

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO PLANNING COMMISSION
August 3, 2017**

A meeting of the Louisville Metro Planning Commission was held on Thursday, August 3, 2017 at 1:00 p.m. at the Old Jail Building, located at 514 West Liberty Street, Louisville, Kentucky.

Commission members present:

Vince Jarboe – Chair
Marilyn Lewis – Vice Chair
Lula Howard
Rich Carlson
Ramona Lindsey
David Tomes
Jeff Brown
Laura Ferguson (left the meeting at approximately 3:00 p.m.)
Rob Peterson

Commission members absent:

Emma Smith

Staff Members present:

Emily Liu, Director, Planning & Design Services
Joseph Reverman, Assistant Director, Planning & Design Services
Brian Davis, Planning & Design Manager
Brian Mabry, Planning & Design Supervisor
Ken Baker, Planning Manager, Advanced Planning
Jay Lockett, Planner I
Laura Mattingly, AICP, Planner II
Julia Williams, Planning Supervisor
Will Ford, Communications Specialist, Planning & Design Services
Tammy Markert, Transportation
Paul Whitty, Legal Counsel
Deborah Bilitski, Director, Develop Louisville
Chris Cestaro, Management Assistant (minutes)

The following matters were considered:

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Approval of Minutes

Approval of the minutes of the July 20, 2017 Planning Commission public hearing

00:11:45 On a motion by Commissioner Carlson, seconded by Commissioner Lindsey, the following resolution was adopted:

RESOLVED, that the Planning Commission does hereby **APPROVE** the minutes for the July 20, 2017 Planning Commission public hearing.

The vote was as follows:

YES: Commissioners Carlson, Lindsey, Tomes, Brown, Ferguson, and Jarboe.

NO: No one.

NOT PRESENT: Commissioner Smith.

ABSTAINING: Commissioners Howard, Lewis, and Peterson.

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Consent Agenda

Case No. 17NEIGHPLAN1002

(NOTE: This case is associated with Case No. 17NEIGPLAN1003)

Request: Irish Hill Neighborhood Plan Update

Council District: 9 – Bill Hollander

Case Manager: **Kendal Baker, AICP, Planning Manager**

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

An audio/visual recording of the Planning Commission public 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.

Agency Testimony:

00:14:12 Ken Baker presented the case and reviewed the information that was presented during the July 20, 2017 Planning Commission public hearing. He showed a Power Point presentation (see staff report and recording for detailed presentation.)

The following spoke in favor of the request:

Chandler Bainter, 1315 Hull Street, Louisville, KY 40204

Ray Schuhmann, 200 Distillery Commons Suite 200, Louisville, KY 40206

Summary of testimony of those in favor of the request:

00:19:42 Chandler Bainter read a letter of support into the record from the Irish Hill Neighborhood Association (see recording for verbatim presentation.)

00:23:17 Ray Schuhmann, owner of Distillery Commons, spoke in support of the plan.

The following spoke in opposition to the request:

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(NOTE: This case is associated with Case No. 17NEIGPLAN1003)

Glenn Price, Frost Brown Todd, 400 West Market Street, Suite 3200, Louisville, KY 40202

Summary of testimony of those in opposition to the request:

00:24:03 Glenn Price, representing River Metals, spoke in opposition (see recording for detailed presentation.)

The following spoke neither for nor against:

Cliff Ashburner, Dinsmore & Shohl, 101 S 5th St #2500, Louisville, KY 40202

Gregg Underwood, 1500 Lexington Road, Louisville, KY 40206 (signed in but did not speak)

Summary of testimony of those neither for nor against :

00:25:23 Cliff Ashburner discussed issues with having property designated as "historic re-use." He discussed intensity of uses in the area.

Rebuttal:

00:27:08 Mr. Baker said staff has spoken with Mr. Ashburner and had no problem with his comments/suggestions. He said that, if this plan moves ahead, staff is open to revising it.

Deliberation:

00:28:21 Commissioners' deliberation. See recording for detailed discussion.

Review of Irish Hill Neighborhood Plan Update - 17NEIGHPLAN1002

00:37:15 On a motion by Commissioner Carlson, seconded by Commissioner Howard, the following resolution was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the Irish Hill Neighborhood Plan is in conformance with the Cornerstone 2020 comprehensive plan, because the recommendations support the following plan elements and policies of the comprehensive plan; and

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(NOTE: This case is associated with Case No. 17NEIGPLAN1003)

WHEREAS, the Commission further finds that the plan meets the intents of **Guideline 1 Community Form**. The proposed Land Use/Community Form recommendations in the Irish Hill Neighborhood Plan include the creation of a Planned Development District (PDD) to protect and promote the substantial diversity in land use, community form and neighborhood character that currently exists within the proposed PDD. Further recommendations, such as the proposal to extend the Bardstown Road Overlay District, seek to ensure that new development will be designed to be compatible with the scale, rhythm, form and function of existing and trending development; and

WHEREAS, the Commission further finds that the plan meets the intents of **Guideline 2 Centers**. The historic re-use and commercial mixed use sub areas of the PDD ensure that appropriate land uses and development standards will be put in place to foster a mix of uses that are organized around proposed and existing activity centers; and

WHEREAS, the Commission further finds that the plan meets the intents of **Guideline 3 Compatibility**. The proposed PDD and its constituent sub-areas have been designed to ensure that all land uses and transportation facilities will be compatible with nearby land uses while minimizing impacts to sensitive areas in the community. The proposed recommendations will minimize impacts to existing residences, schools and other sensitive areas in the neighborhood; and

WHEREAS, the Commission further finds that the plan meets the intents of **Guideline 4 Open Space**. The plan proposes recommendations for preserving and enhancing the Irish Hill and Breslin neighborhood parks; and

WHEREAS, the Commission further finds that the plan meets the intents of **Guideline 5 Natural Areas and Scenic and Historic Resources**. The plan recommends efforts to Preserve and enhance Beargrass Creek and its banks and allow for the future construction of a multi-use path along the creek; and

WHEREAS, the Commission further finds that the plan meets the intents of **Guideline 6 Economic Development and Sustainability**. The Mixed Use Corridor sub-area encourages traditional neighborhood commercial development while providing for the flexibility to accommodate the types of businesses and mix of uses that are becoming increasingly common in nearby neighborhoods; and

WHEREAS, the Commission further finds that the plan meets the intents of **Guideline 7 Circulation**. The proposed Mobility recommendations in the Irish Hill Neighborhood Plan seek to increase connectivity between developments,

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(NOTE: This case is associated with Case No. 17NEIGPLAN1003)

improve major intersections, and expand the sidewalk network. Implementation of the mobility recommendations will ensure a balanced and comprehensive multimodal transportation network; and

WHEREAS, the Commission further finds that the plan meets the intents of **Guideline 12 Air Quality**. The proposed Irish Hill Neighborhood Plan recommendations improve the cleanliness and air quality of the neighborhood's residential, commercial and industrial areas; and

WHEREAS, the Commission further finds that, based on the staff report, the applicant's findings of fact, and the evidence and testimony presented today, that all of the applicable guidelines of Cornerstone 2020 and the Land Development Code are being met; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the requested Irish Hill Neighborhood Plan **Update** (Case No. 17NEIGHPLAN1002) be **APPROVED**.

The vote was as follows:

YES: Commissioners Tomes, Carlson, Howard, Lewis, Brown, Ferguson, Lindsey, and Jarboe.

NO: No one.

NOT PRESENT: Commissioner Smith.

ABSTAINING: Commissioner Peterson.

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Case No. 17NEIGHPLAN1003

(NOTE: This case is associated with Case No. 17NEIGPLAN1002)

***NOTE: All testimony, the motion, and the vote applicable to Case No. 17NEIGHPLAN1002 apply to this case.**

Request: Irish Hill Neighborhood Plan Executive Summary Update

Council District: 9 – Bill Hollander

Case Manager: Kendal Baker, AICP, Planning Manager

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

An audio/visual recording of the Planning Commission public 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.

Agency Testimony:

00:14:12 Ken Baker presented the case and reviewed the information that was presented during the July 20, 2017 Planning Commission public hearing. He showed a Power Point presentation (see staff report and recording for detailed presentation.)

The following spoke in favor of the request:

Chandler Bainter, 1315 Hull Street, Louisville, KY 40204

Ray Schuhmann, 200 Distillery Commons Suite 200, Louisville, KY 40206

Summary of testimony of those in favor of the request:

00:19:42 Chandler Bainter read a letter of support into the record from the Irish Hill Neighborhood Association (see recording for verbatim presentation.)

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00:23:17 Ray Schuhmann, owner of Distillery Commons, spoke in support of the plan.

The following spoke in opposition to the request:

Glenn Price, Frost Brown Todd, 400 West Market Street, Suite 3200, Louisville, KY 40202

Summary of testimony of those in opposition to the request:

00:24:03 Glenn Price, representing River Metals, spoke in opposition (see recording for detailed presentation.)

The following spoke neither for nor against:

Cliff Ashburner, Dinsmore & Shohl, 101 S 5th St #2500, Louisville, KY 40202

Gregg Underwood, 1500 Lexington Road, Louisville, KY 40206 (signed in but did not speak)

Summary of testimony of those neither for nor against :

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Rebuttal:

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Deliberation:

00:28:21 Commissioners' deliberation. See recording for detailed discussion.

Review of Irish Hill Neighborhood Plan Update - 17NEIGHPLAN1002

00:37:15 On a motion by Commissioner Carlson, seconded by Commissioner Howard, the following resolution was adopted:

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(NOTE: This case is associated with Case No. 17NEIGPLAN1002)

WHEREAS, the Louisville Metro Planning Commission finds that the Irish Hill Neighborhood Plan is in conformance with the Cornerstone 2020 comprehensive plan, because the recommendations support the following plan elements and policies of the comprehensive plan; and

WHEREAS, the Commission further finds that the plan meets the intents of **Guideline 1 Community Form**. The proposed Land Use/Community Form recommendations in the Irish Hill Neighborhood Plan include the creation of a Planned Development District (PDD) to protect and promote the substantial diversity in land use, community form and neighborhood character that currently exists within the proposed PDD. Further recommendations, such as the proposal to extend the Bardstown Road Overlay District, seek to ensure that new development will be designed to be compatible with the scale, rhythm, form and function of existing and trending development; and

WHEREAS, the Commission further finds that the plan meets the intents of **Guideline 2 Centers**. The historic re-use and commercial mixed use sub areas of the PDD ensure that appropriate land uses and development standards will be put in place to foster a mix of uses that are organized around proposed and existing activity centers; and

WHEREAS, the Commission further finds that the plan meets the intents of **Guideline 3 Compatibility**. The proposed PDD and its constituent sub-areas have been designed to ensure that all land uses and transportation facilities will be compatible with nearby land uses while minimizing impacts to sensitive areas in the community. The proposed recommendations will minimize impacts to existing residences, schools and other sensitive areas in the neighborhood; and

WHEREAS, the Commission further finds that the plan meets the intents of **Guideline 4 Open Space**. The plan proposes recommendations for preserving and enhancing the Irish Hill and Breslin neighborhood parks; and

WHEREAS, the Commission further finds that the plan meets the intents of **Guideline 5 Natural Areas and Scenic and Historic Resources**. The plan recommends efforts to Preserve and enhance Beargrass Creek and its banks and allow for the future construction of a multi-use path along the creek; and

WHEREAS, the Commission further finds that the plan meets the intents of **Guideline 6 Economic Development and Sustainability**. The Mixed Use Corridor sub-area encourages traditional neighborhood commercial development

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while providing for the flexibility to accommodate the types of businesses and mix of uses that are becoming increasingly common in nearby neighborhoods; and

WHEREAS, the Commission further finds that the plan meets the intents of **Guideline 7 Circulation**. The proposed Mobility recommendations in the Irish Hill Neighborhood Plan seek to increase connectivity between developments, improve major intersections, and expand the sidewalk network. Implementation of the mobility recommendations will ensure a balanced and comprehensive multimodal transportation network; and

WHEREAS, the Commission further finds that the plan meets the intents of **Guideline 12 Air Quality**. The proposed Irish Hill Neighborhood Plan recommendations improve the cleanliness and air quality of the neighborhood's residential, commercial and industrial areas; and

WHEREAS, the Commission further finds that, based on the staff report, the applicant's findings of fact, and the evidence and testimony presented today, that all of the applicable guidelines of Cornerstone 2020 and the Land Development Code are being met; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the requested Irish Hill Neighborhood Plan **Executive Summary** of Plan Update to be an Amendment to Cornerstone 2020 (17NEIGHPLAN1003) be **APPROVED**.

The vote was as follows:

YES: Commissioners Tomes, Carlson, Howard, Lewis, Brown, Ferguson, Lindsey, and Jarboe.

NO: No one.

NOT PRESENT: Commissioner Smith.

ABSTAINING: Commissioner Peterson.

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Public Hearing

Case No. 17ZONE1014

Requests:	Change in zoning from C-2 to M-2, two Landscape Waivers, and a Detailed District Development Plan
Project Name:	Cardinal Transportation
Location:	13013 Dixie Highway
Owner(s):	Cardinal Transportation
Applicant:	Cardinal Transportation
Representative(s):	Rocky Mehic & Leland Jones
Jurisdiction:	Louisville Metro
Council District:	14 – Cindi Fowler

Case Manager: **Laura Mattingly, AICP, Planner II**

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

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

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

Agency Testimony:

00:39:35 Laura Mattingly presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation).

In response to a question from Commissioner Lewis, Ms. Mattingly reviewed the waivers using the site plan.

In response to a question from Ms. Howard, Ms. Mattingly clarified property lines vs. setback requirements; and also discussed railroad ROW.

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The following spoke in favor of the request:

Leland Jones, 7417 Steeplecrest Drive, Louisville, KY 40222

Summary of testimony of those in favor:

00:49:52 Leland Jones, representing the applicant, said there will be no product in trailers once they are parked on the site (see recording for detailed discussion.) These will be box trailers. The trailers will be parked on the site for 2-3 days, maximum.

The following spoke in favor of the request:

No one spoke.

The following spoke in opposition to the request:

No one spoke.

The following spoke neither for nor against:

Councilwoman Cindi Fowler

Summary of Testimony of those neither for nor against:

00:52:17 Councilwoman Cindi Fowler expressed concern about granting the landscaping waivers. She asked that, if there is a change of use, the request would come back to Metro Council.

Rebuttal:

00:56:44 Leland Jones said there is existing foliage on the south side, with the fence, that would make more planting unnecessary. The north side is vacant. The owner is open to dropping the waiver request and/or enhancing the fence.

01:00:27 Commissioners' deliberation

Change in Zoning

01:09:19 On a motion by Commissioner Carlson, seconded by Commissioner Howard, the following resolution was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the site is located in the Suburban Marketplace Corridor Form District. Suburban Marketplace Corridors: Suburban Marketplace Corridors are generally located along major roadways with well-defined beginning and ending points and

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established depths along the length of the corridor. The pattern of development is distinguished by a mixture of medium to high intensity uses. Accommodations for transit users, bicyclists and pedestrians are encouraged in an effort to attract a variety of users as well as to minimize automobile dependency and traffic congestion. Connectivity to nearby uses should be encouraged. Developers should be encouraged to design new commercial development in compact groups of buildings, which use the same curb cut, share parking, have a common freestanding sign identifying the uses and have a common buffering or streetscape plan with respect to any abutting uses of lower density or intensity; and

WHEREAS, the Commission further finds that this form may include medium to high-density residential uses that are designed to be compatible with both the non-residential uses along the corridor and the lower density residential uses in adjacent form districts. Medium density residential uses may serve as a transition area from lower to higher density residential uses and should be encouraged in this form; and

WHEREAS, the Commission further finds that proposed new commercial uses are encouraged, to locate within the boundaries of existing corridors. Reuse of locations within existing corridors is preferred over expansion of a corridor. Proposals to expand defined corridors represent significant policy decisions. When considering proposals that result in an extension of suburban marketplace corridors, particular emphasis should be placed on: (a) use or reuse of land within existing corridors; (b) potential for disruption of established residential neighborhoods; and (c) compliance with the site and community design standards of the Land Development Code; and

WHEREAS, the Commission further finds that, while this use is not commercial in nature, it is not expanding the existing corridor and is utilizing a long vacant property and its associated buildings for a use that has potential to improve the economic conditions of the area. While sidewalks are not proposed, the proposal includes access improvements, as well as landscaping along Dixie Highway to improve the aesthetics of the site; and

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

RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the change in zoning from C-2 to M-2 be **APPROVED**.

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The vote was as follows:

YES: Commissioners Lewis, Tomes, Carlson, Brown, Ferguson, Lindsey, Howard, Peterson, and Jarboe.

NO: No one.

NOT PRESENT: Commissioner Smith.

ABSTAINING: No one.

Waiver #1 - Landscape Waiver of Section 10.2.4 to eliminate the 15' property perimeter landscape buffer yard along the north and south property lines.

Waiver #2 - Landscape Waiver of Section 10.2.10.A to not provide the required 5' Vehicle Use Area Landscape Buffer along the south property line shared with a residential use.

01:11:34 On a motion by Commissioner Carlson, seconded by Commissioner Howard, the following resolution was adopted:

(Waiver #1) WHEREAS, the Louisville Metro Planning Commission finds that the waiver may adversely affect adjacent property owners as the applicant is proposing no mitigation to screen the trailers and associated visual and noise impacts on abutting properties; and

WHEREAS, the Commission further finds that the waiver may violate guideline 3, Compatibility, of Cornerstone 2020, which calls for the protection of roadway corridors and public areas from visual intrusions, for mitigation of parking areas so as not to negatively impact nearby residents and pedestrians, and for parking areas adjacent to streets to be screened and buffered. This waiver will violate Guideline 3, as the applicant has not made mitigation efforts for the elimination of property perimeter Landscape Buffer Areas, although the Landscape Buffer Area along Dixie Highway has been provided; and

(Waiver #2) WHEREAS, the Commission further finds that the waiver may adversely affect the adjacent property owner as the applicant has proposed no mitigation for the lack of landscape buffer; and

WHEREAS, the Commission further finds that the waiver may violate guideline 3, Compatibility, of Cornerstone 2020, which calls for the protection of roadway corridors and public areas from visual intrusions, for mitigation of parking areas so as not to negatively impact nearby residents and pedestrians, and for parking areas adjacent to streets to be screened and buffered. The waiver will violate

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Guideline 3 as there is no transition provided on site from industrial use to residential; and

WHEREAS, the Commission further finds that the applicant has not provided other design measures at this time that exceed the minimums and compensate for non-compliance as there has been no mitigation proposed for the lack of buffer along the property line; and

WHEREAS, the Commission further finds that, based on the staff report and the evidence and testimony presented today, that some of the applicable guidelines of Cornerstone 2020 are not being met; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **DENY** the requested **Waiver #1 - Landscape Waiver of Section 10.2.4** to eliminate the 15' property perimeter landscape buffer yard along the north and south property lines; **AND** the requested **Waiver #2 - Landscape Waiver of Section 10.2.10.A** to not provide the required 5' Vehicle Use Area Landscape Buffer along the south property line shared with a residential use.

The vote was as follows:

YES: Commissioners Brown, Howard, Carlson, Ferguson, Tomes, Lindsey, Lewis, Peterson, and Jarboe.

NO: No one.

NOT PRESENT: Commissioner Smith.

ABSTAINING: No one.

Detailed District Development Plan

01:12:35 On a motion by Commissioner Carlson, seconded by Commissioner Howard, the following resolution was adopted:

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

WHEREAS, the Commission further finds that provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community have been provided through the proposed improved vehicular access and right of way dedication. Transportation has given their preliminary approvals, and

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WHEREAS, the Commission further finds that the development does not meet the threshold for open space or outdoor amenity requirements, and

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

WHEREAS, the Commission further finds that the use is proposed along a commercially zoned corridor that is comprised of a mix of commercial and residential uses and is not necessarily compatible with the existing uses in the area. Conversely, declining economic conditions of the area would indicate that future development will not be commercial in nature. The applicant has provided landscaping along Dixie Highway to improve site aesthetics from the roadway, and

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

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

Binding Elements

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee 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

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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 Develop Louisville, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
 - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - d. A minor plat or legal instrument shall be recorded creating the lot lines as shown on the development plan. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of the approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
 - e. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
5. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
6. 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

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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.

8. Right-of-way dedication shall be required, 65' from centerline of payment within 30 days of Metro Council approval for the re-zoning. Right-of way may be dedicated by a Deed of conveyance or minor plat.
9. The gate to access the property shall be open from 6am to 6pm (or open and close of business) to eliminate any queue of Semi trucks on Dixie Hwy.
10. No idling of trucks shall take place within 200 feet of single-family residences. No overnight idling of trucks shall be permitted on-site.
11. Each individual trailer may not be stored on the property for longer than 7 consecutive days.
12. Use shall be limited to empty tractor trailer parking and storage as proposed at the August 3, 2017 Planning Commission meeting. Any change of use on the property shall require approval by Metro Council.

The vote was as follows:

YES: Commissioners Brown, Howard, Carlson, Ferguson, Tomes, Lindsey, Lewis, Peterson, and Jarboe.

NO: No one.

NOT PRESENT: Commissioner Smith.

ABSTAINING: No one.

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Public Hearing

Case No.17MOD1006

Request: Amendment to binding element to remove landscaping/screening requirements
Project Name: 1399 Lexington BE Mod
Location: 1399 Lexington Road
Owner: Volks 1
Applicant: David George
Representative: David George
Jurisdiction: Louisville Metro
Council District: 4 – Barbara Sexton Smith

Case Manager: Jay Lockett, Planner I

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

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

An audio/visual recording of the Planning Commission public 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.

Agency Testimony:

01:13:03 Jay Lockett presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.) He explained that, when this case was presented to LD&T Committee last week, the vote was not unanimous. Therefore, it is being presented to the full Planning Commission this week.

01:16:39 In response to a question from Commissioner Ferguson, Mr. Lockett said the current owner has owned the property for 1-2 years and is not the original owner. In response to a question from Commissioner Jarboe, Mr. Lockett said the request for the change to the binding element may have been in response to a new tenant on the property who was proposing parking spaces for a drive-through.

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01:18:07 Paul Whitty, legal counsel for the Planning Commission, gave some more background about the case (see recording for detailed discussion.)

The following spoke in favor of the request:

David George, 1387 Lexington Rd, Louisville, KY 40206

John Grantz, 1386 Lexington Road, Louisville, KY

Summary of testimony of those in favor of the request:

01:19:39 David George, the applicant, said he did not know about the landscaping requirement when he bought this property. He explained that a coffee shop came in for the lease, they discovered the landscaping requirements. He also gave additional reasons why he was requesting the waivers. His primary concerns are vehicle visibility/safety; digging up a paved area to plant; disturbing utility lines; and questions about the exact property lines (see recording for his detailed presentation.) He used photos to demonstrate that his property/s are consistent with other properties in this area.

01:28:35 In response to a question from Commissioner Lewis, Mr. George said he has not built or altered the coffee shop building in any way. He said the tenant was the one who filled out the paperwork and put in the request for the drive-through. In response to a question from Commissioner Howard, he said the site was already paved when he bought the property.

01:29:44 John Grantz, a nearby business owner/resident, said he supports Mr. George's request to not put the landscaping in. He agreed that vehicular visibility and safety is a concern, and that this corner is best left open for better visibility.

The following spoke in opposition to the request:

No one spoke.

The following spoke neither for nor against:

No one spoke.

Rebuttal:

There was no rebuttal, since no one spoke in opposition.

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Deliberation:

01:30:56 Commissioners' deliberation.

01:33:19 In response to requests from Commissioner Howard, Mr. Lockett responded to questions from the Commissioners regarding the site plan and also showed an enlarged site plan which provided a better view of the landscaping.

01:43:58 In response to a question from Commissioner Howard, Mr. Lockett and Joe Reverman, Assistant Director of Planning & Design Services, spoke in regard to whether a new development plan would be necessary if the binding element were eliminated.

01:50:28 Mr. Lockett responded to a question from the Commissioners regarding availability of zoning files.

01:53:05 Commissioner Carlson, seconded by Commissioner Brown, made a motion to deny the request to delete binding element 3B from Docket No. 09-84-86. The motion failed.

The vote was as follows:

YES: Commissioners Brown, Howard, Carlson, and Lindsey.

NO: Commissioners Peterson, Tomes, Lewis, Ferguson, and Jarboe.

NOT PRESENT: Commissioner Smith.

ABSTAINING: No one.

01:54:58 On a motion by Commissioner Lewis, seconded by Commissioner Peterson, the following resolution was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that a portion of the site is within the FEMA 100 year flood plain. Tree canopy requirements were not applicable to the site at the time of this development. Screening required by binding element 3b has not been installed on site; and

WHEREAS, the Commission further finds that provisions for safe and efficient vehicular and pedestrian transportation within and around the development has been provided; and

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

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WHEREAS, the Commission further finds that drainage is consistent with the approved plan from 1986, with the exception of any that may have been captured from the installation of perimeter plantings; 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; and

WHEREAS, there is no revised development plan associated with this request. The site is in compliance with the existing plan with the exception of screening requirements of binding element 3b; and

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

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the request to delete Binding Element 3b from Docket 09-84-86.

The vote was as follows:

YES: Commissioners Ferguson, Peterson, Tomes, Lewis, and Jarboe.

NO: Commissioners Brown, Howard, Carlson, and Lindsey.

NOT PRESENT: Commissioner Smith.

ABSTAINING: No one.

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Public Hearing

Case No. 16ZONE1085

***NOTE: Commissioner Ferguson left the meeting and did not vote on this or the remaining cases.**

Request: Change in zoning from R-5 Single Family to R-5B Two-Family and a Detailed District Development Plan and Landscape Waiver
Project Name: 535 Camden Avenue
Location: 535 Camden Avenue
Owner: Zhong Liu
Applicant: Zhong Liu
Representative: Zhong Liu
Jurisdiction: Louisville Metro
Council District: **15 – Marianne Butler**

Case Manager: **Brian Mabry, AICP, Planning Supervisor**

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

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

An audio/visual recording of the Planning Commission public 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.

Agency Testimony:

01:57:17 Brian Mabry presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.)

02:05:45 In response to a question from Commissioner Brown, Mr. Mabry said the applicant could only do two units under the R-5B zoning.

02:06:04 In response to a question from Commissioner Carlson, Mr. Mabry said the proposal does not comply with the Oakdale Neighborhood Plan because

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there are no allowances for upzoning for the subject property in that Plan. He explained future recommended rezonings which may be proposed for the area.

02:08:37 In response to a question from Commissioner Peterson, Mr. Mabry brought up a zoning map showing the widths of the lots in the immediate area.

The following spoke in favor of the request:

Zhong Liu, 6216 Breeze Hill Rd., Crestwood, KY 40014

Summary of testimony of those in favor of the request:

02:09:10 Zhong Liu, the applicant, said he was available to answer questions (see recording for detailed presentation.)

02:10:12 In response to a question from Commissioner Brown, Mr. Liu discussed the floor plan and where the main entrance for both units would be. He also answered questions from Commissioner Peterson regarding his reasons for wishing to eliminate the landscaping (Mr. Liu said it was mainly because of the fencing requirement.)

02:12:08 Commissioner Brown and Mr. Mabry discussed whether the Oakdale Neighborhood Plan spoke to keeping the single family residential character (this was not a requirement of the Plan.)

The following spoke in opposition to the request:

No one spoke.

The following spoke neither for nor against the request (“Other”):

No one spoke.

Rebuttal:

There was no rebuttal, since no one spoke in opposition.

Deliberation:

02:13:18 Commissioners’ deliberation.

Zoning

02:18:41 On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution was adopted:

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WHEREAS, the Louisville Metro Planning Commission finds that the site is located in the Traditional Neighborhood Form District. The Traditional Neighborhood Form District is characterized by predominantly residential uses, by a grid pattern of streets with sidewalks and often including alleys. Residential lots are predominantly narrow and often deep, but the neighborhood may contain sections of larger estate lots, and also sections of lots on which appropriately integrated higher density residential uses may be located. The higher density uses are encouraged to be located in centers or near parks and open spaces having sufficient carrying capacity. There is usually a significant range of housing opportunities, including multi-family dwellings; and

WHEREAS, the Commission further finds that traditional neighborhoods often have and are encouraged to have a significant proportion of public open space such as parks or greenways, and may contain civic uses as well as appropriately located and integrated neighborhood centers with a mixture of mostly neighborhood-serving land uses such as offices, shops, restaurants and services. Although many existing traditional neighborhoods are fifty to one hundred twenty years old, it is hoped that the Traditional Neighborhood Form will be revitalized under the new Comprehensive Plan. Revitalization and reinforcement of the Traditional Neighborhood Form will require particular emphasis on (a) preservation and renovation of existing buildings in stable neighborhoods (if the building design is consistent with the predominant building design in those neighborhoods), (b) the preservation of the existing grid pattern of streets and alleys, (c) preservation of public open spaces; and

WHEREAS, the Commission further finds that the proposal is for a conversion of a single-family residence to a two-family residence on an interior lot surrounded by single-family residential uses. The grid pattern of the area is not proposed to change. The exterior and site are consistent with the predominant neighborhood building and site design and is not proposed to change. The proposed two-family residence is not in and of itself consistent with the surroundings of the subject property. However, the residence sits on two platted lots, which could potentially accommodate two separate single-family dwellings. Therefore, the proposal does not increase the potential density of the area. The proposal does not include access through areas of significantly lower density; and

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

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RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the requested change in zoning from R-5 to R-5B on .1757 acres (7,653 square feet) on property described in the attached legal description be **APPROVED**.

The vote was as follows:

YES: Commissioners Lewis, Howard, Carlson, Lindsey, Tomes, Brown, Peterson, and Jarboe.

NO: No one.

NOT PRESENT: Commissioners Smith and Ferguson.

ABSTAINING: No one.

Detailed District Development Plan, Binding Elements and Waiver from Section 10.2.10 to not provide a five-foot Vehicle Use Area Landscape Buffer Area

01:47:59 On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution was adopted:

(Development Plan) **WHEREAS**, the Louisville Metro Planning Commission finds that LOJIC has not identified any natural resources on site. The applicant will be adding a gravel parking surface at the rear of the site for off-street parking. All other green space will remain and the applicant will plant an additional Type A tree; and

WHEREAS, the Commission further finds that provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community have been provided through the provision of off-street parking off the alley. Transportation has provided preliminary approval; and

WHEREAS, the Commission further finds that this development does not meet the threshold for open space requirements; and

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

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WHEREAS, the Commission further finds that the overall site design and building exterior are compatible with the surroundings and with the existing and proposed development of the area as the site and building exterior are not proposed to significantly change. The proposed use is mostly compatible with the existing use of the surroundings. Although a two-family conversion is proposed and is surrounded by single-family residences, the subject residence sits on two platted lots which could potentially accommodate two separate single-family dwellings. So, the proposal does not increase the potential density of the area. In addition, the two platted lots of the subject property combined together are larger than other lots in the vicinity, thus enabling the property to accommodate an additional dwelling unit; and

WHEREAS, the Commission further finds that the detailed district development plan generally conforms to the Comprehensive Plan. The Oakdale Neighborhood Plan does not support the requested change in zoning. Map 8 of the Plan shows areas that should be considered for changes in zoning in the future and the subject property is not within one of those areas. With the exception of the waiver, the detailed development plan conforms to the requirements of the Land Development Code; and

(Waiver) WHEREAS, the Commission further finds that the waiver will not adversely affect adjacent property owners as no other VUA LBAs exist for parking off of the alley in the vicinity of the subject property with no known problems; and

WHEREAS, the Commission further finds that the waiver will not violate specific guidelines of Cornerstone 2020. The waiver will not violate Guideline 3, Policy 24, which states that parking, loading and delivery areas located adjacent to residential areas should be designed to minimize the impacts from noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered. Although granting of the waiver would allow the proposed gravel parking area to not have screening between it and the adjacent property to the west, the VUA is proposed to be setback 10 feet, rather than the five-foot required width of the VUA LBA; 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 because the applicant only wishes to not erect a required six-foot opaque continuous screening device, such as a wood fence, between the VUA and the adjacent property to the west. The applicant proposes to double the setback of the VUA from the side property line from five feet to 10 feet; and

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WHEREAS, the Commission further finds that the applicant has incorporated a design measure that exceeds the minimums of the district and compensates for non-compliance with the requirements to be waived as the proposal doubles the required separation between the VUA and the adjacent property to the west from five feet to 10 feet; and

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

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Detailed District Development Plan **AND** a Landscape Waiver of Section 10.2.10.A to not provide the required 5' Vehicle Use Area Landscape Buffer along the west property line shared with a residential use, **SUBJECT** to the following binding elements:

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

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- 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 minor plat or legal instrument shall be recorded consolidating the property into one lot. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of the approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
5. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
6. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.

The vote was as follows:

YES: Commissioners Lewis, Howard, Carlson, Lindsey, Tomes, Brown, Peterson, and Jarboe.

NO: No one.

NOT PRESENT: Commissioners Smith and Ferguson.

ABSTAINING: No one.

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Public Hearing

Case No. 16ZONE1040

***NOTE: Commissioner Peterson recused himself from hearing or voting on this case.**

Request:	Change in zoning from R-6 to OR-1 with a Waiver and Variance
Project Name:	158 Thierman Lane
Location:	158 Thierman Lane
Owner:	Tom Winters
Applicant:	Tom Winters
Representative:	Tom Winters
Jurisdiction:	City of St. Matthews
Council District:	9 – Bill Hollander

Case Manager: **Julia Williams, RLA, AICP, Planning Supervisor**

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

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

An audio/visual recording of the Planning Commission public 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.

Agency Testimony:

02:20:37 Julia Williams presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.)

The following spoke in favor of the request:

No one spoke.

The following spoke in opposition to the request:

No one spoke.

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The following spoke neither for nor against the request (“Other”):
No one spoke.

Rebuttal

There was no rebuttal, since no one spoke in opposition.

Deliberation:

02:27:43 Commissioners' deliberation.

Zoning

02:30:34 On a motion by Commissioner Brown, seconded by Commissioner Lindsey, the following resolution was adopted:

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

RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the City of St. Matthews that the requested change in zoning from R-6 to OR-1 on property described in the attached legal description be **APPROVED**.

The vote was as follows:

YES: Commissioners Lewis, Howard, Carlson, Lindsey, Tomes, Brown, and Jarboe.

NO: No one.

NOT PRESENT: Commissioners Smith and Ferguson.

ABSTAINING: No one. (Commissioner Peterson recused.)

Variance to permit parking to encroach approximately 1’ into the 5’ setback (1’+/- variance) along the north property line

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02:32:10 On a motion by Commissioner Carlson, seconded by Commissioner Lindsey, the following resolution was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the variance will not affect the public as it will allow a portion of the existing driveway to continue to encroach and will allow for new access to a parking lot in the rear of the site; and

WHEREAS, the Commission further finds that the requested variance will not alter the essential character of the general vicinity. One of the adjacent sites is also an office site while the other is an apartment complex where the driveway is directly adjacent to the shared property line. Parking is located at the rear of the buildings so the character of the area will not be affected; and

WHEREAS, the Commission further finds that the public will not be affected by the encroachment of parking into the setback since most of the condition is existing and the other encroachment is for parking which is common for most of the lots along Theirman; and

WHEREAS, the Commission further finds that the variance is reasonable since most of the encroachment is existing and the new encroachment is for parking in the rear of the site which is the standard location for parking in this area; and

WHEREAS, the Commission further finds that the variance arises from the site needing to access parking. Most of the encroachment is existing and the new encroachment is for parking in the rear of the site which is the standard location for parking in this area; and

WHEREAS, the Commission further finds that the strict application of the code would require the demolition of an existing driveway and car port to gain access to rear parking which would be an unnecessary hardship for a mainly existing condition in an area that is mixed multi-family and office uses; and

WHEREAS, the Commission further finds that the variance is the result of an existing condition on the site prior to the applicant's ownership; and

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

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RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Variance to permit parking to encroach approximately 1' into the 5' setback (1'+/- variance) along the north property line.

The vote was as follows:

YES: Commissioners Lewis, Howard, Carlson, Lindsey, Tomes, Brown, and Jarboe.

NO: No one.

NOT PRESENT: Commissioners Smith and Ferguson.

ABSTAINING: No one. (Commissioner Peterson recused.)

Waiver to permit the encroachment of Vehicle Use Area (VUA) into the 15' LBA along the north property line.

02:33:12 On a motion by Commissioner Carlson, seconded by Commissioner Lindsey, the following resolution was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the reduction in LBA will not affect adjacent property owners because the landscape requirements will still be met; and

WHEREAS, the Commission further finds that the waiver will not violate specific guidelines of Cornerstone 2020. Guideline 3, Policy 9 of Cornerstone 2020 calls for protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigation when appropriate. Guideline 3, Policies 21 and 22 call for appropriate transitions between uses that are substantially different in scale and intensity or density, and mitigation of the impact caused when incompatible developments occur adjacent to one another through the use of landscaped buffer yards, vegetative berms and setback requirements to address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances. Guideline 3, Policy 24 states that parking, loading and delivery areas located adjacent to residential areas should be designed to minimize impacts from noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered. Guideline 13, Policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. Guideline 13, Policy 6 calls for screening and buffering to mitigate adjacent incompatible uses. The intent of landscape

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buffer areas is to create suitable transitions where varying forms of development adjoin, to minimize the negative impacts resulting from adjoining incompatible land uses, to decrease storm water runoff volumes and velocities associated with impervious surfaces, and to filter airborne and waterborne pollutants. The waiver will not violate the comprehensive plan because the existing building will be renovated to have more of a residential appearance with parking to the rear which is characteristic of the area. The buffer requirements will still be met within the LBA; and

WHEREAS, the Commission further finds that the waiver is necessary because much of the encroachment is due to the existing driveway and need to access parking; and

WHEREAS, the Commission further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant since the landscape requirements will still be met; and

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

RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the City of St. Matthews that the requested Waiver to permit the encroachment of Vehicle Use Area (VUA) into the 15' LBA along the north property line be **APPROVED**.

The vote was as follows:

YES: Commissioners Lewis, Howard, Carlson, Lindsey, Tomes, Brown, and Jarboe.

NO: No one.

NOT PRESENT: Commissioners Smith and Ferguson.

ABSTAINING: No one. (Commissioner Peterson recused.)

District Development Plan & Binding Elements

02:33:55 On a motion by Commissioner Carlson, seconded by Commissioner Lindsey, the following resolution was adopted:

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WHEREAS, the Louisville Metro Planning Commission finds that there do not appear to be any environmental constraints or historic resources on the subject site; and

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

WHEREAS, the Commission further finds that there are no open space requirements pertinent to the current 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 and land uses are compatible with the existing and future development of the area. Appropriate landscape buffering and screening will be provided to screen adjacent properties and roadways; and

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

RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the City of St. Matthews that the requested District Development Plan and binding elements be **APPROVED**, subject to the following proposed binding elements:

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

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2. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
3. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
4. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested:
 - a. The development plan must receive full construction approval from Develop Louisville, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. A minor subdivision plat or legal instrument shall be recorded dedicating additional right- of-way to Thierman Lane to provide a total of 34 feet from the centerline. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services prior to obtaining a building permit.
 - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Article 12 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
5. If a certificate of occupancy (building permit) is not issued within one year of the date of approval of the plan or rezoning, whichever is later, the property shall not be used in any manner unless a revised district development plan is approved or an extension is granted by the Planning Commission.
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.

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7. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
8. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.

The vote was as follows:

YES: Commissioners Lewis, Howard, Carlson, Lindsey, Tomes, Brown, and Jarboe.

NO: No one.

NOT PRESENT: Commissioners Smith and Ferguson.

ABSTAINING: No one. (Commissioner Peterson recused.)

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Public Hearing

Case No. 17SUBDIV1009 and Case No. 17STREETS1008

Case No. 17SUBDIV1009:

Request: Revised Preliminary Subdivision Plan
Project Name: Glen Lakes Section 4
Location: 408 Flat Rock Road
Owner: IH of KY, Inc.
Applicant: Jim Obert, IH of KY, Inc.
Representative: Kelli Jones - Sabak, Wilson & Lingo, Inc.
Jurisdiction: Louisville Metro
Council District: **19 – Julie Denton**

Case Manager: **Laura L. Mattingly, AICP, Planner II**

Case No. 17STREETS1008:

Request: Street Name Change from Davenport Drive to
Treesdale Drive
Project Name: Davenport Drive
Location: North/South Davenport Drive from Glen Lakes
Drive to its current terminus north of Vista Lake
Court
Owner: Louisville Metro
Applicant: Jim Obert, IH of KY, Inc.
Representative: Kelli Jones - Sabak, Wilson & Lingo, Inc.
Jurisdiction: Louisville Metro
Council District: **19 – Julie Denton**

Case Manager: **Laura L. Mattingly, AICP, Planner II**

Notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicants.

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

An audio/visual recording of the Planning Commission public 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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Agency Testimony:

02:33:57 Laura Mattingly presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.)

The following spoke in favor of the request:

Kelli Jones, Sabak Wilson & Lingo Inc., 608 South Third Street, Louisville, KY 40202

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

Caitlin Bowman, 702 Davenport Drive, Louisville, KY 40245

Summary of testimony of those in support:

02:38:50 Kelli Jones, an applicant's representative, reviewed the case and presented new information, using a Power Point presentation (see recording for detailed presentation.)

02:42:57 Jim Obert, the applicant, discussed the request, particularly the cul-de-sac and the renaming of the street (see recording for detailed presentation.)

02:45:55 Caitlin Bowman said she is for the revised plan, specifically due to safety issues (see recording for detailed presentation.)

02:48:33 Ms. Mattingly added that, after the staff report was published, she received seven e-mails from citizens: six were in opposition, and one was in favor.

The following spoke in opposition to the request:

Ken Long, 914 Davenport Drive, Louisville, KY 40245

Julie Brooks, 405 Davenport Drive, Louisville, KY 40245

Beverly Weis, 601 Davenport Drive, Louisville, KY 40245

Summary of testimony of those in opposition:

02:48:55 Ken Long said he was speaking on behalf of homeowners, not the HOA. He said this is the original plan that was sold to buyers, and that the proposed cul-de-sac is about 60% smaller than the others in the subdivision – why not a full cul-de-sac? He explained his opposition to the proposed

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connection (see recording for detailed presentation.) He discussed two petitions, both for and against, regarding the new road design change, and said the majority of residents who signed the petition opposed the change.

03:00:45 Beverly Weis expressed concerns about safety, traffic flow, and subdivision design. She discussed the issues that school buses have had, and said residents should be able to leave the subdivision without using only one congested area. She opposes having two cul-de-sacs. (See recording for her detailed presentation.)

03:06:16 Julie Brooks discussed how the loop maintains a sense of community, and how more connections improve traffic. She discussed the street names and the confusion caused. She handed out pictures of certain street intersections which she said illustrated traffic problems at the front entrance on Flat Rock Road.

03:11:30 In response to some questions from Commissioner Peterson, Mr. Long said the statements he made reflected his opinion, and that no formal statement had been made by the HOA.

The following spoke neither for nor against the proposal (“Other”):

No one spoke.

Rebuttal:

03:21:00 Ms. Jones resumed the podium for rebuttal. She said subdivisions are revised “all the time”; sections of subdivisions come in for revision routinely. She discussed the LDC’s requirements for connectivity, and exceptions to those requirements (usually due to geographical features and steep slopes.)

03:13:13 Mr. Obert spoke regarding saving trees, and what environmental regulations / procedures have changed between the original 2003 plan and today. He discussed the “life-safety issue” of having two streets with the same name crossing each other, and also delivery issues.

03:17:32 Mr. Obert, Mr. Long, and the Commission discussed street names other than Davenport Drive or Treesdale.

03:21:40 Commissioners’ deliberation

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Case No. 17SUBDIV1009 and Case No. 17STREETS1008

Subdivision (Case No. 17SUBDIV1009)

03:30:03 On a motion by Commissioner Peterson, seconded by Commissioner Howard, the following resolution was adopted:

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

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Revised Major Preliminary Subdivision Plan, **SUBJECT** to the following Conditions of Approval:

1. The development shall be in accordance with the approved Residential Development Preliminary Plan. No further subdivision of the land into a greater number of lots than originally approved will occur without approval of the Planning Commission.
2. The applicant shall submit a plan for approval by the Planning Commission staff's landscape architect showing trees/tree masses to be preserved prior to beginning any construction procedure (i.e. clearing, grading, demolition). Adjustments to the tree preservation plan which are requested by the applicant may be approved by the Planning Commission staff's landscape architect if the revisions are in keeping with the intent of the approved tree preservation plan. The plan shall exhibit the following information:
 - a. Proposed site plan (showing buildings, edges of pavement, property/lot lines, easements, existing topography, and other significant site features (LOJIC topographic information is acceptable).
 - b. Preliminary drainage considerations (retention/detention, ditches/large swales, etc.).
 - c. Location of all existing trees/tree masses existing on the site as shown by aerial photo or LOJIC maps.
 - d. Location of construction fencing for each tree/tree mass designated to be preserved.

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3. An original stamped copy of the approved Tree Preservation Plan shall be present on site during all clearing, grading, and construction activity and shall be made available to any DPDS inspector or enforcement officer upon request.
4. A note shall be placed on the preliminary plan, construction plan and the record plat that states, "Construction fencing shall be erected prior to any grading or construction activities - preventing compaction of root systems of trees to be preserved. The fencing shall enclose the area beneath the drip-line of the tree canopy and shall remain in place until all construction is completed. No parking, material storage, or construction activities shall be permitted within the fenced area."
5. Prior to the recording of the record plat, copies of the recorded documents listed below shall be filed with the Planning Commission.
 - a. Articles of Incorporation in a form approved by Counsel for the Planning Commission and the Certificate of Incorporation of the Homeowners Association.
 - b. A deed of restriction in a form approved by counsel of the Commission outlining responsibilities for the maintenance of open space.
 - c. Bylaws of the Homeowners' Association in a form approved by Counsel for the Planning Commission.
6. At the time the developer turns control of the homeowners association over to the homeowners, the developer shall provide sufficient funds to ensure there is no less than \$3,000 cash in the homeowners association account. The subdivision performance bond may be required by the planning Commission to fulfill this funding requirement.
7. Tree Canopy Protection Areas (TCPAs) identified on this plan represent individual trees and/or portions of the site designated to meet the Tree Canopy requirements of Chapter 10 Part 1 of the Land Development Code and are to be permanently protected. All clearing, grading and fill activity in these areas must be in keeping with restrictions established at the time of plan approval. As trees within TCPAs are lost through natural causes, new trees shall be planted in order to maintain minimum tree canopy as specified on the approved development or preliminary subdivision plan.
8. When limits of disturbance are shown on the plan. A note shall be placed on the preliminary plan, construction plan and the record plat that states,

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"Construction fencing shall be erected at the edge of the limits of disturbance area, prior to any grading or construction activities. The fencing shall remain in place until all construction is completed. No parking, material storage, or construction activities shall be permitted within the fenced area."

9. The **signature entrance** shall be submitted to the Planning Commission staff for review prior to recording the record plat.
10. A minor plat creating the proposed subdivision boundary will need to be recorded prior to recording of the record plat.
11. Open space lots shall not be further subdivided or developed for any other use and shall remain as open space in perpetuity. A note to this effect shall be placed on the record plat.
12. Trees will be preserved and/or provided on site as required by Chapter 10, Part 1 of the Land Development Code and as indicated in the Tree Canopy Calculations on the Preliminary Subdivision Plan. The applicant shall submit a landscape plan for approval by Planning Commission staff for any trees to be planted to meet the Tree Canopy requirements of Chapter 10, Part 1 of the Land Development Code. A tree preservation plan shall be submitted for review and approval for any trees to be preserved to meet the Tree Canopy requirements of Chapter 10.
13. Prior to requesting certificates of occupancy, the developer shall post street signs and address numbers.
14. **Protection of Trees within the rear yard setback of certain lots.** (a) Within the rear setback area of lots 23 to 33 and 53 to 57 (the "Setback Lots") no hardwood or evergreen tree of 6-inch caliper or greater may be cut down unless prior written authorization of the Glen Lakes Community Association is obtained. Such authorization may be granted only if a tree presents a hazard or is diseased, dead or dying. Any tree removed in for utility purposes, including sanitary sewer and storm water runoff, shall not be required to be replaced. (b) Any such tree cut down in violation of this Binding Element must be replaced by the lot owner. Replacement trees shall be of similar species and shall be located within the same setback area.

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15. **(a) Adjacent Fence Construction.** Prior to the issuance of any building permit for a residence to be constructed within a section or phase of the Subdivision which includes any Setback Lots (a "Setback Phase"), a metal farm field fence ("fence") shall be constructed parallel to the rear lot line of the Setback Lots within such Setback Phase and located approximately one (1) foot within the boundary of the off-site properties abutting such Setback Lots. Fence construction is conditioned upon permission of each affected abutting property owner being granted prior to commencement of fence construction, together with the prior granting of a temporary easement for construction of the fence having been granted to developer, its successors and assigns by each and all such abutting property owners. Following construction of the fence in each such Setback Section, the owners of the real property upon which the fence is constructed shall be responsible for maintenance. Provided that the permission and easements referred to in (a) above are granted the fence shall be constructed prior to issuance of any building permit for any residence in a Setback Section of the Subdivision.
16. **No Lot Subdivision.** No lot owner shall be permitted to subdivide any building lot into 2 or more building lots; however a lot owner shall be permitted to subdivide a lot to create one or more additional non-buildable lot(s).
17. **Pump Station Screening.** If a pump station is located on lot 190 it shall be screened with evergreen plantings and maintained by the homeowners association.
18. **Downward Street Lighting.** Street lighting shall be directed generally downward, but not upward.
19. **No dumping of construction debris.** (a) In the memoranda of understanding between Developer and its contractors, and in the Declaration of Covenants, Conditions and Restrictions for the Glen Lakes Subdivision, the Developer shall include provisions instructing lot purchasers construction workers, contractors and subcontractors, as applicable (i) to refrain from trespassing on neighboring properties, and (ii) not to place or allow construction-related debris to be dumped on neighboring properties.(b) Developer shall advise all lot purchasers, contractors and sub-contractors that they may be prosecuted by adjacent landowners for intentional or negligent off-site dumping of construction-related debris or for other violations of law.

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20. **No commercial logging.** Developer agrees that it shall not engage in commercial logging activities on the site prior to, during, or after construction. This Binding Element applies solely to Developer.
21. **No additional lakes.** No additional lakes than as generally shown on the preliminary subdivision plan shall be constructed.
22. **No higher density.** Developer shall not apply for a change in the subdivision which would result in a higher density than as approved by the Planning Commission at LD&T on October 9, 2003.
23. The Developer shall contribute a sum, not to exceed \$7500.00, as a sharing of cost for a signal to be erected at the intersection of Shelbyville Road and Flat Rock Road. Payment of the cost share shall be made upon request by the Louisville Metro Works Department.
24. Prior to issuance of a Certificate of Occupancy Developer shall widen Flat Rock Road to a width of 3-lanes from the present terminus of the 3-lane section of Flat Rock Road at Kilcott Way northward to the entrance of Glen Lakes Subdivision, including appropriate tapers, all as required by the Louisville Metro Department of Public Works.
25. Prior to recording the record plat, the existing access road off Flat Rock Road and serving adjacent property 17W shall be released as noted on the plan. Access to adjacent lot 17W shall be provided through the subdivision roads and the 30' access easement on lot 181 as shown on the plan. All costs related to releasing, removing and reestablishing this easement shall be borne by the developer. The developer shall also bear the costs of relocating the driveway to adjacent lot 25 to align with Street B of the subdivision.
26. Roadway improvements along Flat Rock Road shall include pavement widening of existing road from a point north of Shelbyville Road and the Flat Rock Road intersection where pavement tapers to two lanes to a point north of the proposed entrance of the proposed subdivision. Roadway design will be in accordance with the proposed Option B Plan submitted in September 2004 to Public Works. Construction of the Flat Rock Road improvement will be completed prior to approval of construction plans for the second section (the first section will not exceed 39 buildable lots).

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The vote was as follows:

YES: Commissioners Lewis, Howard, Carlson, Lindsey, Tomes, Brown, Peterson, and Jarboe.

NO: No one.

NOT PRESENT: Commissioners Smith and Ferguson.

ABSTAINING: No one.

Street Name Change (Case No. 17STREETS1008)

03:31:17 On a motion by Commissioner Peterson, seconded by Commissioner Howard, the following resolution was adopted:

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

RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the requested street name change from Davenport Drive to Treesdale Drive, the portion to be renamed beginning at Glen Lakes Drive and running northeast /east, then veering north/northwest, as shown on the attached street name change plat, be **APPROVED**.

The vote was as follows:

YES: Commissioners Lewis, Howard, Carlson, Lindsey, Tomes, Brown, Peterson, and Jarboe.

NO: No one.

NOT PRESENT: Commissioners Smith and Ferguson.

ABSTAINING: No one.

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Public Hearing

Case No. 17DEVPLAN1095

Request: Revised District Development Plan and a Waiver
Project Name: Passport Health and wellness Campus Phase I
Location: 1800, 1824, & 1912 W. Broadway
Owner: Newbridge Development LLC, Sotsky Family LP and Klein Real Properties
Applicant: University Healthcare, Inc.
Representatives: Wyatt Tarrant & Combs PLLC
Sabak, Wilson & Lingo
Jurisdiction: Louisville Metro
Council District: **4 – Barbara Sexton Smith**

Case Manager: **Julia Williams, RLA, AICP, Planning Supervisor**

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

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

An audio/visual recording of the Planning Commission public 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.

Agency Testimony:

03:33:08 Julia Williams presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.) She also handed out letters of support for the Commissioners to read.

The following spoke in favor of the request:

Jon Baker, Wyatt Tarrant & Combs, 500 West Jefferson Street Suite 2800, Louisville, KY 40202

Kelli Jones, Sabak Wilson & Lingo, 608 South 3rd Street, Louisville, KY 40202

Mark Carter, 5100 Commerce Crossings, Louisville, KY 40229

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Steve Tarver, YMCA of Greater Louisville, 545 S. 2nd Street, Louisville, KY 40202

Ralph Fitzpatrick, 2301 South Third Street, Louisville, KY Grawemeyer Hall

Jose Mitchell, 1701 West Muhammad Ali Blvd, Louisville, KY 40201

John Robertson, Arrasmith, Judd, Rapp, Chovan, Inc., 620 S. Third Street, Louisville, KY 40202

Summary of testimony of those in support:

03:41:02 Jon Baker, the applicant's representative, briefly presented the applicant's case (see recording for detailed presentation.)

03:42:48 Mark Carter, CEO of Passport, discussed what the company is planning to do with this site and showed a Power Point presentation (see recording for detailed presentation.)

03:54:18 Mr. Baker resumed the podium and discussed community engagement.

03:58:42 Kelli Jones, an applicant's representative, discussed the property and uses using a zoning map and aerial photos (see recording for detailed presentation.) She discussed access during Phase I of the proposed development (pedestrian access, connections, etc.) She discussed the requested waiver and showed conceptual site and building renderings.

04:02:18 During her presentation, Ms. Jones discussed additional binding elements (binding elements #10 and #11.)

04:08:49 Steve Tarver, President and CEO of YMCA of Greater Louisville, explained the YMCA's part of the project. He discussed "health equity", brownfield reclamation, protecting West Broadway as a major urban corridor, and the great potential of improving the health and quality of life in this community.

04:12:11 Ralph Fitzpatrick, Vice President of Community Engagement at the University of Louisville, spoke in support of the project. He said this could be "a major game-changer" for the entire West Louisville area.

04:15:36 Jose Mitchell, CEO at Kentucky Center for African American Heritage, spoke in support.

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04:16:57 Commissioner Brown and Ms. Jones discussed a maneuvering area off 20th Street.

04:22:56 Commissioner Brown asked about the colors and materials that will be used. Ms. Jones stated that has not been finalized but they would be happy to bring back color renderings once that has been determined. She clarified what building is planned for Phase I of the project.

04:23:41 John Robertson, the architect, spoke about the types of materials that will be used. There will be brick, masonry and glass used as part of the building but, again, the final designs have not been determined. Commissioner Tomes said he would like for those renderings/elevations to be brought back to one of the Planning Commission's subcommittees.

04:24:26 In response to a question from Commissioner Jarboe, Mr. Baker clarified the process to bring back details of building materials, colors, etc. to the Planning Commission (see recording for detailed discussion.)

04:25:09 In response to a question from Commissioner Jarboe, Mr. Carter clarified the number of employees that are anticipated on the campus, and the estimated timeline for moving in.

04:26:38 Kelli Jones discussed proposed binding elements for traffic. She said that the applicant had been in contact with Tammy Markert, with Metro Transportation Planning, and that Ms. Markert had no problems with the language in binding elements #10 and #11 in the staff report (regarding traffic and traffic study/s).

The following spoke in opposition to the request:

No one spoke.

The following spoke neither for nor against the proposal (“Other”):

No one spoke.

Rebuttal:

There was no rebuttal, since no one spoke in opposition.

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04:27:44 Commissioners' deliberation

04:31:21 Ms. Williams addressed the binding elements.
Binding element #6 should read: **The applicant shall submit final renderings/elevations of the proposed building for review by sub-committee of the Planning Commission.**

Waiver from Chapter 10.2.4 to eliminate the LBA required between EZ-1 and C-1 zoning.

04:35:57 On a motion by Commissioner Howard, seconded by Commissioner Peterson, the following resolution was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the waiver will not adversely affect adjacent property owners since the existing C-1 properties are under the same ownership as the subject site and the proposed use of the site would fall into a C-1 zoning. The proposed use is not more intense than the existing uses surrounding the site; and

WHEREAS, the Commission further finds that the waiver will not violate specific guidelines of Cornerstone 2020. Guideline 3, Policy 9 of Cornerstone 2020 calls for protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigation when appropriate. Guideline 3, Policies 21 and 22 call for appropriate transitions between uses that are substantially different in scale and intensity or density, and mitigation of the impact caused when incompatible developments occur adjacent to one another through the use of landscaped buffer yards, vegetative berms and setback requirements to address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances. Guideline 3, Policy 24 states that parking, loading and delivery areas located adjacent to residential areas should be designed to minimize impacts from noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered. Guideline 13, Policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. Guideline 13, Policy 6 calls for screening and buffering to mitigate adjacent incompatible uses. The intent of landscape buffer areas is to create suitable transitions where varying forms of development adjoin, to minimize the negative impacts resulting from adjoining incompatible land uses, to decrease storm water runoff volumes and velocities associated with

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impervious surfaces, and to filter airborne and waterborne pollutants. A landscape buffer between the similar uses would not serve a purpose as the uses are compatible and are of similar intensity; 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 since the existing C-1 properties are under the same ownership as the subject site and the proposed use of the site would fall into a C-1 zoning. The proposed use is not more intense than the existing uses surrounding the site; and

WHEREAS, the Commission further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant since the existing C-1 properties are under the same ownership as the subject site and the proposed use of the site would fall into a C-1 zoning. The proposed use is not more intense than the existing uses surrounding the site; and

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

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Waiver from Chapter 10.2.4 to eliminate the LBA required between EZ-1 and C-1 zoning.

The vote was as follows:

YES: Commissioners Lewis, Howard, Carlson, Lindsey, Tomes, Brown, Peterson, and Jarboe.

NO: No one.

NOT PRESENT: Commissioners Smith and Ferguson.

ABSTAINING: No one.

Revised District Development Plan and Binding Elements

04:37:19 On a motion by Commissioner Howard, seconded by Commissioner Lindsey, the following resolution was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that there do not appear to be any environmental constraints or historic resources on the subject

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site. Tree canopy requirements of the Land Development Code will be provided on the subject site; and

WHEREAS, the Commission further finds that provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community has been provided, and Metro Public Works and the Kentucky Transportation Cabinet have reviewed the preliminary development plan; and

WHEREAS, the Commission further finds that amenity areas for the proposal are being met with the required seating; and

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

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

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

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

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3. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
4. Before any permit (including but not limited to building, parking lot, change of use, site disturbance) is requested:
 - a. The development plan must receive full construction approval from Louisville Metro Department of Codes and Regulations Construction Permits and Transportation Planning Review and the Metropolitan Sewer District.
 - b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
 - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - d. A minor plat or legal instrument shall be recorded consolidating the property into one lot. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of the approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
5. A certificate of occupancy must be received from the appropriate department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
6. The applicant shall submit final renderings/elevations of the proposed building for review by sub-committee of 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 land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding

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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.

8. The applicant shall work with the staff of TARC to finalize the locations of the TARC stops along the roadway frontages adjacent to the development site. No changes to the approved development plan shall be required to be made by the applicant as a result of the final TARC stop locations.
9. Land Development Code infrastructure requirements will be reviewed per additional phases of development adjacent to those zoning districts and roadways.
10. The applicant will work with Louisville Metro Public Works and the Kentucky Transportation Cabinet to identify appropriate road improvements prior to construction approval. All required road improvements will be constructed prior to the issuance of a Certificate of Occupancy.
11. West Broadway will be restriped to allow a left turn lane from 18th Street to 22nd Street prior to the issuance of a Certificate of Occupancy.

The vote was as follows:

YES: Commissioners Lewis, Howard, Carlson, Lindsey, Tomes, Brown, Peterson, and Jarboe.

NO: No one.

NOT PRESENT: Commissioners Smith and Ferguson.

ABSTAINING: No one.

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Public Hearing

Approval for two cases heard today

04:38:54 Commissioners' Discussion

04:39:19 Commissioner Carlson and Brian Davis, Planning & Design Manager, discussed corrections to binding element #12 for Case No. 17ZONE1014. Those corrections were made before this vote.

Approval of the minutes for Case No. 17ZONE1014 ONLY

04:32:44 On a motion by Commissioner Carlson, seconded by Commissioner Peterson, the following resolution was adopted:

RESOLVED, that the Planning Commission does hereby **APPROVE** the minutes for **Case No. 17ZONE1014 ONLY** as heard at the August 3, 2017 Planning Commission public hearing, with corrections as discussed.

The vote was as follows:

YES: Commissioners Lewis, Howard, Carlson, Lindsey, Tomes, Brown, Peterson, and Jarboe.

NO: No one.

NOT PRESENT: Commissioners Smith and Ferguson.

ABSTAINING: No one.

Approval of the minutes for Case No. 17NEIGHPLAN1002 and 17NEIGHPLAN1003 ONLY

04:43:29 Brian Davis, Planning & Design Manager, talked about some minor corrections to the minutes were discussed (misspellings, clerical errors, etc.) See recording for detailed discussion.

04:44:56 On a motion by Commissioner Howard, seconded by Commissioner Carlson, the following resolution was adopted:

RESOLVED, that the Planning Commission does hereby **APPROVE** the minutes **for Case No. 17NEIGHPLAN1002 and 17NEIGHPLAN1003 ONLY as heard at the August 3, 2017 Planning Commission public hearing.**

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Public Hearing

Approval for two cases heard today

The vote was as follows:

**YES: Commissioners Brown, Howard, Carlson, Tomes, Lindsey, Lewis,
and Jarboe.**

NO: No one.

NOT PRESENT: Commissioners Smith and Ferguson.

ABSTAINING: Commissioner Peterson.

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STANDING COMMITTEE REPORTS

Land Development and Transportation Committee

No report given.

Legal Review Committee

No report given.

Planning Committee

No report given.

Policy and Procedures Committee

No report given

Site Inspection Committee

No report given.

ADJOURNMENT

The meeting adjourned at approximately 4:55 p.m.

Chairman

Division Director