Louisville Metro Planning Commission does hereby **CONTINUE** this case to the **March 5, 2020 Planning Commission public hearing.**

**The vote was as follows:**

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

**NOT PRESENT: Commissioner Tomes.**

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**PUBLIC HEARING**

**CASE NO. 19-AMEND-0004**

Request: District Development Plan - **REQUESTING CONTINUANCE TO MARCH 5, 2020 PC**  
Project Name: Fern Creek Speedwash  
Location: 8102 Old Bardstown Road  
Owner: Chris Harrison – Fern Creek Speedwash LLC  
Applicant: Chris Harrison – Fern Creek Speedwash LLC  
Representative: Kathy Linares – Mindel Scott & Associates  
Jurisdiction: Louisville Metro  
Council District: 22 – Robin Engel

**Case Manager: Lacey Gabbard, AICP, Planner I**

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:**

00:09:58 Brian Davis, Planning & Design Manager, said the Development Review Committee (DRC) requested that adjoining property owners be re-notified. The postcard notices for the March 5, 2020 Planning Commission hearing have been sent out.

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

Kathy Lianres, Mindel Scott & Associates, 5151 Jefferson Boulevard, Louisville, KY 40219

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

10:58:00 Kathy Linares, the applicant's representative, said there was a miscommunication and the applicant was not told the notices were ready for mailing.

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

No one spoke.

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

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**CASE NO. 19-AMEND-0004**

00:11:27 On a motion by Commissioner Carlson, seconded by Commissioner Peterson, the following resolution was adopted:

**RESOLVED**, the Louisville Metro Planning Commission does hereby **CONTINUE** this case to the **March 5, 2020 Planning Commission public hearing**.

**The vote was as follows:**

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

**NOT PRESENT: Commissioner Tomes.**

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**PUBLIC HEARING**

**CASE NO. 19-ZONE-0060**

Request: Change in zoning from R-5B to R-8A with a Detailed District Development Plan and associated landscape waiver - **REQUESTING CONTINUANCE TO MARCH 5, 2020 PC**

Project Name: Hepburn Avenue Rezoning

Location: 1400 Hepburn Avenue

Owner: Wilson Property Rentals LLC

Applicant: Wilson Property Rentals LLC

Representatives: Paul Whitty - Bardenwerper Talbott & Roberts PLLC

Jurisdiction: Louisville Metro

Council District: 8 – Brandon Coan

**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:**

00:12:01 Dante St. Germain said the applicant is still addressing questions and concerns from the Planning Commission regarding whether the property can be brought into compliance with Code Enforcement. The applicant is confident that they will be ready to have their case heard on March 5, 2020.

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

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

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

00:13:00 Paul Whitty, the applicant's representative, said the applicant is still working on the reconfiguration of one of the units to make it larger and also the issue of affordable rent that was discussed at the Planning Commission.

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

No one spoke.

00:13:48      Commissioners' discussion.

**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.**

00:18:24      On a motion by Commissioner Carlson, seconded by Commissioner Peterson, the following resolution was adopted:

**RESOLVED**, the Louisville Metro Planning Commission does hereby **CONTINUE** this case to the **March 5, 2020 Planning Commission public hearing**.

**The vote was as follows:**

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

**NOT PRESENT:      Commissioner Tomes.**

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**CASE NO. 19-ZONE-0071**

Request: Change in zoning from R-6 to C-1 with a Detailed Plan and Waiver  
Project Name: Washington House  
Location: 939 East Washington Street  
Owner: Nichols Ventures LLC  
Applicant: Nichols Ventures LLC  
Representative: Paul Whitty - Bardenwerper, Talbott & Roberts PLLC  
Jurisdiction: Louisville Metro  
Council District: 4 – Barbara Sexton Smith

**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:**

00:19:00 Joel Dock presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.)

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

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

Andrew Nichols, 103 North Campbell Street, Louisville, KY 40206

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

00:22:27 Paul Whitty, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.)

00:25:03 Andrew Nichols explained why he wants to do this project (see recording.) He added that he is also a resident of the neighborhood.

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00:26:50 Mr. Whitty resumed his presentation. He noted that there will be no exterior alteration, and the roof has been restored.

00:30:45 In response to a question from Commissioner Mims, Mr. Whitty said this has gone through the Butchertown Preservation District for the purpose of restoring the roof. The applicant has a Certificate of Appropriateness. There was no hearing for this entire proposal because there is no exterior alteration planned.

00:31:14 Mr. Dock referenced the Butchertown Preservation District and said that binding element #2D requires that any exterior modifications that are not already approved do require a Certificate of Appropriateness. It is required anyway, but the binding element further solidifies that requirement to make sure this is addressed prior to issuance of a building permit.

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

No one spoke.

00:31:43 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.**

**Zoning**

00:33:45 On a motion by Commissioner Howard, seconded by Commissioner Lewis, the following resolution, based on the Plan 2040 Staff Analysis, the applicant's justification, 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 would result in a slight expansion into an existing residential area. Despite this expansion, it would not appear that the neighborhood would experience a significant loss of housing or that traffic would be increased beyond an acceptable limit as the site is located in a walkable urban neighborhood and commercial districts are located on opposite corners and the site is one-block removed from a major arterial roadway with TARC service; the proposed district is in a walkable urban neighborhood

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one-block removed from a major arterial served by public transit; adequate infrastructure to serve the use appears to be available; the proposed district is in a walkable urban neighborhood. The site is one-block removed from a major arterial roadway with TARC service. Traffic would not appear to be increased beyond limits appropriate for the site based on neighborhood conditions; and noise would not appear to be increased beyond limits appropriate for the site based on neighborhood conditions. The proposed district provides neighborhood goods and services; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Land Use & Development Goal 2: Community Form because the proposed district is appropriately located and maintains consistency with the design and intensity of nearby uses and the desired pattern of development. The proposed district is in a walkable urban neighborhood. The site is one-block removed from a major arterial roadway with TARC service. The density and intensity are appropriate based on these conditions; the proposed non-residential development occurs at an appropriate location within a walkable urban neighborhood served by public transit; sufficient population is available to support a variety of land uses; the proposed district encourages a compact development pattern that results in efficient land use and cost-effective infrastructure investment of mixed-uses within an urban neighborhood; the proposed districts encourages a mixture of compatible land uses in order to reduce traffic congestion by requiring fewer trips, support and enhance alternative modes of travel, and encourage vitality and a sense of place as the proposed district is in a walkable urban neighborhood one-block removed from a major arterial served by public transit; the proposed district allows for residential and office uses above retail and other mixed-use multi-story retail buildings; and the proposal involves the rehabilitation of buildings that provide commercial, office and/or residential uses; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Land Use & Development Goal 3: Community Form because the subject site does not appear to be in a flood prone area as it is outside the 100-yr floodplain and existing development is present; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Land Use & Development Goal 4: Community Form because the subject site contains buildings, sites, or districts recognized as having historic or architectural value. A Certificate of Appropriateness is required for all exterior changes; and the subject site contains built features that contribute to the historic preservation district. A Certificate of Appropriateness is required for all exterior changes; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Land Use & Development Goal 1: Mobility because the proposed district is near employment

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and activity centers to support transit-oriented development. The proposed district is in a walkable urban neighborhood one-block removed from a major arterial served by public transit. The density and intensity are appropriate based on these conditions; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Land Use & Development Goal 2: Mobility because access to the subject site is through areas of mixed intensity; 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 mix of complementary neighborhood serving businesses and services to encourage short trips easily made by walking or bicycling as the proposed district is in a walkable urban neighborhood one-block removed from a major arterial served by public transit; the proposed district improves mobility and reduces vehicle miles traveled by allowing a mix of uses within an urban neighborhood at an appropriate location; the site is located on within close proximity to public transit; thus, reducing automobile trips as a means of achieving air quality standards and providing transportation and housing choices; the proposed district encourages multiple modes of travel as the neighborhood is walkable, well served by transit to employment centers and other nearby amenities and links the site to the neighborhood via walks and bike lanes; and all transportation facilities made necessary by the development will be provided. Preliminary approval of the development plan has been received by the Transportation Planning division of Develop Louisville; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Land Use & Development Goal 2: Community Facilities because the site is served by existing utilities or capable of being served by public or private utility extensions; based on existing conditions, the site would appear to have an adequate supply of potable water and water for fire-fighting purposes; and MSD preliminary approval has been received. MSD will ensure that all developments have adequate means of sewage treatment and disposal to protect public health and to protect water quality; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Land Use & Development Goal 1: Economic Development because the proposed district is in a walkable urban neighborhood one-block removed from a major arterial served by public transit. Traffic would not be increased beyond an acceptable limit; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Land Use & Development Goal 1: Livability because MSD preliminary approval has been received. MSD will ensure that all developments Mitigate negative development impacts to the integrity of the regulatory floodplain; and

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**WHEREAS**, the Commission further finds that the proposal meets the intents of Land Use & Development Goal 2: Housing because the proposed zoning district allows for provisioning mixed use development which may include a residential component. The subject property is located at an appropriate location in a walkable urban neighborhood connected to multi-modal corridors; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Land Use & Development Goal 3: Housing because the proposed zoning district allows for provisioning mixed use development which may include a residential component. The proposal will result in the conversion of a single-family home to a supportive commercial district to create mixed-use communities; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Community Form – Goal 1 because this proposed zone change complies with all of the applicable goals, objectives and policies 7 and 9 which require higher density and intensity uses near major transportation facilities and transit corridors, employment centers, in or near activity centers and other areas where demand and adequate infrastructure exists because the site is accessible, has multiple transit routes, is near the central business district, as well as shopping and entertainment in the NULU corridor; there is a smooth transition between uses as the original purpose built commercial structure use will return and the area has a diversity of zoning classifications and uses including C-2, CN, CM and R-6; the exterior of the premises will remain unchanged and in its historical relationship to adjacent properties; a waiver is requested from the 5 foot landscape buffer area required by LDC 10.2.4 on the eastern boundary line because of the long term, pre-existing construction of the building since the turn of the century and well buffered parking in the rear; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Community Form – Goal 2 because this proposal complies with Policy 9 which encourages new developments and rehabilitation of buildings that provide commercial, office and/or residential uses because it will allow the rehabilitation of a beautiful and historic existing mixed-use building to be consistent with the residential use of the immediate area with easy access to mixed use corridors; forty thousand dollars has already been spent replacing the original metal roof with a new metal roof of the same style; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Community Form – Goal 2 because Policy 2 encourages preservation of cultural features including landscapes, natural elements, and built features as it enables the preservation and rehabilitation of a beautiful brick multi-use building built at the turn of

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the century; and its historic character and the associated yards will be maintained in its current form; and

**WHEREAS**, the Commission further finds that similarly this proposal complies with Policy 3 which encourages preservation and/or adaptive re-use of historic sites listed on or eligible for the National Register of Historic Places and/or recognized by the Louisville Metro Landmarks Commission or other national, state or local government historic preservation agencies as it is an adaptive reuse of a classic live/work building characteristic of the older neighborhoods of Louisville and located in a historic preservation district; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Mobility – Guideline 1 because Policy 4 encourages higher intensities within or near existing marketplace corridors and existing and future employment centers to support transit-oriented development and an efficient public transportation system which this proposal meets because it is within one block of bus lines and cyclists; and pedestrians can easily access the central business district as well as the Baxter Avenue corridor; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Goal 2 because Policy 4 requires avoidance of access to development through areas of significantly lower intensity or density development if such access would create significant nuisances, however the proposed use is not significantly more intense than the surrounding area with commercial zones, all of which traverse the grid system of streets in the area such that it will not cause a nuisance; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Goal 3 because, to improve mobility, and reduce vehicle miles traveled and congestion, Policy 2 encourages a mixture of compatible land uses that are easily accessible by bicycle, car, transit, pedestrian and people with disabilities; this proposal easily meets this policy with its location near to transit lines, within a walkable neighborhood with sidewalks; and

**WHEREAS**, the Commission further finds that Policy 5 requires evaluation of developments for their impact on the transportation network (including the street, pedestrian, transit, freight movement and bike facilities and services) and air quality and this proposal would have no negligible impact on these facilities; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Policy 6 which requires assurance that those who propose new developments bear or share in rough proportionality the costs of transportation facilities and services made necessary by development; this proposal will have NO impact on these facilities or

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services and therefore is also consistent with Policies 9 and 10 because there is no impact that would require additional transportation improvements; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Community Facilities – Goal 2 because this proposal meets Policies 1, 2 and 3 all relevant utilities are and long have been available to the site and there are no native plant communities on the site; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Livability – Goal 1 because this proposal satisfies Policies 5, 17 and 21 since it is in a long-established built environment with no native plant species or karst features with no impact of groundwater resources or surface drainage and is not located in a regulatory floodplain; 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-6, Multi-family Residential to C-1, Commercial be **APPROVED**.

**The vote was as follows:**

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

**NOT PRESENT: Commissioner Tomes.**

**Waiver**

00:34:58 On a motion by Commissioner Howard, seconded by Commissioner Lewis, the following resolution, based on the Standard of Review and Staff Analysis, the applicant's justification, 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 all planting and screening will be provided as required; and

**WHEREAS**, the Commission further finds that Guideline 3, Policy 9 of Cornerstone 2020 calls for the protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigate when appropriate. Guideline 13, Policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. The character of the area is being

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maintained as compatible development exists at the intersection and the residential property to the west is being adequately screened; only the width is being reduced; 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 parking facilities require the dimensions as provided on the plan which encroach upon the LBA; and

**WHEREAS**, the Commission further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as the required screening is provided and the development is compatible with the character of the area; and

**WHEREAS**, the Commission further finds that the waiver will not adversely affect adjacent property owners because it is a pre-existing condition as the lot and structure were created and built at the turn of the century and the side yard has been established without any problems for the adjacent neighbor for many years. Its construction of brick will mitigate the fire safety issues of the close proximity of the structures; and

**WHEREAS**, the Commission further finds that the waiver will not violate the Comprehensive Plan for all the reasons set forth in the Detailed Statement of Compliance with all applicable Guidelines and Policies of the 2040 Comprehensive Plan filed with the original rezoning application filed on September 23, 2019; and

**WHEREAS**, the Commission further finds that the extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because it is a long-standing pre-existing condition; and

**WHEREAS**, the Commission further finds that strict application of the provisions of the regulation would deprive the applicant of a reasonable use of the land or would create an unnecessary hardship on the applicant because it is a longstanding pre-existing condition and to satisfy the subsequently adopted side yard requirement would require demolition and rebuilding of the entire structure; now therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Waiver of Land Development Code, section 10.2 to reduce the landscape buffer along the west property line as shown on the development plan.

**The vote was as follows:**

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

**NOT PRESENT: Commissioner Tomes.**

**Detailed District Development Plan**

00:35:43 On a motion by Commissioner Howard, seconded by Commissioner Lewis, 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 views, and historic sites will be conserved as existing tree canopy is being preserved and the property contributes to the historic preservation district; 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 the subject property is located at an appropriate location in a walkable urban neighborhood connected to multi-modal corridors; 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. The development does not require the provision of open space. The front yard consistent with adjacent development will remain; 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 generally compatible within the scale and site design of nearby existing development and with the form district's pattern of development as the development meets the requirements for non-residential development in the traditional neighborhood form district. The existing structure contributes to the character of the preservation district; and

**WHEREAS**, the Commission further finds that the proposed development plan conforms to Plan 2040. The improvements on site meet the non-residential design guidelines contained in the LDC. The subject property is located at an appropriate

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location in a walkable urban neighborhood connected to multi-modal corridors; 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. 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. 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
  - 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 site is located in the Butchertown Historic Preservation district. A Certificate of Appropriateness must be reviewed and approved for exterior modifications. A copy of this approval shall be on file in the offices of the Planning Commission.
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.

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4. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
  
5. 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.

**The vote was as follows:**

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

**NOT PRESENT: Commissioner Tomes.**

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**CASE NO. 19-ZONE-0078**

Request: Change in zoning from R-4 to R-6 with a Detailed Plan  
Project Name: Beulah Church Road Apartments  
Location: 9108 Beulah Church Road  
Owner: EMM3, LLC  
Applicant: EMM3, LLC  
Representative: Paul Whitty - Bardenwerper, Talbott & Roberts PLLC  
Jurisdiction: Louisville Metro  
Council District: 22 – Robin Engel

**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:**

00:36:42 Joel Dock presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.)

00:39:39 In response to a question from Commission Mims, Mr. Dock said the proposal meets the design guidelines.

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

Paul Whitty, Bardenwerper Talbott & Roberts PLLC, 1000 North Hurstbourne Parkway  
2<sup>nd</sup> Floor, Louisville, KY 40223

Kathy Linares, Mindel Scott & Associates, 5151 Jefferson Boulevard, Louisville, KY  
40219 (signed in but did not speak)

Brad Mohr, EMM3, 11414 Main Street Suite 202, Louisville, KY 40243

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

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00:40:17 Paul Whitty, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.) He noted that an adjacent residual tract of land, designated as a "post office", will be a mail distribution center, and will not be open to the public. It will be a fenced, fully secure site. He explained that, in the event that this tract is not developed for the distribution facility but instead becomes a residential development, a binding element states that a connection can be made to connect from this property to that site.

00:46:20 Commissioner Carlson asked if there was a way to provide pedestrian connectivity to the retail center adjacent to the residual ("post office") tract. Mr. Whitty said the applicant would be willing to do that; however, the Post Office requires distribution sites to be fully secured with no public access. See applicant's binding element regarding this.

00:47:40 In response to a question from Commissioner Mims, Brad Mohr, representing the builder/developer and property management company, discussed some aspects of the management of the apartments. He said this is a local company, and the complex will be managed locally but off-site.

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

No one spoke.

00:48:50 Commissioners' deliberation.

00:50:42 Commissioner Carlson discussed the binding element regarding cross-connectivity. He asked if this could be left open to other purposes instead of limiting it to residential development. Mr. Dock clarified some issues regarding cross-connectivity (see recording.) Mr. Whitty said the Post Office has closed on the property, and will be building the distribution facility. He said that if, in the future, this property is developed for commercial use, the applicant would be willing to make a pedestrian connection there.

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

**Zoning**

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00:56:31 On a motion by Commissioner Carlson, seconded by Commissioner Peterson, the following resolution, based on the Plan 2040 Staff Analysis, the applicant's justification, and evidence and testimony heard today, was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that the Louisville Metro Planning Commission finds that the proposal meets the intents of Land Use & Development Goal 1: Community Form because the proposal is near major transportation facilities and transit corridors, employment centers, in or near activity centers and other areas where demand and adequate infrastructure exists or is planned; the proposed district is located roughly ¼ mile west of a major transportation corridor, employment center, and activity centers for services and amenities; and the proposed district abuts similar multi-family districts and vacant property. 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 is currently vacant, 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 this site will be subject to the requirements of the Wrecking Ordinance Subsection 150.110 and a potential 30-day hold on the permit. Documentation of the structure may be required prior to wrecking; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Land Use & Development Goal 1: Mobility because the proposed district supports transit-oriented development and an efficient public transportation system. It is in a mixed intensity and density area that is 1/4 miles from Bardstown Road, which provides primary and secondary activities and services. Bardstown Road also provides for public transit service to employment and activity centers downtown or elsewhere along the corridor; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Land Use & Development Goal 2: Mobility because access to the proposed district would not create a significant nuisance given these conditions. The proposed district is located in

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a mixed intensity and density area that is 1/4 miles from Bardstown Road, which provides primary and secondary activities and services; 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. The development will provide for minimum improvements to the network to ensure that the site is accessible; right-of-way dedication is provided to ensure necessary improvements may be made in the future; 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 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. MSD will ensure that all development has an adequate means of sewage treatment and disposal to protect public health and to protect water quality; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Land Use & Development Goal 1: Livability because Tree canopy will be provided as required by the Land Development Code; the subject property does not appear to be significantly vulnerable to erosion or impacts from ground water; the development site is not located in the floodplain; the proposed district encourages a variety of housing types to be concentrated near major transportation facilities within proximity of single-family district and adjoining similar densities; development will reflect the pattern of the form district; 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 Bardstown Road, which provides primary and secondary goods and services; and

**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 immediate neighborhood; and the district is located within proximity to Bardstown Road, which provides primary and secondary goods and services. Minimum improvements along the development site will be provided to allow for ease of access; 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

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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 an increase in residential occupancy where a single-family home is currently present; the proposed district encourages the use of innovative design methods by expanding the ability to provide a variety of housing types and styles; and the proposed district better serves the needs to provide affordable housing than the current district; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Community Form – Goal 1 because the application complies with the applicable Policies 7 and 9 because the community form for this area is Suburban Neighborhood which, as noted above, is characterized by predominantly single family and multi-family residential uses varying from high density to low density, meaning that a lot of apartments are located in Suburban Neighborhood Form Districts such as in this area; with a large number of apartment complexes, such as located near this property. This project will fit well and blend compatibly into the existing neighborhood, in part because there are multiple other multi-family developments along the south side of Beulah Church Road such as this one, with single family residential across from the site; adjacent to the east will be a United States Post Office secure carrier facility; this project will offer another diverse housing opportunity with these other developments, some of which have been existing for some time and will be of a scale compatible with these nearby projects; that, among other reasons, may very well be why the Suburban Neighborhood Form District contemplates uses such as this kind, both in the specific language contained within the description of the Suburban Neighborhood Form District found within Plan 2040; and as evidenced by the fact there are multiple other residential uses varying from low to high density already located in Suburban Neighborhood Form Districts and the proposed development provides appropriate transitions with respect to setbacks and landscaping as shown on the proposed development plan; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Goal 2 because this application complies with Policy 9 as the land is currently vacant and the proposed rezoning will result residential development in an area of both multi-family and single family residential development near the Bardstown Road commercial corridor with access to employment, goods and services; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Goal 3 because this application conforms to Policy 10 as the site does not have any issues relating to highly permeable soils or slopes with the potential for erosion; and

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**WHEREAS**, the Commission further finds that the proposal meets the intents of Goal 4 because the site does not contain any distinctive cultural features that would require preservation and although there is a house on the site that based upon its age (built 1948) is technically eligible for National Register Listing or local landmark designation, it does not appear to have any unique architectural or historical significance and is therefore in compliance with Policies 2 and 3; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Mobility - Goal I because this application complies with Policy 4 as the site is located in a mixed intensity and density area ¼ mile from Bardstown Road, which provides goods and services and public transit is available to this corridor as well as to downtown employment centers; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Goal 2 because this plan meets Policy 4 as it is accessible to goods, services and employment without causing significant nuisances; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Goal 3 because the proposed plan complies with Policies 2, 5, 6, 9, 10 and 21 as it contributes to a mixture of compatible uses easily accessible by the various modes of transportation and dedicates additional right of way to the Beulah Church Road arterial and the site has no direct access to high speed roadways; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Community Facilities - Goal 2 because the application complies with Policies 1, 2 and 3 because the site is located in an area served by existing and planned (sewer extension from adjacent Post Office property), has access to potable water and water for firefighting purposes and will provide detention as approved by MSD to ensure there are no negative impacts to stormwater runoff or water quality; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Livability – Goal 1 because the proposed plan complies with Policies 5, 17 and 21 as tree canopy will be provided in compliance with the LDC requirements and a karst survey has been performed (dated 10/10/19) which did not reveal any active sinkholes and the site is not located in a floodplain; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Housing – Goal 1 because the proposed development serves to promote diversity in housing reflecting the form district pattern with proximity to a commercial corridor providing goods and services with mass transit available in compliance with Policies 1 and 2; and

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**WHEREAS**, the Commission further finds that the proposal meets the intents of Goal 2 because the proposed plan complies with Policies 1 and 2 as it provides for inter-generational and mixed-income housing opportunities that is connected to the immediate neighborhood proximate to the Bardstown Road corridor which provides essential and convenient goods and services; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Goal 3 because this plan complies with Policies 1, 2 and 3 because it provides affordable housing with a variety of ownership options land increases efficient, residential occupancy on an underutilized site with a affordable housing in the area; 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 to R-6, multi-family on property described in the attached legal description be **APPROVED**.

**The vote was as follows:**

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

**NOT PRESENT: Commissioner Tomes.**

**Detailed District Development Plan**

00:57:40 On a motion by Commissioner Carlson, seconded by Commissioner Peterson, 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 views, and historic sites will be conserved as the development plan meets the requirements of the Land Development Code; and

**WHEREAS**, the Commission further finds that provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community

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has been provided as public sidewalks are provided and connectivity within the development to public ways is provided; 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. Minimum open space requirements are being met; 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 generally compatible within the scale and site design of nearby existing development and with the form district's pattern of development as the development is compatible in scale and density with abutting uses and structures; and

**WHEREAS**, the Commission further finds that the proposed development plan conforms to Plan 2040. The proposal provides opportunities to provision fair and affordable housing. The development will provide for minimum improvements to the transportation network. No direct access to high speed roadways is provided for individual units. The proposal is in a mixed intensity and density area that is 1/4 miles from Bardstown Road, which provides primary and secondary activities and services. Access to the subject site would not create a nuisance to lower density uses; 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. Before any permit (including but not limited to building, parking lot, change of use, site disturbance) is requested:

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- 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 Transportation Cabinet. c The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
3. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
  4. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
  5. 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. In the event the residual tract (future post office) is developed for residential purposes, cross connectivity and reciprocal access shall be provided between the two sites.

**The vote was as follows:**

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

**NOT PRESENT: Commissioner Tomes.**

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**CASE NO. 19-ZONE-0079**

Request: Change in zoning from R-4 to R-5A, with a Conditional Use Permit, and a Detailed District Development Plan with binding elements

Project Name: Freedom Senior Center

Location: 5101 Bardstown Road

Owner: Sanvi Realty LLC

Applicant: Sanvi Realty LLC

Representative: Miller Wihry

Jurisdiction: Louisville Metro

Council District: 22 – Robin Engel

**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:**

01:04:24 Dante St. Germain presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.)

01:10:25 Commissioner Brown said that, at LD&T, it was suggested that a binding element be added for the age restriction. Ms. St. Germain staff has a standard-language binding element to address age-restricted dwellings, as follows:

“The residents will be restricted in age to 55 and older, in compliance with the Fair Housing Act.”

01:11:04 In response to a question from Commissioner Mims, Ms. St. Germain said the applicant could answer questions about how senior-living was licensed.

01:11:22 In response to a question from Commissioner Jarboe, Ms. St. Germain said the applicant is not attempting to build in the karst areas identified on the site plan and the walking path is being curbed to avoid them.

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

John Miller, Miller Wihry, 1387 South Fourth Street, Louisville, KY 40208

Tika Adhikari, Sanvi Realty, 4511 Bardstown Road, Louisville, KY 40218

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

01:12:06 John Miller, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.)

01:19:50 In response to a question from Commissioner Lewis, Mr. Miller said the existing adult daycare will be removing from their current facility into the proposed new one.

01:20:05 Commissioner Mims asked how the applicant will restrict the occupancy of the apartments to age 55 and over. Commissioner Jarboe said that, if a residential site is specifically designated as 55 and older, then no one under that age can move in. Laura Ferguson, legal counsel for the Planning Commission, explained some specifics about these age restrictions (see recording.) Mr. Miller explained that this is not an "assisted living" facility – the adult daycare is also age 55 and older.

01:22:33 In response to a question from Commissioner Jarboe, Mr. Miller said there will be an elevator in the building.

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

Peggy Uhlman, 5113 Bardstown Road, Louisville, KY 40291

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

01:22:57 Peggy Uhlman, an adjacent property owner, spoke in opposition (see recording for detailed presentation.) Is concerned about who can live there; also, once this property gets rezoned, what else could be allowed there? She is concerned about a three-story apartment building here; also traffic. She had some questions about the buffer and the treeline – could a fence also be provided?

01:27:01 Mr. Miller said this is a building specifically designed for senior residents, and reiterated that both the apartments and the adult daycare will not be "assisted living" facilities. He said the applicant is trying to provide some additional landscaping between the site and Ms. Uhlman's property. He pointed out the location of an old wire

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fence that is “enmeshed in the trees” – removing it and building a new one could be detrimental to the trees. That is why the applicant will put in new landscaping. He pointed out the location of an existing wood fence (near the primary use area) that separates the two properties.

00:28:55 Ms. Uhlman asked if there will be on-site management for the apartments. Mr. Miller said he thought there will be resident management in the building.

01:29:11 Ms. Ferguson said that the District Development Plan reflects a senior living facility. Therefore, if the use on this property were going to become something else in the future, any applicant would have to come before the Planning Commission to amend the District Development Plan. Ms. Ferguson discussed this in more detail with the Commissioners.

01:32:09 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.**

**Zoning**

01:33:40 On a motion by Commissioner Brown, seconded by Commissioner Carlson, 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 complies with the Plan 2040 Community Form plan element, as the proposal is for high density residential zoning and the site is located along a transit corridor (Bardstown Road) and near two commercial activity centers; the required yards are being provided with substantial setbacks from adjoining properties; and, the existing structures on the site are proposed to be preserved; and,

**WHEREAS**, the Commission further finds that the proposal complies with Plan 2040 Mobility plan element, as the proposal is for a high density residential zoning district, and the site is located near existing marketplace corridors and existing activity centers; access to the site is via Bardstown Road; and, no direct residential access to Bardstown Road is proposed; and,

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**WHEREAS**, the Commission further finds that the proposal complies with the Plan 2040 Community Facilities plan element, as the appropriate utilities have approved the proposal; and,

**WHEREAS**, the Commission further finds that the proposal complies with the Plan 2040 Livability plan element, as the proposal preserves most of the tree canopy on the site; the site is located on karst topography, and karst features are being preserved; and,

**WHEREAS**, the Commission further finds that the proposal complies with the Plan 2040 Housing plan element, as the proposed zoning district would allow the applicant to increase the amount of multi-family housing in the neighborhood, increasing the variety of housing types available; the proposed zoning district would permit inter-generational mixed-income development; the subject site is located between two existing activity centers and is on a major transit corridor; the proposed zoning district change would permit the construction of multi-family housing, increasing the variety of ownership options and unit costs in dispersed locations throughout Louisville Metro; and, the proposal would allow the construction of multi-family housing on the subject site; 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 on property described in the attached legal description be **APPROVED**.

**The vote was as follows:**

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

**NOT PRESENT: Commissioner Tomes.**

**Conditional Use Permit (CUP)**

01:34:21 On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today:

01:34:41 Before the vote was taken, Commissioner Howard noted that Section 4.2.19 of the Land Development Code defines Day Care Facilities as “providing care for

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more than 6 children". This is a proposed adult daycare. Ms. St. Germain said that daycare facilities are ok for any age/age group and the Land Development Code does not distinguish between children's or adult's daycare.

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal does not conflict with any Comprehensive Plan policies. The use of the property as a daycare alongside a senior living facility is an appropriate mix of uses of the site; and

**WHEREAS**, the Commission further finds that the proposal is compatible with surrounding land uses, as the property is relatively large and the daycare use will be buffered from adjacent residential land uses; 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; and

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

**4.2.19 Day Care Facilities (providing care for more than 6 children)**

Day Care Facilities may be allowed in the R-R, R-E, R-1, R-2, R-3, U-N, R-5A, R-5B, R-6, and R-7 districts upon the granting of a Conditional Use Permit and in compliance with the listed requirements.

- A. Signs - There shall be allowed one non-illuminated sign identifying the name and use, which sign shall be limited in size to four square feet and be placed on the building.

STAFF: No relief is requested from this provision.

- B. Residential Structure - The structure shall remain or shall be constructed so that the exterior design and ornamentation is residential in character and compatible with the immediate neighborhood, so that there is no evidence from the street that the use is other than residential (except for the sign).

STAFF: The structures that are to be used as part of the daycare are not proposed to be altered.

- A. Alterations or Improvements to the Structure - Where such a use is permitted in a structure which has been used as a residence, the permittee shall make no

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substantial alterations or improvements to the structure which would impair the structure's use as a residence at a later time.

STAFF: No changes are proposed to the exterior of the structures which are proposed to be used as a daycare.

- B. On-Site Drop-off and Pick-up Area - An on-site area shall be provided where passengers from automobiles may safely exit the automobile and enter the building and vice versa. The design of this area must be approved by the appropriate agency responsible for transportation planning.

STAFF: Transportation Planning has approved the proposed plan which includes a drop-off and pick-up area.

- C. Parking Spaces - The appropriate number of parking spaces shall be provided for members of the day care center staff. The number of parking spaces required pursuant to this section shall be determined by the Board of Zoning Adjustment, and may thereafter be modified by the Board of Zoning Adjustment by petition from the owner of the premises granted a Conditional Use Permit or upon recommendation from the zoning inspector or other authorized personnel after an annual inspection of the premises or other such inspection. The parking layout must be approved by the appropriate agency responsible for transportation planning.

STAFF: The proposed parking layout has been approved by Transportation Planning.

- D. Drainage Control - The development plan shall have the approval of the appropriate agency responsible for surface drainage control.

STAFF: MSD has approved the proposed plan.

- E. All buildings and structures shall conform to the requirements of the zoning and form district in which they are located.

STAFF: No relief is requested from this provision.

- F. Fence - A fence with a minimum height of 4 feet shall be erected around the outdoor play area.

STAFF: No relief is requested from this provision.

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G. Alterations or Improvements to the Property – Where such a use is permitted on a lot with an existing residential structure; the residential character of the lot shall not be disturbed by exterior changes to the property that are visible from the public street. Off-street parking shall not be located within the front and/or street-side yards. Drop-off and pick-up shall not be located in front yard and/or street-side yard of the existing residential structure, except for driveways approved by Metro Public Works.

STAFF: The lot is not currently used residentially and has not been used residentially for a substantial period of time. The drop-off and pick-up area is not located in the required front yard.

Conditional use permits for Day Care Facilities in R-4 and R-5 zoning districts issued prior to the effective date of this ordinance (March 9, 2011) may continue to operate as authorized under the approved conditional use permit. Upon request by an applicant, such conditional use permits may be modified in any manner the Board determined, in its discretion, to be appropriate.

STAFF: This provision is not applicable.

Now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Conditional Use Permit under LDC section 4.2.19 for operation of a daycare in the R-5A zoning district (19-CUP-0242)

**The vote was as follows:**

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

**NOT PRESENT: Commissioner Tomes.**

**Detailed District Development Plan**

01:36:35 On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today:

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**WHEREAS**, the Louisville Metro Planning Commission finds that tree canopy and steep slopes on the site are being preserved; and

**WHEREAS**, the Commission further finds that provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community are in question. Metro Public Works has approved the proposed plan; and

**WHEREAS**, the Commission further finds that open space requirements are being met; 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. The proposed use is relatively low-intensity and buffering will be provided between the site and adjacent sites; 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; 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

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or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.

4. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested:
  - a. The development plan must receive full construction approval from Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.
  - b. Encroachment permits must be obtained from the Kentucky Transportation Cabinet.
  - 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 certificate of occupancy. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
  - d. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
  - e. Final elevations/renderings shall be submitted for review and approval by Planning Commission staff. A copy of the approved rendering shall be available in the case file on record in the offices of the Louisville Metro Planning Commission.
5. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
6. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system permitted on the site.
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 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,

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contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.

8. The multi-family units shall be age restricted to 55 years of age and older to comply with the Fair Housing Act and the Housing for Older Persons Act.

**The vote was as follows:**

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

**NOT PRESENT: Commissioner Tomes.**

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**PUBLIC HEARING**

**BE Appeal National Turnpike**

Project Name: Appeal of Binding Element Violation Citation – 8014 National Turnpike  
Jurisdiction: Louisville Metro

**Case Manager: Laura Ferguson – Jefferson County Attorney’s Office**

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:**

01:38:41 Laura Ferguson, County Attorney’s Office, presented the case (see recording for detailed presentation.)

01:45:01 Mike Wilcher, with Louisville Metro Code Enforcement, was sworn in. Ms. Ferguson asked if the photos she had shown (taken last month) still represented ongoing violations. Mr. Wilcher said that the most recent photos in Ms. Ferguson’s presentation were taken last week, and do represent ongoing violations. He said there are “numerous” junked vehicles and evidence of auto salvage taking place on the property; also, the landscaping is out of compliance (missing or dead landscaping, and vehicles parked at the rear which is supposed to be reserved for greenspace.)

01:46:06 In response to a question from Commissioner Carlson, he and Mr. Wilcher discussed the location of dumpster on the site. Also in response to another question from Commissioner Carlson, Mr. Wilcher confirmed that some areas that were supposed to be paved, according to the development plan, were graveled instead. They also discussed the number of vehicles on the site and Mr. Wilcher confirmed that most of them appeared to be inoperable (used for salvaging parts).

01:48:28 Commissioner Mims asked if the use was supposed to be “auto sales” because he said it appeared to be a salvage yard. Mr. Wilcher said that is part of the reason why the citation/s were issued – because the owner appears to be operating a junkyard, as opposed to auto sales. He said the property owner would have to rezone the property to M-3 with a Conditional Use Permit in order to operate a salvage yard here. He added that Code Enforcement has spoken several times with the owner and the tenant and that this issue has been going on for years.

01:50:08 In response to a question from Commissioner Mims, Ms. Ferguson explained the procedure is if this citation is sustained (see recording.)

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01:51:18 In response to a question from Commissioner Jarboe, Mr. Wilcher reiterated that Code Enforcement has met with the owner and that they understood what they had to do to bring the property into compliance. Commissioner Jarboe and Ms. Ferguson discussed proposed fine amounts. Joe Reverman, Assistant Director of Planning & Design Services, explained that fines were set for days upon which the violation/s were witnessed.

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

Ala Salman, 8014 National Turnpike, Louisville, KY

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

01:53:50 Ala Salman, the appellant, said he bought the property in February 2019. See recording for detailed testimony. He said there are currently four cars in the back (storing them for the previous owner) and four cars for himself.

01:56:09 Commissioner Carlson asked if there were only eight cars total on this property. Mr. Salman said no, there are eight cars in the back, behind the garage. Commissioner Carlson asked about moving the dumpster from the front of the building to the back, where it is shown on the development plan. Mr. Salman said he was not sure where it is supposed to be.

01:57:14 Commissioner Carlson asked when the areas designated for paving were going to be paved. Mr. Salman said the entrance was supposed to be paved; that has been done. Commissioner Carlson described the areas designated on the site plan that are to be paved (back by the garage and shop building, etc.) Mr. Salman said he would do that, but it would take a couple months. He said he was told to put gravel in the back. Ms. Ferguson pointed out the locations that are required to be paved.

01:59:24 Commissioner Jarboe asked about landscaping.

01:59:55 In response to a question from Commissioner Jarboe, Mr. Salman said he purchased this property from a friend of his who is now overseas, in February 2019. Commissioner Jarboe said that the previous owner was the one who was supposed to have done all this work (removing the junked cars, paving, landscaping, etc.)

02:01:00 In response to a question from Commissioner Lewis, Mr. Salman said the prior owner was the one who was operating the business with all the junked cars. He said he wants to sell cars.

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02:02:12 In response to some question from Commissioner Jarboe, Mr. Wilcher said Code Enforcement has met with Mr. Salman in the office on a couple of occasions. He said it was his understanding that Mr. Salman had this property leased to a tenant. He said Mr. Salman was told that all of the junked vehicles had to be removed, that this property was for auto sales, that the plan had not been developed as approved and also the landscaping installation had to be done, which Mr. Salman agreed to do. Mr. Wilcher said that, when the inspector went out last week and took the most recent photos, they did not find evidence that these issues had been addressed. He said there are still junked, wrecked, and inoperable vehicles on the front portion of the lot.

02:03:38 Mr. Reverman, Mr. Wilcher, and Ms. Ferguson discussed the timelines of the case (see recording.) Mr. Wilcher added that, during meetings in the office, the development plan was provided so Mr. Salman would know exactly what was needed on the site. He said Mr. Salman and a person Mr. Wilcher believed was a tenant were present. Mr. Wilcher was told that the tenant was the one who was operating this business, and that both the owner and tenant were clear about what needed to be done.

02:05:16 Commissioner Peterson asked Mr. Wilcher if there was a prior history of violations on this property, since the development plan was initially approved in 2008. Mr. Wilcher said there have been complaints throughout the years about the property's condition and the property not being in compliance.

02:06:17 Commissioner Mims asked some questions about legal enforcement (see recording.)

02:07:46 Commissioner Howard asked Mr. Wilcher if this site had not been fined for previous violations. Mr. Wilcher said no fines had been levied, to his knowledge, although complaints have been made over time.

02:08:52 In response to a question from Commissioner Howard, the appellant said his name is Ala Salman. Saja Salman is his daughter. He said that, although his daughter is listed as the owner, he is operating the site as "power of attorney" from her. Commissioner Carlson said that, on the development plan from 2008, Ala Salman's name is shown as the operator of the business. Mr. Salman said he sold it. It was determined that John Miller, of Miller Wihry, had explained to Mr. Salman what needed to be done for the property. See recording for detailed discussion.

02:11:51 The Commissioners and Ms. Ferguson discussed procedural issues about enforcing the citation.

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**The following spoke in opposition to this appeal:**  
No one spoke.

02:14:31 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.**

02:24:51 On a motion by Commissioner Carlson, seconded by Commissioner Brown, the following resolution, based on the evidence and testimony heard today, was adopted:

**RESOLVED**, the Louisville Metro Planning Commission does hereby **DENY** the appeal and uphold the citations; that a civil fine be set at \$4000; and does hereby direct the County Attorney's Office to draft the appropriate final order to reflect that action; and that an order be issued to the owner and/or the operator that full compliance with the approved Development Plan from 2008 be completed by July 1, 2020.

**The vote was as follows:**

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

**NOT PRESENT: Commissioner Tomes.**

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**PUBLIC HEARING**

**BE Final Order – 9213 Dixie Highway**

Project Name: Binding Element Final Order – 9213 Dixie Highway  
Jurisdiction: Louisville Metro

**Case Manager: Laura Ferguson – Jefferson County Attorney’s Office**

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:**

02:27:19 Laura Ferguson presented an overview of the binding element final order (see recording for detailed presentation.)

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

No one spoke.

02:29:50 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.**

02:30:56 On a motion by Commissioner Brown, seconded by Commissioner Howard, the following resolution, based on evidence and testimony heard today, was adopted:

**RESOLVED**, the Louisville Metro Planning Commission does hereby **UPHOLD** the citation and issue the final order.

**The vote was as follows:**

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

**NOT PRESENT: Commissioner Tomes.**

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**ADJOURNMENT**

The meeting adjourned at approximately 3:37 p.m.

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Chairman

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Division Director