

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO PLANNING COMMISSION
August 20, 2015**

A meeting of the Louisville Metro Planning Commission was held on Thursday, August 20, 2015 at 1:00 p.m. at the Old Jail Building, located at 514 W. Liberty Street, Louisville, Kentucky.

Commission members present:

Donnie Blake, Chair
David Proffitt, Vice Chair (left the meeting at 4:00 p.m.)
Jeff Brown
David Tomes (arrived at 1:15 p.m.)
Marilyn Lewis
Rob Peterson
Chip White
Vince Jarboe

Commission members absent:

Clifford Turner
Robert Kirchdorfer

Staff Members present:

Emily Liu, Director, Planning and Design Services
Joseph Reverman, Planning Manager
Brian Davis, Planning & Design Supervisor
David B. Wagner, Planner II
John G. Carroll, Legal Counsel
Jonathan Baker, Legal Counsel
Tony Kelly, MSD
Chris Cestaro, Management Assistant (minutes)

The following matters were considered:

**Planning Commission Minutes
August 20, 2015**

Approval of Minutes

Minutes of the meeting of the July 30, 2015 Planning Commission public hearing.

00:04:19 On a motion by Commissioner Brown, seconded by Commissioner Proffitt, the following resolution was adopted:

RESOLVED, that the Planning Commission does hereby **APPROVE** the minutes of the July 30, 2015 Planning Commission public hearing.

The vote was as follows:

YES: Commissioners Blake, Proffitt, Brown, Lewis, and Jarboe.

NO: No one.

NOT PRESENT: Commissioners Turner, Kirchdorfer, and Tomes.

ABSTAINING: Commissioners White and Peterson.

Minutes of the meeting of the August 6, 2015 Planning Commission public hearing.

00:05:06 On a motion by Commissioner Brown, seconded by Commissioner Peterson, the following resolution was adopted:

RESOLVED, that the Planning Commission does hereby **APPROVE** the minutes of the August 6, 2015 Planning Commission public hearing.

The vote was as follows:

YES: Commissioners Blake, Proffitt, Brown, Lewis, White, and Peterson.

NO: No one.

NOT PRESENT: Commissioners Turner, Kirchdorfer, and Tomes.

ABSTAINING: Commissioner Jarboe.

**Planning Commission Minutes
August 20, 2015**

Public Hearing

Case No. 15ZONE1016

Request: Change in zoning from R-4 Single Family Residential to C-1 Commercial, Revised Detailed District Development Plan, Binding Elements, and Conditional Use Permit for outdoor alcohol sales and consumption.

Project Name: Martin's BBQ

Location: 3408 Indian Lake Drive

Owner/Applicant: Indian Springs Green Space, LLC
9462 Brownsboro Road Suite 181
Louisville, KY 40241

Representatives: William Bardenwerper
Bardenwerper, Talbott & Roberts PLLC
1000 North Hurstbourne Parkway 2nd Floor
Louisville, KY 40223

Engineer/Designer: Marv Blomquist
Blomquist Design Group, LLC
10529 Timberwood Circle Suite D
Louisville, KY 40223

Jurisdiction: Louisville Metro

Council District: 17 – Glen Stuckel

Case Manager: **David B. Wagner, Planner II**

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

Agency Testimony:

00:06:47 David Wagner presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.)

Planning Commission Minutes
August 20, 2015

Public Hearing

Case No. 15ZONE1016

00:12:00 Mr. Wagner explained why a full sidewalk is not being provided along the frontage of Indian Lake Drive. Since there is no construction being proposed at this time, the sidewalk threshold is not being met. Sidewalk threshold minimums were discussed.

The following spoke in favor of the proposal:

William Bardenwerper, Bardenwerper, Talbott & Roberts PLLC, 1000 North Hurstbourne Parkway 2nd Floor, Louisville, KY 40223

Marv Blomquist, Blomquist Design Group, LLC, 10529 Timberwood Circle Suite D, Louisville, KY 40223

Brent Nash (representing the Owner/Applicant), 3135 Indian Lake Drive, Louisville, KY 40241

Shay Tinsley, 9810 Reynolda Road, Louisville, KY 40223

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

Summary of testimony of those in favor:

00:15:44 William Bardenwerper, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.)

00:23:53 Mr. Bardenwerper said that, if the proposed sign is in the public ROW, it will be moved.

00:24:36 Brent Nash, president of the Indian Springs Homeowners Association, spoke in support of the project.

00:26:06 Shay Tinsley was called but declined to speak.

00:26:18 In response to a question from Commissioner Lewis, Mr. Bardenwerper said that, if the existing sign is in the ROW, it will be moved and not used for the business. Mr. Nash said the lease with Martin's BBQ includes very limited signage.

00:27:27 In response to a question from Commissioner Peterson, Mr. Nash discussed pedestrian movement and safety issues.

**Planning Commission Minutes
August 20, 2015**

Public Hearing

Case No. 15ZONE1016

The following spoke in opposition to the proposal:

No one spoke.

The following spoke neither for nor against the proposal:

No one spoke.

Rebuttal:

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

Deliberation:

00:28:40 Commissioner's deliberation.

00:29:02 Commissioner Brown raised some questions about pedestrian connectivity (sidewalks).

00:32:04 Mr. Wagner said the applicant has agreed to add the sidewalk.

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

Zoning, Conditional Use Permit, Revised Detailed District Development Plan, and Binding Elements

00:32:39 On a motion by Commissioner Proffitt, seconded by Commissioner White, the following resolution was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the intents of **Guideline 1 – Community Form**. The Community Form for this property is the Suburban Neighborhood Form District which is characterized by both residential as well as neighborhood centers with a mixture of uses, such as that found along this area of Westport Road. This application complies with this Guideline because there is a mixture of neighborhood serving uses with accessibility, not just to customers visiting in automobiles, but also in time via transit, and presently by pedestrian walkways and

Planning Commission Minutes
August 20, 2015

Public Hearing

Case No. 15ZONE1016

WHEREAS, the Commission further finds that the proposal complies with the intents of **Guideline 2 – Centers**. This application complies with the Intents of this Guideline because Indian Springs has undergone several changes recently in order to repurpose the former golf course. This restaurant is a welcome addition to the recently approved hotel and promotes the efficient use of land and investment in existing infrastructure, also lowering utility costs by reducing the need for extensions and by reducing commuting time and transportation-related air pollution. This added outdoor seating area should also better encourage vitality within this existing subdivision to generate additional income for the upkeep of the former golf course, now open space; and

WHEREAS, the Commission further finds that Policies 1, 2, 3, 4, 5, 7, 8 and 9 all pertain to the location, compact development, and mixture of uses in activity centers, especially those located in and around residential areas. The proposed restaurant for this site complies with these Policies of this Guideline because it is located near an arterial and an interstate highway, with a Regional Center across Westport Road and with other retail recently approved by the Planning Commission and Metro Council next door. This restaurant adds to an already large mix of uses in this immediate area, and this restaurant location exists within the neighborhood it serves, just as it is close to Westport Road, which serves a larger population base; and

WHEREAS, the Commission further finds that Policies 11 and 12 of this Guideline pertain to the design of centers and the desirability of focal points in them. This proposed restaurant at this site also complies with these Policies of this Guideline because the former Indian Springs clubhouse is a focal point for the neighborhood, now part of the large connected community green space. This application also complies with applicable Policies 13 and 14 of this Guideline because it utilizes existing parking; and

WHEREAS, the Commission further finds that the proposal complies with the intents of Guideline 3 – Compatibility. The proposed restaurant at this site complies with these Intents of this Guideline because it adds a new mix to the already existing land uses in the area. It does not involve any new noise, lighting or similar nuisances or negatively impact visual quality like some kinds of more intense commercial uses could, among other reasons because the former golf course clubhouse had a restaurant in it. And, as described elsewhere in this Compliance Statement, this restaurant helps to preserve the neighborhood by paying towards open space maintenance; and

WHEREAS, the Commission further finds that Policies 1, 2 and 4 of this Guideline all pertain to compatibility in terms of design, especially when located

Planning Commission Minutes
August 20, 2015

Public Hearing

Case No. 15ZONE1016

in or near an upscale residential area. The old clubhouse building will remain essentially as is, perhaps with some brick added to it; and

WHEREAS, the Commission further finds that this application also complies with applicable Policies 5, 6, 7, 8 and 9 of this Guideline because the impacts of odors, traffic, noise, lighting and visual effects are mitigated by virtue of the location of this added outdoor seating area at the rear of the clubhouse building and near other commercial uses, away from the nearby residents, so that it will have no impacts on nearby neighborhood. This application also complies with applicable Policies 21, 22 and 23 of this Guideline because it does not require any additional landscaping, screening or buffering than already exists to protect nearby neighborhoods, which are protected as described hereinabove; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guidelines 4, 5, and 13 – Open Space, Natural and Scenic Areas, and Landscape Character**. This application complies with the Intents and applicable Policies of these Guidelines because what is applied for here is simply outdoor seating to service the proposed restaurant where alcoholic beverages may be served outdoors; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 6 – Economic Growth and Sustainability**. This application complies with Intents and specifically applicable Policy 6 of this Guideline because, by expanding the functionality and use of this purposeful reuse of the existing clubhouse building with this added outdoor seating area, the restaurant should become more popular to users, thus reducing commuting distances to farther away shopping centers with restaurants that have outdoor seating. Because this is an existing building, the redevelopment also helps reduce public and private cost for land development and creates funds to help with the upkeep of the former golf course land; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guidelines 7 and 8 – Circulation and Transportation Facility Design**. This application specifically complies with applicable Policies 1, 2, 10, 11, 12, 13, 14, 15 and 16 of Guideline 7 and with applicable Policies 9, 10 and 11 of Guideline 8 because, as stated, this building was formerly used as the golf course clubhouse and at the time the golf course was originally approved, the plan received a preliminary stamp of approval from Metro Transportation. Likewise, this application as well will need to receive the stamp of approval from Metro Transportation Planning in advance of docketing for Planning Commission review. That stamp will once again demonstrate compliance with all Metro Transportation Planning standards; and

Planning Commission Minutes
August 20, 2015

Public Hearing

Case No. 15ZONE1016

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 9 – Bicycle, Pedestrian, and Transit**. This application complies with the Intents and applicable Policies 1, 2, 3 and 4 of this Guideline because this restaurant will be accessible by people using bicycles and those walking; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 10 – Flooding and Stormwater**. This application complies with the intents and applicable policies 1, 3, 6, 7, 10, and 11 of Guideline 10. Little if any additional impervious surface is being created because the applicant is proposing to reuse the former clubhouse building as it exists today; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 11 – Water Quality**. This application complies with the Intents and applicable Policy 3 of this Guideline because, to the extent that any additional construction is required, it will be required to comply with the MSD soil erosion and sedimentation control ordinance; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 12 – Air Quality**. This application complies with the applicable Policies of this Guideline because, locating a restaurant within the Indian Springs subdivision, it can actually help contribute to improved air quality overall in the Louisville Metro community because locating this restaurant, as proposed in the neighborhood, permits Indian Springs residents to access it by walking. That helps reduce travel times, automobile usage and travel distances; and

WHEREAS, the Commission further finds that the proposal complies with the intents of **Guidelines 14 and 15 – Infrastructure and Community Facilities**. Infrastructure already exists, utilities are available at the site, and this facility is located near the Worthington Fire Department so that fire service is readily available; and

WHEREAS, the Commission further finds that the proposal meets the requirements for the granting of a Conditional Use Permit. Outdoor alcohol sales and consumption and/or indoor live entertainment for a restaurant may be permitted in the C-1 zoning district upon the granting of conditional use permit and compliance with the listed requirements: The proposal complies with the guidelines of the Comprehensive Plan as explained in the review for the re-zoning request; and

WHEREAS, the Commission further finds that the overall site design and land uses are compatible with the existing and future development of the area. The

Planning Commission Minutes
August 20, 2015

Public Hearing

Case No. 15ZONE1016

site design is compatible with existing commercial development in the area. The development will provide the required landscaping for this type of development, there will be no construction on site, and the parking spaces are located appropriately; and

WHEREAS, the Commission further finds that all government agencies and utilities have approved the proposal or found no lack of necessary public facilities; and

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

- A. All outdoor areas for the sale and consumption of alcohol must have designated boundaries.
- B. Outdoor dining areas within the public right-of-way must receive approval from the agency responsible for transportation engineering and shall be designed in accordance with agency standards.
- C. Outdoor dining areas adjacent to the public right-of-way shall contain a physical barrier that is at least three feet in height. The barrier should be designed to permit existing legal access from building to the adjacent public right-of-way.
- D. Outdoor dining areas that include the sale and consumption of alcohol within 50 feet of a residentially zoned or used property shall provide a six foot continuous screen as part of the designated boundary for the areas of the outdoor area within 50 feet of residentially used or zoned property. The continuous screen shall be in conformance with the Chapter 10, Part 4 (Implementation Standards).
- E. This conditional use permit shall be limited to restaurant uses in the C-1 that hold the following types of ABC licenses:
 - 1. Restaurant liquor and wine license by the drink for 100 plus seats
 - 2. Restaurant wine license by the drink for restaurants with seating for 100 and receives at least 70 percent gross receipts from food sales
- F. The use of outdoor dining areas for the sale and consumption of alcohol shall cease by 1 A.M.
- G. The entertainment activity shall be in compliance with the Metro Noise Ordinance (LMCO Chapter 99).
- H. The Board may require additional and more restrictive requirements than those listed above based on the conditions of the specific location and the characteristics of the specific restaurant.

And

Planning Commission Minutes
August 20, 2015

Public Hearing

Case No. 15ZONE1016

WHEREAS, the Commission further finds that there does not appear to be any environmental constraints or historic resources on the subject site. Since there is no construction on the site, tree canopy requirements of the Land Development Code are not required; and

WHEREAS, the Commission further finds that safe and efficient vehicular and pedestrian transportation within and around the development and the community has been provided. Sidewalks and vehicular access have been provided along Indian Lake Drive. Cross connectivity with the site to the north has been previously provided; and

WHEREAS, the Commission further finds that, since open space is not required for this proposal, appropriate open space has been provided for this development as required by LDC regulations; and

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

WHEREAS, the Commission further finds that the overall site design and land uses are compatible with the existing and future development of the area. The site design is compatible with existing commercial development in the area. The development will provide the required landscaping for this type of development, there will be no construction on site, and the parking spaces are located appropriately; and

WHEREAS, the Commission further finds that, based on the evidence and testimony presented, the applicant's justification and the staff report that all of the applicable Guidelines of Cornerstone 2020 and the Comprehensive Plan are being met; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the requested Change in Zoning from R-4 (Single Family Residential) to C-1 (Commercial) be **APPROVED**; and does hereby **APPROVE** the requested Conditional Use Permit for outdoor alcohol sales and consumption, the Revised Detailed District Development Plan, and Binding Elements **ON CONDITION** that the applicant will extend the sidewalk across the front of the property; and to confirm that the sign is out of the public right-of-way; and **SUBJECT** to the following binding elements:

Planning Commission Minutes
August 20, 2015

Public Hearing

Case No. 15ZONE1016

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. 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.
3. 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, 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 Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
 - e. A minor subdivision plat shall be recorded creating the lot lines as shown on the development plan.
4. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be

Planning Commission Minutes
August 20, 2015

Public Hearing

Case No. 15ZONE1016

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

5. 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.
6. Prior to any site disturbance permit being issued and prior to any clearing, grading or issuance of a site disturbance permit, a site inspection shall be conducted by PDS staff to ensure proper placement of required tree protection fencing in accordance with the approved Tree Preservation Plan.
7. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the August 20, 2015 Planning Commission meeting.

Conditions of Approval for CUP for Outdoor Alcohol Sales and Consumption

1. The site shall be developed in strict compliance with the approved development plan (including all notes thereon). No further development shall occur on the site without prior review and approval by the Board.
2. The Conditional Use Permit shall be “exercised” as described in KRS 100.237 within two years of the Board’s vote on this case. If the Conditional Use Permit is not so “exercised”, the site shall not be used for outdoor alcohol sales without further review and approval by the Board.
3. The use of outdoor dining areas for the sale and consumption of alcohol shall cease by 11 P.M.
4. The entertainment activity shall be in compliance with the Metro Noise Ordinance (LMCO Chapter 99).

**Planning Commission Minutes
August 20, 2015**

Public Hearing

Case No. 15ZONE1016

The vote was as follows:

YES: Commissioners Blake, Proffitt, Brown, Jarboe, White, Peterson, and Lewis.

NO: No one.

NOT PRESENT: Commissioners Turner and Kirchdorfer.

ABSTAINING: Commissioner Tomes.

**Planning Commission Minutes
August 20, 2015**

Public Hearing

Case No. 15ZONE1015

Request: Change in zoning from RR Rural Residential to R-5A Multi-Family Residential; Detailed District Development Plan, Binding Elements, Floyds Fork Overlay, and Waivers

Project Name: Brentwood Commons

Location: 10509 Bardstown Bluff Road

Owner: Gina and Darrell Nice
10509 Bardstown Bluff Road
Louisville, KY 40291

Applicant: James E. Frey
Redwood Acquisitions, Inc.
23775 Commerce Park Suite 5
Beachwood, OH 44122

Representatives: William Bardenwerper
Bardenwerper Talbott & Roberts PLLC
1000 North Hurstbourne Parkway 2nd Floor
Louisville, KY 40223

Engineer/Designer: Kathy Linares
Mindel Scott & Associates, Inc.
5151 Jefferson Boulevard Suite 101
Louisville, KY 40219

Jurisdiction: Louisville Metro

Council District: 20 – Stuart Benson

Case Manager: **David B. Wagner, Planner II**

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

Planning Commission Minutes
August 20, 2015

Public Hearing

Case No. 15ZONE1015

Agency Testimony:

00:36:33 David Wagner presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.)

00:43:00 Mr. Wagner summarized the Interested Party comments that had been received (see recording and staff's Power Point presentation for complete list of concerns.)

00:48:46 Commissioner Jarboe asked for clarification as to why the Waiver request would not be justified according to the staff report. Staff has recommended a pedestrian path, although Metro Parks and 21st Century Parks do not desire that connection.

00:51:50 In response to some Commissioners' questions about the floodplain, Mr. Wagner said the Corps of Engineers will be involved in floodplain construction.

The following spoke in favor of the proposal:

William Bardenwerper, Bardenwerper Talbott & Roberts PLLC, 1000 North Hurstbourne Parkway 2nd Floor, Louisville, KY 40223

David Mindel and Kathy Linares, Mindel Scott & Associates, Inc., 5151 Jefferson Boulevard Suite 101, Louisville, KY 40219

James Frey, 5311 Gillen Way, Westerville, OH 43082

Diane Zimmerman, Jacobs Engineering, 11940 Highway 42, Louisville, KY 40026

Summary of testimony of those in favor:

00:52:42 William Bardenwerper, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.)

01:02:56 David Mindel, an applicant's representative, discussed the two separate buffers/setbacks and the floodplains. He also described what kinds of requirements must be met by which regulatory agencies for floodplain work.

01:11:45 Diane Zimmerman, with Jacobs Engineering, summarized the trip generation and distribution study.

Planning Commission Minutes
August 20, 2015

Public Hearing

Case No. 15ZONE1015

01:13:50 The width of the road leading into the development, and also the depth of the fill, were discussed. Mr. Bardenwerper said the applicant would agree to make sure the road would be widened if it was less than 18 feet.

The following spoke in opposition to the proposal:

David Miller, 10207 Bardstown Bluff Rd., Louisville, KY 40291

Billy Seabolt, 10503 Bardstown Bluff Rd., Louisville, KY 40291

Denis and Grace Bryan, 10505 Bardstown Bluff Rd., Louisville, KY 40291

Jeff Hurst, 12501 Oakland Hills Trail, Louisville, KY 40291

Todd O'Neil, 11506 Hickory Bend Hollow, Louisville, KY 40291

Summary of testimony of those in opposition:

01:15:28 David Miller spoke in opposition and specifically expressed concern about protecting Floyds Fork from trash and pollution. He said the applicant has not proven any need for these homes and that nearby developments are trying to fill their vacancies. He also discussed flooding issues.

01:22:13 Bill Seabolt spoke against the project design. He also discussed the importance of preserving greenspace, flooding issues, density issues, the un-maintained roads, and said the Commission had already been shown pictures showing the entire property under water. He said the proposed rental prices of the units are far too high.

01:30:10 Denis Bryan, an adjoining property owner, expressed great concern about digging and development along the creek and changing floodplains. He said the Corps of Engineers needs to look at the changed velocity of the creek and how it is affecting the new bridges; he claims flooding is becoming more violent and damaging. He said surface drainage hasn't been discussed yet. He said none of the traffic studies were done when school was in session, instead of during the summer.

01:39:01 Grace Bryan reviewed the Cornerstone 2020 checklist in the staff report. She questioned whether the Commission has enough accurate data to make an informed decision, and cited items that needed more data or had received a minus on the checklist. She was particularly concerned about traffic accidents and reckless driving on this stretch of road; compatibility; building in

Planning Commission Minutes
August 20, 2015

Public Hearing

Case No. 15ZONE1015

the floodplain; the dangers of moving the floodplain; and the ensuing risks to renters and wildlife.

01:59:39 Jeff Hurst said that school starting would cause the results of the traffic study to "dramatically change". He asked if Section 8 housing would be allowed in these rental units. He also discussed flooding on the site, and said that this rezoning would set a precedent in the area.

02:02:34 Todd O'Neil spoke in opposition and said he is very concerned about the accuracy of the traffic report. He said there are five schools that were not being accounted for in the summertime traffic study. He also expressed concern about disturbing Floyds Fork and the flooding.

The following spoke neither for nor against the proposal:

No one.

Rebuttal:

02:05:21 Mr. Bardenwerper resumed the podium for rebuttal. He said the flooding and traffic concerns had been addressed per regulatory requirements. He also said the Cornerstone 2020 checklist is for guidance. He stated that the project will not be built in the floodplain, and that developers are allowed to build in the floodplain within regulations. He said one of the ideas of 21st Century Parks is to encourage development in close proximity to the park. He addressed rentals.

02:15:00 Mr. Mindel said he and the applicant had met with Teena Halbig, Past President of the Floyds Fork Environmental Association, and Steve and Heather French Henry, several times to discuss the project.

02:18:09 Commissioner White said he had visited the site, and said he witnessed 12-14 ft of water in the basin. Mr. Mindel addressed the issue.

02:20:09 Commissioner Lewis asked about connection to the parks.

02:21:30 Commissioner Blake asked Ms. Zimmerman about traffic on Bardstown Bluff, as opposed to Bardstown Road.

02:23:03 Tony Kelly, representing MSD, discussed the Floodplain Ordinance and why there is no detention basin on this site. He added that the developer will

Planning Commission Minutes
August 20, 2015

Public Hearing

Case No. 15ZONE1015

have to prove that this project will not back up water onto adjacent properties. He also discussed sanitary sewers.

Deliberation:

02:26:04 Commissioner's deliberation.

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

Zoning

02:43:32 On a motion by Commissioner Brown, seconded by Commissioner Peterson, the following resolution was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the intents of **Guideline 1 – Community Form**. The subject property lies within the Neighborhood Form District and is located just south of the intersection of Bardstown Road and Bardstown Bluff Road. The site's location provides opportunities for residents to gain easy access to the new Parklands of Floyds Fork Park that addresses an essential goal of the Parklands project, which is to provide easy walking and biking access to all demographic and income groups to the new park. Also this community near Bardstown Road ensures easy access to Bullitt County to the south and to the Gene Snyder Freeway and the Fern Creek Town Center to the north. Major commercial land uses in close proximity to the subject property also include the Bardstown Road commercial corridor south of the Snyder Freeway. Buildings will be constructed of durable building materials (brick and "duralast" lap siding) and will feature architectural details similar to those in other nearby residential neighborhoods. Perimeter setbacks and landscape buffer areas are provided along all property lines as required by the Land Development Code (LDC). These features will screen and buffer resident activities from adjoining property owners; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 2 – Centers**. The proposed community conforms with the overall Intents of and specifically with Policies 4, 5, 12 and 14 of Guideline 2 for all the reasons listed above and because it will make efficient use of available property that lies within the Neighborhood Form District and is located in an area where

Planning Commission Minutes
August 20, 2015

Public Hearing

Case No. 15ZONE1015

residents currently seek new housing options that have easy access to the Bardstown Road commercial center. Future residents will also support the businesses and services in nearby activity centers north and south of the Snyder Freeway along Bardstown Road; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 3 – Compatibility**. The proposed community conforms with the overall Intents of Policies 1, 2, 3, 5, 6, 7, 8, 9, 10, 11, 12, 14, 15, 21, 22, 23, and 28 of Guideline 3 for all the reasons described above and because this proposed community is in a low density range comparable to other R-4 residential communities. Buildings will be one-story in height and constructed with building materials comparable to residential communities in the area. Perimeter landscaping, screening and buffering is provided along all property lines. Buildings are oriented toward internal streets, and garages and driveways are in the fronts of each building, in order to keep resident activities away from adjoining properties; and

WHEREAS, the Commission further finds that sidewalks will be provided where required, and accommodations will be made for pedestrian and bicycle transportation as well as the handicapped and elderly. Odor and air quality concerns related to traffic congestion or delay will be mitigated by the fact that this is a low density residential development and that internal road and sidewalk are efficiently organized to control traffic flow and prevent delays. Refuse will be picked up on a regular basis. Lighting will be residential in character and directed down and away from adjoining properties in conformance with LDC regulations. All signage will be in conformance with Land Development Code regulations; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guidelines 4 and 5 – Open Space / Natural Areas and Scenic and Historic Resources**. The proposed community conforms with the overall Intents of and specifically with Policies 1, 3, 5, 6 & 7 of Guideline 4 and with the Intents of Guideline 5 for all the reasons described above and because it will feature significant open space interspersed among the buildings, parking areas and streets. That open space plus the significant open area along Floyds Fork will be available for the passive recreational enjoyment by residents and will serve to provide natural areas and an overall positive appearance for the community. Landscaping will also be provided along property perimeters, along street frontages and around buildings. Setbacks and buffers along property lines will ensure good transitions between the proposed community and existing land uses. Maintenance of landscaping, natural and open space areas will be performed by the corporate landlord of this for-lease community. This maintenance arrangement will result in a higher and more consistent level of

Planning Commission Minutes
August 20, 2015

Public Hearing

Case No. 15ZONE1015

maintenance of the open spaces than if the property were developed as a single-family subdivision; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 6 – Marketplace**. The proposed community conforms with the overall Intents of and specifically with Policies 1, 2 and 6 of Guideline 6 because future residents will support and be supported by the businesses, services, schools and churches in and around nearby activity centers. This proposal also reduces public costs for land development by utilizing connections to existing infrastructure for water, sewer, electric and phone services. The community, as proposed, will have easy access to Bardstown Road and 1-265 and several other roads in the area, and from there to the Parklands of Floyds Fork and to greater Louisville employment and commercial centers; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guidelines 7 (Circulation); 8 (Transportation Facility Design); and 9 (Bicycle, Pedestrian and Transit)**. The proposed community conforms with the overall Intents and applicable Policies of Guidelines 7, 8 and 9 because the proposed Detailed District Development Plan (DDDP) has been designed in conformance with all Metro Public Works and Transportation Planning design policies. Good internal circulation, appropriate access, sight distances, corner clearances and parking are provided. Bardstown Road has more than adequate traffic-carrying capacity. Sidewalks will be provided where required; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guidelines 10, 11, and 12 – Flooding and Stormwater, Water Quality, and Air Quality**. The proposed community conforms with the overall Intents and applicable Policies of Guidelines 10, 11 and 12 because, although a portion of the site lies within the 100 year floodplain, MSD Floodplain regulatory requirements for cut, fill and compensation. All drainage will comply with storm water management requirements, and this DDDP will receive preliminary approval by MSD prior to docketing for LD&T review. Louisville Water Company will provide water to the site. A soil erosion and sediment control plan will also be implemented to further manage sediment and drainage during construction. MSD water quality regulatory requirements will also be addressed. Air quality will remain at good levels because , as noted above, this is a low density development with easy access to major roads and the Parklands at Floyds Fork; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 13 – Landscape Character**. The proposed community conforms with the overall Intents and applicable policies of Guideline 13 because landscaping

**Planning Commission Minutes
August 20, 2015**

Public Hearing

Case No. 15ZONE1015

will be provided around buildings, along the Bardstown Road entrance and frontage, along internal streets, and along property perimeters as noted above. Significant open space has been preserved for a positive natural appearance and for passive recreational enjoyment by residents. Tree canopy requirements have been met, as noted on the DDDP; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 14 – Infrastructure**. The proposed community conforms with the overall Intents and applicable Policies of Guideline 14 because, as noted above, water, sewer, electric and phone connections are available by nearby connection to ensure a reduced cost for infrastructure; and

WHEREAS, the Commission further finds that, based on the evidence and testimony presented, the staff report, and the applicant’s justification that all of the applicable Guidelines of Cornerstone 2020 and the Comprehensive Plan are being met; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the requested change in Zoning from RR to R-5A for Multi-Family Residential be **APPROVED**.

The vote was as follows:

YES: Commissioners Blake, Brown, Jarboe, White, Tomes, Peterson, and Lewis.

NO: Commissioner Proffitt.

NOT PRESENT: Commissioners Turner and Kirchdorfer.

ABSTAINING: No one.

Waiver

02:44:38 On a motion by Commissioner Brown, 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 because this waiver is applied for pursuant to request of Metro Parks, which is involved with the Parklands of Floyds Fork along the south property line where this waiver is requested; and

WHEREAS, the Commission further finds that the waiver will not violate the Comprehensive Plan for all the reasons set forth in the Detailed Statement of

**Planning Commission Minutes
August 20, 2015**

Public Hearing

Case No. 15ZONE1015

Compliance with all applicable Guidelines and Policies of the Cornerstone 2020 Comprehensive Plan filed with the original rezoning application; and

WHEREAS, the Commission further finds that the extent of the waiver is the minimum necessary to afford relief to the applicant because it is not asking for other connectivity waivers apart from this one advised by Metro Parks, and a sidewalk connection along Bardstown Road to the future access to the Parklands of Floyds Fork is provided; and

WHEREAS, the Commission further finds that strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant because without this waiver the applicant's plan would conflict with the design preferences of Metro Parks; and

WHEREAS, the Commission further finds that the proposed multi-use path being constructed along the Bardstown Road right-of-way that abuts the property will serve as the main access point into the adjoining parkland; and

WHEREAS, the Commission further finds that, based on the evidence and testimony presented and the applicant's justification and that all of the other applicable Guidelines of Cornerstone 2020 and the Comprehensive Plan are being met; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Waiver #1 from LDC 5.9.2.A.1.a.v to not provide a pedestrian path connection to the adjacent 21st Century Parks lot to the south.

The vote was as follows:

YES: Commissioners Blake, Proffitt, Brown, Jarboe, White, Tomes, Peterson, and Lewis.

NO: No one.

NOT PRESENT: Commissioners Turner and Kirchdorfer.

ABSTAINING: No one.

Detailed District Development Plan, Binding Elements, and Floyds Fork Overlay Review

02:45:45 On a motion by Commissioner Brown, seconded by Commissioner White, the following resolution was adopted:

Planning Commission Minutes
August 20, 2015

Public Hearing

Case No. 15ZONE1015

WHEREAS, the Louisville Metro Planning Commission finds that the key natural and scenic area on the site is Floyds Fork. The proposal provides extensive buffers and setbacks in excess of what is required per the Land Development Code. Tree canopy is also being preserved along the stream bank to help mitigate any adverse impacts of the development on the protected stream; and

WHEREAS, the Commission further finds that an internal roadway has been provided throughout the site and vehicular traffic is being directed onto the local level roadway that accesses the site, preventing traffic from being deposited directly onto a major arterial level roadway. An internal walkway has also been provided for the future residents of the development; and

WHEREAS, the Commission further finds that, since open space is not required for this proposal, appropriate open space has been provided for this development as required by LDC regulations; and

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

WHEREAS, the Commission further finds that the overall site design and land uses are compatible with the existing and future development of the area. Surrounding lots are used for residential dwellings and although the site introduces another housing style to the area, the buildings are clustered at the center of the site away from nearby residences. Adequate screening and landscaping already exists or will be provided; and

WHEREAS, the Commission further finds that the proposal for a patio home-style community in the vicinity of Floyds Fork meets or exceeds all the Floyd's Fork DRO guidelines concerning residential development; and

WHEREAS, the Commission further finds that filling is proposed in the floodplain, but regulatory compensation will be provided; and

WHEREAS, the Commission further finds that there will be no homes located on or near 20% or greater slopes, and grading and soil compaction should not affect preserved areas. Significant open space is retained; and

WHEREAS, the Commission further finds that, because of the sizable distance of this site from this community of Floyds Fork, the quality of surface water leaving

Planning Commission Minutes
August 20, 2015

Public Hearing

Case No. 15ZONE1015

this site and entering the Fork will remain acceptable. Sanitary Sewers will be provided; and

WHEREAS, the Commission further finds that, based on the evidence and testimony presented, the applicant's justification and the staff report that all of the applicable Guidelines of Cornerstone 2020 and the Comprehensive Plan are being met; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Detailed District Development Plan, Binding Elements, and the Floyds Fork Overlay Review, **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. 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.
8. 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, 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.

Planning Commission Minutes
August 20, 2015

Public Hearing

Case No. 15ZONE1015

- d. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
9. 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.
10. 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.
11. Prior to any site disturbance permit being issued and prior to any clearing, grading or issuance of a site disturbance permit, a site inspection shall be conducted by PDS staff to ensure proper placement of required tree protection fencing in accordance with the approved Tree Preservation Plan.
12. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the August 20, 2015 Planning Commission meeting.
13. Construction activities on the site shall be limited to weekdays between the hours from 7 AM to 7 PM.

The vote was as follows:

YES: Commissioners Blake, Proffitt, Brown, Jarboe, White, Tomes, Peterson, and Lewis.

NO: No one.

NOT PRESENT: Commissioners Turner and Kirchdorfer.

ABSTAINING: No one.

**Planning Commission Minutes
August 20, 2015**

Public Hearing

Case No. 15ZONE1012

Request: Change in zoning from R-4 and R-5 Single Family Residential to R-7 Multi-Family Residential and C-1 Commercial; a General District Development Plan; Detailed District Development Plan; Binding Elements; a Variance; and Waivers (including a Family Scholar House, Boys and Girls Club, Senior Living, and Commercial)

Project Name: Cane Run Multi-Use Development

Location: 4646-4650 Cane Run Road

Owner: The Salvation Army
Major Thomas B. Corbitt, Representative
1424 NE Expressway
Atlanta, GA 30329

Louisville Metro Government
Jeff Mosley, Representative
444 South 5th Street Suite 500
Louisville, KY 40202

Applicant: Jacob Brown, Representative
Riverport Development LLC
1122 Rogers Street
Louisville, KY 40204

Representatives: Cliff Ashburner
Wyatt, Tarrant & Combs LLP
500 West Jefferson Street Suite 700
Louisville, KY 40202

Engineer/Designer: David Nofsinger
The Weber Group
5233 Progress Way
Sellersburg, IN 47172

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

**Planning Commission Minutes
August 20, 2015**

Public Hearing

Case No. 15ZONE1012

Jurisdiction: Louisville Metro
Council District: 1 – Jessica Green
Case Manager: **David B. Wagner, Planner II**

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

Agency Testimony:

02:48:28 David Wagner presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.) Mr. Wagner also discussed the plan that was presented to the Commissioners by the applicant at today's hearing (not in advance.) He added that the northeast corner has been the focus of the revisions and pointed out the connection on the site plan.

02:57:48 Mr. Wagner said a pedestrian access has been included on Camino Way.

03:00:39 In response to questions from Commissioners Jarboe and Blake, Mr. Wagner discussed aspects of 1994 Cane Run Road Plan.

03:02:23 In response to a question from John Carroll, Legal Counsel for the Planning Commission, Mr. Wagner discussed the Alternative Connection Plan.

The following spoke in favor of the proposal:

Cliff Ashburner, Wyatt, Tarrant & Combs LLP, 500 West Jefferson Street Suite 700, Louisville, KY 40202

Kent Gootee, Mindel Scott & Associates, 5151 Jefferson Boulevard, Louisville, KY 40219

Jennifer Caummisar, The Weber Group, 5233 Progress Way, Sellersburg, IN 47172

**Planning Commission Minutes
August 20, 2015**

Public Hearing

Case No. 15ZONE1012

Michael Gross, 1469 South 4th Street, Louisville, KY 40208

Mindy Age, 4625 Cane Run Road, Louisville, KY 40216

Summary of testimony of those in favor:

03:04:36 Cliff Ashburner presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.)

03:18:45 In response to a question from Commissioner Tomes, Mr. Ashburner provided a breakdown of proposed uses in the proposed plan.

03:20:14 Commissioner Jarboe and Mr. Ashburner discussed traffic on Cane Run Road. Mr. Ashburner added that the traffic study is not finalized.

03:22:17 Commissioner Lewis asked Mr. Ashburner how the applicant would control what kind/s of business would go into the Commercial portion.

03:25:19 Mindy Age spoke in favor of the proposal and said this seems like a positive development.

The following spoke in opposition to the proposal:

No one spoke.

The following spoke neither for nor against the proposal:

Curtis White, 3419 Donald Drive, Louisville, KY 40216

Summary of testimony of those neither for nor against:

03:24:39 Curtis White was called but was not present to speak. Mr. Ashburner said he had spoken with Mr. White outside the courtroom at today's hearing.

Rebuttal:

There was no rebuttal since no one spoke in opposition.

03:27:12 Mr. Carroll asked Mr. Ashburner if the Revised Development Plan eliminated the need for the Metro Council to approve an Alternative Plan for Connectivity on Lot 3. Mr. Ashburner said no. He said there is access between surrounding uses but there is not a direct access point through the project.

Planning Commission Minutes
August 20, 2015

Public Hearing

Case No. 15ZONE1012

Deliberation:

03:31:33 Commissioner's deliberation.

03:33:11 Commissioner Brown said that the pedestrian connectivity to Lots 1 and 5 could be improved. He added that, while this proposal will generate more traffic, the State has a policy that, when an application is made for an encroachment permit, they will evaluate what improvements are necessary at that time. He said that, if the third access does go through, and the State approves it, he would ask that the parking directly across from the entrance be removed, to minimize maneuvering in that area.

03:37:50 In response to some Commissioners' questions, Mr. Wagner said all the Detailed Plans for the individual commercial lots at the front along Cane Run Road will need to come back for review. Jonathan Baker, Legal Counsel for the Planning Commission, explained more about how binding elements work on a property with several developments on it.

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

Zoning

03:41:51 On a motion by Commissioner Brown, seconded by Commissioner Tomes, the following resolution was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the intents of **Guideline 1-Community Form**. The subject property is located in the Neighborhood Form District. The Neighborhood Form District encourages a variety of housing options, including multi-family and inclusive housing. The Form District also encourages commercial though more often at the intersection of an arterial street and a collector. The proposed development complies with this Guideline as it contains housing for single-parent college students {Family Scholar House), families {family apartments) and seniors {senior apartments). The proposal includes commercial along Cane Run Road but at a size and location that is appropriate for the area. In addition to these uses, the proposed development will include a Boys and Girls Club and an academic services center, both of which will serve the residents in the proposed development and the broader community; and

Planning Commission Minutes
August 20, 2015

Public Hearing

Case No. 15ZONE1012

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 2-Centers**. The proposed development complies with this Guideline and its applicable policies. The subject property is over 34 acres, a size that rivals many centers. The proposed development includes three different multi-family options, community facilities, open space and a small amount of commercial space. The project forms a campus or center unto itself, and commercial uses are appropriate in this circumstance. The proposed commercial is designed to be neighborhood-serving, and the applicant is marketing the proposal to neighborhood-serving users. The proposed development includes a park area, internal pedestrian connections and community serving uses in the Boys and Girls Club and academic services center; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 3-Compatibility**. The proposed development complies with this Guideline and its applicable policies. The proposed buildings for which renderings are available are traditional in style and building materials. The buildings are also at least 70' from the nearest property line and, in most cases, much more. The applicant will provide screening and buffering to mitigate any incompatibility between the proposal and nearby residences. At the neighbor meeting, the applicant stated that it would work with adjacent landowners on buffer design. The proposed development has been designed to place the most intense uses along Cane Run Road, with residential properties behind and between the commercial and surrounding residential uses. The proposed development is also at a density that is appropriate on Cane Run Road, especially considering the size of the subject property and the amenities included in the project. The proposed development should have no impact on noise, odor or light pollution; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guidelines 4-Open Space and 5-Natural Areas and Scenic and Historic Resources**. The proposed development complies with these Guidelines and their applicable policies. The proposed design includes a 2.6 acre park area and other open space within both the family apartments and Family Scholar House site. There is also ample open space on the senior apartment site. There are no known natural features that impact the development of the project, nor are there any known historic resources; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guidelines 7-Circulation and 8-Transportation Facility Design**. The proposed development complies with these Guidelines and their applicable

Planning Commission Minutes
August 20, 2015

Public Hearing

Case No. 15ZONE1012

policies. The proposed development contains three entrances onto Cane Run Road, and a single emergency access to Trumpet Way. The proposal is designed as a self-contained campus, with internal pedestrian connections and connections to the area sidewalk system. There is adequate parking and adequate room for transit circulation within the site. All of the individual sites will have pedestrian and vehicular access to the main internal access road, "Street A."; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 9-Bicycle, Pedestrian and Transit**. The proposed development complies with this Guideline and its applicable policies. The proposed development will provide bicycle parking per the LDC and contains an access network sufficient to allow for transit service; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 10-Flooding and Stormwater**. The proposed development complies with this Guideline and its applicable policies. The subject property will provide onsite detention sufficient to comply with all MSD standards and contains many, many acres of open space. The project should have no negative effect on adjacent landowners due to stormwater; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 11-Water Quality**. The proposed development complies with this Guideline and its applicable policies. The proposed development contains several acres of open space, both within the various sections and within the 2.6 acre park. The proposed development will also contain detention basins sized to handle stormwater runoff from the new development and to serve, as required by MSD, as water quality measures; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 12-Air Quality**. The proposed development complies with this Guideline as it should have no negative impact on air quality. The proposal is near transit and has contemplated transit in its design. The proposal is a mixed use development, which should encourage residents within and near the proposed development to walk to the commercial area of the project; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 13-Landscape Character**. The proposed development complies with this Guideline as landscaping will be provided to meet or exceed the requirements of the LDC. The applicant is also proposing to retain or install tree canopy and interior landscape areas that exceed the requirements of the LDC; and

**Planning Commission Minutes
August 20, 2015**

Public Hearing

Case No. 15ZONE1012

WHEREAS, the Commission further finds that, based on the evidence and testimony presented and the applicant's justification that all of the applicable Guidelines of Cornerstone 2020 and the Comprehensive Plan are being met; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the requested change in Zoning from R-4 and R-5 (Single Family Residential) to R-7 (Multi-Family Residential) and C-1 (Commercial) for a Family Scholar House, Boys and Girls Club, Senior Living and Commercial, be **APPROVED**.

The vote was as follows:

YES: Commissioners Blake, Brown, Jarboe, Tomes, Peterson, and Lewis.

NO: No one.

NOT PRESENT: Commissioners Turner, Kirchdorfer, White, and Proffitt.

ABSTAINING: No one.

Variance

03:43:10 On a motion by Commissioner Brown, seconded by Commissioner Peterson, the following resolution was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the granting of the variance will not affect the public health, safety or welfare because the additional setback from the street is a minimal increase from what is required and there are no other commercial structures along this side of the street to match; and

WHEREAS, the Commission further finds that the granting of the variance will not alter the essential character of the general vicinity because the additional setback from the street is a minimal increase from what is required and there are no other commercial structures along this side of the street to match; and

WHEREAS, the Commission further finds that the variance will not cause a hazard or nuisance to the public. Additional setback from the street is a minimal increase from what is required and there are no other commercial structures along this side of the street to match; and

WHEREAS, the Commission further finds that the variance will not allow an unreasonable circumvention of the zoning regulations as the additional setback

**Planning Commission Minutes
August 20, 2015**

Public Hearing

Case No. 15ZONE1012

from the street is a minimal increase from what is required and there are no other commercial structures along this side of the street to match; and

WHEREAS, the Commission further finds that the requested variances arise from special circumstances which do not generally apply to land in the general vicinity or the same zone because there are no other commercial structures along this side of the street to match; and

WHEREAS, the Commission further finds that the strict application of the regulation would deprive the applicant of the reasonable use of the land as there have been no objections to the proposal from the public; and

WHEREAS, the Commission further finds that the circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought, but the entire development has been designed around the commercial buildings receiving this relief; and

WHEREAS, the Commission further finds that, based on the evidence and testimony presented, the applicant's justification and the staff report that all of the applicable Guidelines of Cornerstone 2020 and the Comprehensive Plan are being met; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Variance of 5.3.1.B.5 of the LDC to exceed the maximum 80' setback along Cane Run Road for Lots 1, 5, 6 and 7.

The vote was as follows:

YES: Commissioners Blake, Brown, Jarboe, Tomes, Peterson, and Lewis.

NO: No one.

NOT PRESENT: Commissioners Turner, Kirchdorfer, White, and Proffitt.

ABSTAINING: No one.

Waiver of 10.2.4.B of the LDC to allow more than 50% overlap of the existing 200' LG&E easement over the required 20' LBA along the site's west property line for Lots 3 and 4

On a motion by Commissioner Brown, seconded by Commissioner Peterson, the following resolution was adopted:

**Planning Commission Minutes
August 20, 2015**

Public Hearing

Case No. 15ZONE1012

WHEREAS, the Louisville Metro Planning Commission finds that the waiver will not adversely affect adjacent property owners because the adjacent property will still be provided adequate buffering from the proposed development; and

WHEREAS, the Commission further finds that the waiver will not violate specific guidelines of Cornerstone 2020 as stated in the rezoning's comprehensive plan review; 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 they will be able to utilize a wide area that effectively acts as a buffer area currently; 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 create an unnecessary hardship on the applicant because the wide area already acts as a buffer between the residents and the proposed development; and

WHEREAS, the Commission further finds that, based on the evidence and testimony presented, the applicant's justification and the staff report that all of the applicable Guidelines of Cornerstone 2020 and the Comprehensive Plan are being met; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Waiver of 10.2.4.B of the LDC to allow more than 50% overlap of the existing 200' LG&E easement over the required 20' LBA along the site's west property line for Lots 3 and 4.

The vote was as follows:

YES: Commissioners Blake, Brown, Jarboe, Tomes, Peterson, and Lewis.

NO: No one.

NOT PRESENT: Commissioners Turner, Kirchdorfer, White, and Proffitt.

ABSTAINING: No one.

General District Development Plan and binding elements

03:44:51 On a motion by Commissioner Brown, seconded by Commissioner Peterson, the following resolution was adopted:

Planning Commission Minutes
August 20, 2015

Public Hearing

Case No. 15ZONE1012

WHEREAS, the Louisville Metro Planning Commission finds that there do not appear to be any environmental constraints or historic resources on the subject site. All tree canopy requirements of the Land Development Code are being met; and

WHEREAS, the Commission further finds that provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community will be provided. Sidewalks and vehicular access have been provided from multiple streets and connectivity with the subdivisions at the northwestern end of the site will be provided; and

WHEREAS, the Commission further finds that, since open space is required for this proposal, appropriate open space has been provided for this development as required by LDC regulations; and

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

WHEREAS, the Commission further finds that the overall site design is compatible with the existing and future development of the area; and

WHEREAS, the Commission further finds that, based on the evidence and testimony presented, the applicant's justification and the staff report that all of the applicable Guidelines of Cornerstone 2020 and the Comprehensive Plan are being met; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the requested General District Development Plan and the binding elements on pages 11 and 12 of the staff report, **ON CONDITION** that parking on Lot 5 is evaluated if the third access point is permitted by the State; and **ON CONDITION** that direct pedestrian connections are provided to sublots 1 and 5 when those lots are proposed for development; and **ON CONDITION** that sidewalks either be provided or a waiver obtained for the new public road connection at the rear of the property. The binding elements are as follows:

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

Planning Commission Minutes
August 20, 2015

Public Hearing

Case No. 15ZONE1012

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. Prior to development (includes clearing and grading) of each site or phase of this project, the applicant, developer, or property owner shall obtain approval of a detailed district development plan in accordance with Chapter 11, Part 6. Each plan shall be in adequate detail and subject to additional binding elements.
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 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 subdivision plat 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 approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
 - e. A reciprocal access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be created between the adjoining property owners and recorded. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of approved plans to

**Planning Commission Minutes
August 20, 2015**

Public Hearing

Case No. 15ZONE1012

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.
7. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the August 20, 2015 Planning Commission meeting for Lots 2, 3, 4 and 8.
8. The materials and design of proposed structures for Lots 1, 5, 6 and 7 shall be reviewed for compliance with the LDC upon submittal of a Detailed District Development Plan for each lot.

The vote was as follows:

YES: Commissioners Blake, Brown, Jarboe, Tomes, Peterson, and Lewis.

NO: No one.

NOT PRESENT: Commissioners Turner, Kirchdorfer, White, and Proffitt.

ABSTAINING: No one.

Alternative Plan for Connectivity for Lot 3

03:47:15 On a motion by Commissioner Brown, seconded by Commissioner Peterson, the following resolution was adopted:

**Planning Commission Minutes
August 20, 2015**

Public Hearing

Case No. 15ZONE1012

WHEREAS, the Louisville Metro Planning Commission finds that, based on the evidence and testimony presented, the applicant's justification and the staff report that all of the applicable Guidelines of Cornerstone 2020 and the Comprehensive Plan are being met; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the requested Alternative Plan for Connectivity for Lot 3 as shown on the site plan as presented today be **APPROVED**, which includes pedestrian connectivity to one of the abutting stubs as well as the cross-connection between the two compatible uses..

The vote was as follows:

YES: Commissioners Blake, Brown, Jarboe, Tomes, Peterson, and Lewis.

NO: No one.

NOT PRESENT: Commissioners Turner, Kirchdorfer, White, and Proffitt.

ABSTAINING: No one.

Detailed District Development Plan for Lots 2, 3, 4 and 8

03:47:55 On a motion by Commissioner Brown, seconded by Commissioner Peterson, the following resolution was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that there does not appear to be any environmental constraints or historic resources on the subject site. All tree canopy requirements of the Land Development Code are being met; and

WHEREAS, the Commission further finds that provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community will be provided. Sidewalks and vehicular access have been provided from multiple streets and connectivity with the subdivisions at the northwestern end of the site will be provided; and

WHEREAS, the Commission further finds that, since open space is required for this proposal, appropriate open space has been provided for this development as required by LDC regulations; 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

Planning Commission Minutes
August 20, 2015

Public Hearing

Case No. 15ZONE1012

WHEREAS, the Commission further finds that the overall site design is compatible with the existing and future development of the area; and

WHEREAS, the Commission further finds that, based on the evidence and testimony presented, the applicant's justification and the staff report that all of the applicable Guidelines of Cornerstone 2020 and the Comprehensive Plan are being met; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Detailed District Development Plan for Lots 2, 3, 4 and 8.

The vote was as follows:

YES: Commissioners Blake, Brown, Jarboe, Tomes, Peterson, and Lewis.

NO: No one.

NOT PRESENT: Commissioners Turner, Kirchdorfer, White, and Proffitt.

ABSTAINING: No one.

**Planning Commission Minutes
August 20, 2015**

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 5:10 p.m.

Chairman

Division Director