

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO PLANNING COMMISSION
November 27, 2018**

A meeting of the Louisville Metro Planning Commission was held on November 27, 2018 at 6:30 p.m. at the East Government Center, located at 200 Juneau Drive, Louisville, Kentucky 40243.

Commission members present:

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

Commission members absent:

David Tomes
Emma Smith

Staff Members present:

Emily Liu, Planning Director
Joseph Haberman, Planning Manager
Brian Davis, Planning Manager
Julia Williams, Planning Supervisor
Lee Wells, Planning Technician
Beth Stuber, Transportation Planning
Paul Whitty, Legal Counsel
Rachel Dooley, Management Assistant
Pamela M. Brashear, Management Assistant (Minutes)

Others Present:

Tony Kelly, Metropolitan Sewer District

The following matters were considered:

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APPROVAL OF MINUTES

NOVEMBER 7, 2018 PLANNING COMMISSION NIGHT HEARING MEETING MINUTES

On a motion by Commissioner Brown, seconded by Commissioner Robinson, the following resolution was adopted.

RESOLVED, that the Planning Commission does hereby **APPROVE** the minutes of its meeting conducted on November 7, 2018.

The vote was as follows:

YES: Commissioners Brown, Carlson, Daniels, Robinson and Jarboe
NOT PRESENT FOR THIS CASE: Commissioners Smith and Tomes
ABSTAINING: Commissioners Howard, Lewis and Peterson

**NOVEMBER 15, 2018 PLANNING COMMISSION REGULAR MEETING MINUTES
CASE NO. 18ZONE1062 ONLY**

On a motion by Commissioner Brown, seconded by Commissioner Robinson, the following resolution was adopted.

RESOLVED, that the Planning Commission does hereby **APPROVE** the minutes of its meeting conducted on November 15, 2018 Case No. 18ZONE1062 ONLY.

The vote was as follows:

YES: Commissioners Brown, Carlson, Daniels, Howard, Lewis, Robinson and Jarboe
NOT PRESENT FOR THIS CASE: Commissioners Smith and Tomes
ABSTAINING: Commissioner Peterson

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PUBLIC HEARING

CASE NO. 18ZONE1033

Request: Change in Zoning from R-4 to PRD with a variance, waiver and District Development Plan with Binding Elements
Project Name: Meadows Pointe
Location: 14706/14714 Old Henry Road
Owner: Meadows Pointe LLC
Applicant: Meadows Pointe LLC
Representative: BTM Engineering; Wyatt, Tarrant & Combs LLP
Jurisdiction: Louisville Metro
Council District: 17- Glen Stuckel
Case Manager: Julia Williams, 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.)

Agency Testimony:

00:05:52 Ms. Williams discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Jon Baker, Wyatt, Tarrant and Combs, LLP, 500 West Jefferson Street, Suite 2800, Louisville, Ky. 40202

John Addington, BTM Engineering, 3001 Taylor Springs Drive, Louisville, Ky. 40220

Chris Brown, BTM Engineering, 3001 Taylor Springs Drive, Louisville, Ky. 40220

Summary of testimony of those in favor:

00:13:05 Mr. Baker presented on behalf of the applicant and submitted booklets into the record. There will be 31 single family lots with a townhome design. Some units will be attached and some semi-attached. The homes will be low maintenance with high quality living space and amenities. The compact design will help protect environmental sensitive areas on the site.

00:18:21 Mr. Addington discussed the site plan. There has been work with the neighbors trying to address their issues. Trees are being saved around the perimeter of

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the site. There is also work being done with KTC to shift the entrance to the east. There will be sanitary sewers to the property line as well as an access easement. There will be 56 street trees provided and approximately 13.1% of the existing trees will be saved, but KTC may remove some for street widening (Old Henry Rd.) and safety purposes. A proposed bridge will replace the storm pipe.

Mr. Addington also discussed grading and drainage concepts.

00:34:44 Mr. Baker stated single family will be next to single family and the site will not look down on neighbors. The character of the area will be maintained (as much as possible). The building materials will be high quality.

00:38:58 Commissioner Jeff Brown asked about the sidewalks on Old Henry Rd., specifically what will the timing be in regards to the state project? Mr. Baker read a proposed binding element to address it. Commissioner Brown said it's too open-ended.

00:40:57 Commissioner Howard said she's concerned about the 15 foot front yards for buildings 7-15. Have there been other developments with 15 foot yards in PRD zoning? Mr. Chris Brown stated the 15 foot yard setback (minimum) is a requirement for PRD for this type of alternate housing. Also, Commissioner Howard asked if there will be internal sidewalks. Mr. Chris Brown said there's a walking path along the eastern side, a sidewalk along the private street and street trees along the street frontage.

The following spoke in opposition to this request:

Michelle Butler, 4015 Woodmont Park Lane, Louisville, Ky. 40245
Geoff Norman, 14904 Humridge Circle, Louisville, Ky. 40245
Roy M. Martin, 14907 Oakvista Way, Louisville, Ky. 40245-8504
Helene Tracey, 3700 Woodmont Park Lane, Louisville, Ky. 40245
Rhonda Engler Joseph, 3603 Oak Vista Place, Louisville, Ky. 40245
Brandon Butler, 4015 Woodmont Park Lane, Louisville, Ky. 40245
Matt Westfall, 3704 Woodgrove Place, Louisville, Ky. 40245
Steve Hardin, 3903 Woodmont Park Lane, Louisville, Ky. 40245
David Joseph, 3603 Oak Vista Place, Louisville, Ky. 40245
Hattie Haller, 3817 Cressington Place, Louisville, Ky. 40245

Summary of testimony of those in opposition:

00:43:39 Ms. Butler stated the land was zoned this way for a reason. They want to put too many homes on a small piece of land. Diversity is not an issue in this area. This development is maximizing profit over the environmental features. Traffic is an

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issue. What is the price of the units and where will the sewage tie into? Mr. Baker stated this is a quality development and the price point will start at \$365,000.00/unit. The sewage will be going towards Oldham County on Ash Ave. Ms. Butler also remarked, you're trying to put 10% the size of Woodmont into this space of land in terms of homes. Mr. Baker said they're using a tool in the Land Development Code that promotes efficient use of the property. The proposal is for 31 single family homes.

00:52:02 Mr. Norman stated there are already traffic issues, the worst being at the intersection of Old Henry and Factory Ln. The entrance for the development is on a steep hill. Another concern is the easement into Old Vista Way. There are a lot of children in the area making safety an issue as well. The roads should be fixed before adding more homes and cars.

00:55:11 Mr. Martin stated he loves the quiet secluded feel of the neighborhood. There is a concern for the possibility of opening Old Vista Way because there are a lot of children in the area and it will be used as a cut through. They're trying to make something fit that doesn't belong.

01:01:02 Ms. Tracey stated she is pro-development and business. The main concern is safety. The road improvements and wildlife are also concerns.

01:05:00 Ms. Joseph stated the community housing is being devalued. The peaceful environment and wildlife will be replaced by lights and increased noise. Opening the stub on Old Vista Place will bring increased traffic and create safety issues. Also, the applicant is not keeping the architectural integrity of Woodmont and the other existing communities.

01:09:57 Mr. Butler stated traffic is a concern. The plans are incomplete as the infrastructure doesn't tie these houses together well at all. The houses will not be diverse and there's no demand for them.

01:13:04 Mr. Westfall stated there are drainage issues now and the road floods. The infrastructure can't support the additional traffic. Also, property values are being hurt and they're changing the design of the area.

01:15:40 Mr. Hardin stated he's been working with the applicant. The development is very dense and doesn't fit the character of the neighborhood. An agreement has been made through negotiations with the applicant and there will be 5 binding elements to address some issues.

Rebuttal

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01:22:02 Mr. Baker stated he understands the area is environmentally sensitive and that neighbors have gotten used to the property being vacant, but there are property rights as long as the Comprehensive Plan is followed. In response to the traffic issues, the improvements are fully funded (work to begin in 2021). A projected peak hour trip generation study was provided to Transportation Planning. The commission has seen developments (with different densities) next to each other and there is no correlation for lowering property values. The proposal will be a very well maintained high quality development that will provide different housing to the surroundings. In response to Commissioner Howard's concerns about the 15 foot front yards, one thing that will help is the private streets are 25 feet in pavement and sits within a 50 foot easement. There will be more length and depth to the green space.

Mr. Baker read the proposed additional binding elements:

1. The building materials and design of the proposed structures shall be substantially the same as the building materials and design of the proposed structures depicted on the building elevations and renderings, as presented to the Planning Commission during its public hearing held on November 27, 2018.
2. Except for trees, vegetation and brush that pose a hazard or safety concern to persons or property, Applicant/Developer shall retain all existing vegetation, brush, and trees' driplines within specifically identified areas, measuring approximately 16 feet in depth, along the subject property's west and north perimeter property lines, as more specifically identified on the Applicant's Grading Worksheet, dated November 11, 2018, as submitted to the administrative record for Case No. 18ZONE1033. (On the Applicant's Grading Worksheet, The 16-foot boundary to these areas along the west and north property lines where the above vegetation is to be retained are marked in red ink and further identified by arrows). Dead or dying trees and vegetation do not have to be retained within the specified area.
3. If any existing vegetation, brush, and/or trees located in the 16-foot area where vegetation, brush and/or trees are to be preserved, as required in binding element #3, are inadvertently destroyed during the construction phase(s), an arborist or licensed landscape architect approved by Planning & Design will coordinate with developer to replace the same with Kentucky native species. Developer shall be responsible for the costs associated with replanting, including the hiring of the arborist or licensed landscape architect.
4. With the exception of Lot # 15 and the end of Street C, as they are depicted on the submitted District Development Plan for 18ZONE1033, Applicant/Developer shall attempt in good faith to retain vegetation, brush and trees within a 16-foot-wide area as measured from the subject property's perimeter boundary for all areas

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along the subject property's perimeter boundary not identified by binding element #2 on the west, north, and east perimeter property lines of the Subject Property.

01:34:45 Mr. Chris Brown read additional binding element into the record as follows: The proposed residential structure wall faces shall be constructed no closer than 33 feet from the west and north property perimeter with the exception of unit 6 being setback 27 feet at its closest point on the northwest corner wall and a 20 foot setback from the east property perimeter as depicted on the proposed Detailed District Development Plan/Preliminary Subdivision Plan for Case No. 18ZONE1033.

01:38:02 Commissioner Carlson asked who are the homes marketed toward. Mr. Baker answered you started seeing more of these in response to condominiums not being able to be financed. The design is popular with elders, widows, empty nesters and people that just don't want big yards to maintain.

Commissioner Carlson stated, a binding element uses the term dead or dying trees. Who makes that determination? Mr. Baker said a licensed landscape architect. Commissioner Carlson suggested adding a certified arborist. Mr. Baker agreed.

Commissioner Carlson stated he doesn't like the fee-in-lieu for the sidewalk. He suggests something more definitive stating you will build the sidewalk unless Ky. Transportation Cabinet says no. Also, the proposed additional binding element regarding design and materials resembles binding element number 10, shouldn't that one be removed? Mr. Baker agreed.

Commissioner Carlson asked Mr. Baker to justify the variance and waiver. Mr. Baker explained.

01:44:41 Commissioner Brown asked Mr. Baker to discuss the fee-in-lieu and the timing for it to be paid. Mr. Baker suggests the following language: Prior to the issuance of a building permit for lot 21. Commissioner Brown agreed and read the following: Prior to the issuance of the 21st building permit, if KYTC Project No. 5-367.20 has not went into construction phase, the developer shall pay the sidewalk fee-in-lieu amount based on the cost of the multi-use path construction.

01:48:57 Mr. Martin asked who enforces the binding elements? Mr. Whitty, legal counsel, answered, in Ky. there is a Binding Element Enforcement Act and in Louisville Metro there are zoning enforcement officers that respond to complaints only, no investigation.

01:51:06 Mr. Hardin clarified binding elements for his neighbors.

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01:53:12 Mr. Joseph asked the applicant to read and explain the binding element dealing with setbacks. Mr. Chris Brown explained.

01:57:39 Ms. Haller stated her two concerns are water flooding over the road and why it's necessary to have the zoning changed. Mr. Baker and Chair Jarboe gave explanations.

02:01:04 Commissioner Howard asked Mr. Kelly to explain how this development will affect drainage.

02:01:28 Mr. Kelly, MSD, said this development is lower and the detention basin is being put in to ensure that the people living downstream don't have negative impacts. The KYTC road improvements should help as well.

02:02:28 Commissioner Lewis asked if the detention basin will serve everyone, or just the development. Mr. Kelly said just the development.

Deliberation

02:04:33 Commissioner Carlson said he'd like to see more green space but overall it does fit within the guidelines of the Comprehensive Plan.

02:07:26 Commissioner Peterson said the applicant has addressed setbacks in the form of binding elements and is concerned about limited parking.

02:09:23 Commissioner Howard stated there will be no adverse effects from the drainage for people living in Woodmont. This is the type of housing millennials are looking to purchase. Commissioner Howard said she has the following concerns: the design; no off-street parking; and justification for the variance.

02:13:14 Commissioner Lewis said she's glad the tree canopy was increased and is satisfied with the waiver and variance justifications given in the rebuttal. The plan meets Cornerstone 2020 and the Land Development Code.

02:14:26 Commissioner Brown stated this is a good location for PRD with this kind of density because it has direct access to Old Henry Rd.

02:15:41 Commissioner Daniels stated she wants more green space and there's not enough parking. However, it does meet Cornerstone 2020 and the Land Development Code requirements. The development is not appealing and doesn't fit the area.

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02:16:42 Commissioner Robinson stated his main concern was the flooding, but KYTC will be making improvements.

02:17:20 Chair Jarboe said the roads should come first but it's not the way it works. The state will make the improvements. The plan follows the Comprehensive Plan.

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 Change from R-4 to PRD

On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution based on the Cornerstone 2020 Staff Analysis, testimony heard today and the Applicant's Findings was adopted.

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Community Form guideline because the proposal is located in an area of primarily single family residences. While the proposal is also for single family, the proposed housing type is a townhouse style with smaller lots with a density equivalent to R-5. The development is not considered high density and is located on a minor arterial level road. The proposal is for low density adjacent to low density. The proposal allows for attached style housing in an area of primarily unattached single family residential. There is a mix of density located in the area as a whole with R-5A and other PRD zoning districts located nearby. The proposal will create private streets with sidewalks along one side of the private way that connects to the proposed sidewalk along Old Henry; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Centers guideline because the proposal is not for non-residential zoning and is located in an existing residential area along a primary collector. The site is surrounded by residential zoning. The proposal displays efficient use of land with smaller lots and the preservation of open green space. The proposal allows for a different housing choice for the area. Single family is compatible with single family because it is the same land use. A 10' multi-use path is proposed along Old Henry Road to allow for alternate transportation. Transit is not available. Connections or stubs to adjacent properties are not provided as there are no vacant lots adjacent to the site. The applicant is allowing for cross connectivity to the private road should the adjacent Forester property ever develop residentially. Utility easements are provided and would allow for extensions to adjacent developments. Parking is provided within garages and within several additional

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spaces along the private road. The site does encourage pedestrian access and future sidewalk connectivity with proposed sidewalks in and around the site; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Compatibility guideline because the proposed PRD zoning district constitutes an increase in density, which will be compatible with the scale and site design of nearby existing residential developments since the proposed land use is single family and the existing land uses surrounding the property is also single family. The building materials for the single family homes are similar to the building materials found in the area. The proposal is for single family residential and adjacent to single family residential. Transportation Planning has not indicated that the proposal will have adverse impacts on traffic. Light trespass requirements of the Land Development Code will adequately mitigate adverse impacts of lighting. The PRD zoning district encourages affordable and inclusive housing. The proposed change in zoning constitutes an increase in density than the current R-4 zoning but is still low density. It is the same as permitted within the R-5 zoning category. There is no identified user for the proposed single family residences. The PRD zoning district encourages affordable and inclusive housing. Setbacks appear to be in compliance with LDC standards where adjacent to R-4, single family residential. Setbacks appear to be in compliance with LDC standards where adjacent to R-4, single family residential. A detention basin is encroaching into the parkway buffer but the planting requirements will still be met and the detention basin allows for a larger open space. All setbacks and building heights appear to be within LDC standards and are compatible with surrounding development with the exception of the rear setbacks for Lots 17-28. This does not appear to affect compatibility with surrounding development; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Open Space guideline because the proposal sets aside a large open space lot containing an intermittent stream and buffer and meets open space standards for the PRD zone. The proposal sets aside a large open space lot containing an intermittent stream and buffer and meets open space standards for the PRD zone. The intermittent stream on site appears to be preserved and will be used as part of the open space area; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Natural Areas and Scenic Historic Resources guideline because staff of Historic Preservation has reviewed the preliminary development plan and found that the proposed zoning change will not affect any known cultural or historic resources. LOJIC did not identify any wetlands on site; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Circulation guideline because Transportation Planning is not requiring any roadway

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improvements with the proposal. The site is constructing their portion of a proposed 10' multi-use trail along the sites frontage. The proposal has adequate access and stub streets have been provided for future connectivity. No ROW dedication will be required; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Transportation Facility Design guideline because stub streets are provided for future connectivity. This site is accessed from Old Henry Road, a minor arterial. By connecting to the existing street network, the appropriate linkages are made; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Bicycle, Pedestrian and Transit guideline because a sidewalk is provided along Fairground Road and internal walkways through open space areas are provided. Bicyclists will use the internal private roadway and the public ROW; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Flooding and Stormwater guideline because MSD has no issues with the proposal; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Landscape Character guideline because this proposal is removing large amounts of existing tree canopy that likely provides habitat for wildlife, however the site preserves an intermittent stream that connects to other open space areas with the Woodmont subdivision, creating a greenway corridor; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Infrastructure guideline because there are existing utility connections on site. There are existing public water connections. The Health Department has no issues with the proposal; and

WHEREAS, Meadows Pointe, LLC (the "applicant") requests a change in zoning from R-4 Single-Family Residential to PRD Planned Residential Development District for Meadows Pointe, a single-family residential development proposing thirty-one (31) attached and semi-detached townhome dwellings, all of which will be constructed on separate, individual lots, and on property located at 14714 and 14706 Old Henry Road (the "Property"); the proposed PRD development is similar in nature to a number of approved R-5A developments in the general area, but, unlike these developments approved under R-5A, the proposed PRD zoning allows for the Property to be subdivided into individual, single-family lots; compared to a condominium design under R-5A, however, the townhome concept under PRD zoning is more manageable to finance both on the development/construction front end as well as the mortgage/purchase perspective back end; as a result, the market has well received the type of residential developments

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similar in nature and design to what the applicant proposes here, as strong demand exists for townhomes built with high-quality design and constructed with building materials situated on low-maintenance single-family lot; and, with increasing commercial and office development along the Old Henry corridor, combined with the already established commercial activity center at nearby Factory Lane and LaGrange Road, the Property is an ideal location for the proposed zero-lot-line townhome development; indeed, the proposed Meadows Pointe brings a different housing style that will add to the diversity of housing options in the area, which is predominately suburban-style R-4, single-family housing spotted with R-5A, multi-family housing developments; and

WHEREAS, to accomplish the aforementioned development, the Applicant has submitted its formal application to rezone the Property from R-4, Single Family to PRD, Planned Residential Development; in conjunction with the zoning application, the Applicant has also submitted the following forms of relief from the Land Development Code for all of Louisville – Jefferson County, Kentucky (“LDC”): 1) Variance from Land Development Code Section 5.3.1.D.1.b.v to allow a rear yard setback of 12.5 feet for a number of lots internal to the development; and 2) Waiver from Chapter 10.3.5 of the LDC to allow an earthen detention basin to encroach into the parkway buffer along Old Henry Road; and 3) Request for approval of a District Development Plan/Preliminary Subdivision Plan with Binding Elements (Cumulatively, all development applications, including the Detailed District Development Plan/Preliminary Subdivision Plan (DDDP), are further referred to herein as the “Proposal”); and

WHEREAS, pursuant to Section 2.7.3.A of LDC, the PRD District is intended to provide flexibility in design of residential developments in a manner that promotes implementation of the Comprehensive Plan; and the PRD District allows zero lot line, townhouse, cluster housing, reduced-lot sizes and building setbacks, and other innovative designs which meet the intent of the Comprehensive Plan; and

WHEREAS, in addition to the criteria listed below, the PRD regulation also requires that applicants proposing developments that create 50 or more dwelling units and do not reserve ten percent of their proposed developments for affordable and appropriate housing must address how the proposal complies with the housing elements in relationship to other guidelines and policies of the Comprehensive Plan. Here, the Applicant proposes 31 dwelling units within Meadows Pointe and, therefore, this regulatory provision of the LDC does not apply; and

WHEREAS, Per Section 2.7.3.B of the LDC, PRD developments must meet at least two of the following criteria:

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1. The site has certain topographic and landform limitations or environmental constraints and the proposed plan preserves these features from development and disturbance; or
2. The site meets infill objectives consistent with recommendations of an officially adopted neighborhood plan, corridor plan or urban renewal plan; or
3. The proposal creates a variety of housing styles serving the needs of people of differing ages or incomes; or
4. The proposal expands the diversity of housing types available within a neighborhood; or
5. The proposal creates permanently protected open space that meets outdoor recreation needs, preserves wildlife habitat, or extends a community-wide greenway system.

WHEREAS, the Commission finds the Applicant's proposed Meadows Pointe PRD complies with four of the five above criteria, specifically 1, 3, 4, and 5; in relation to criteria 1 and 5, the Property has topographical and landform challenges with elevations considerably lower than the land adjacent to the west, north and east; the Property receives drainage by overland flow and ground springs from streets, residential land and an intermittent stream flowing southward along its northeastern corner; the proposed plan will accommodate the stormwater flows from the west and north through drainage swales within permanent sewer and drainage easements; the plan will preserve the intermittent stream in permanent open space and will provide a stream buffer at least 25 feet from the top of bank for its protection from development and disturbance; as a result, a substantial amount of area on the eastern side of the Property will be protected open space with an intermittent stream buffered for its protection from development and disturbance, which, in turn, preserves wildlife habitat and corridors for animals to safely move between developed properties; and

WHEREAS, in relation to criteria 3 and 4 of LDC Section 2.7.3.B, the Commission finds the development will offer attached housing on fee simple, zero-lot-line tracts with a projected construction budget per square foot that is comparable if not higher than the existing housing surrounding the Property; the sizes of the individual units will be less than the surrounding homes and, for ease of managing associated maintenance, the individual lots will have smaller yards as compared to the surrounding detached single-family homes located on much larger lots; the proposed sale prices for the townhomes will start at \$365,000.00 and above, and will target a variety of age groups who desire a tightly-knit community with manageable upkeep and accessibility to major thoroughfares and nearby commercial activity centers; accordingly, the Proposal will introduce a distinct housing type to the neighborhood, thereby contributing to and expanding the variety of housing within an area; an increase in diversity of housing within the

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neighborhood will provide opportunities to prospective purchasers of differing ages and/or incomes; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Community Form guideline because Core Graphic 1 of the Comprehensive Plan identifies the subject property within the Neighborhood Form, an area characterized predominantly by residential uses that vary from low to high density and that blend compatibly into the existing overall landscape and neighborhood areas; the Neighborhood Form is intended to provide diverse housing types and housing choices for differing ages and incomes, as well as furnish appropriate accessibility and connectivity between adjacent uses and neighborhoods by automobile, pedestrian, bicycles, and transit; the Property is located within an established residential center along Old Henry Road, a minor arterial, and not far from the I-265/Old Henry Road interchange; single-family residential zoning surrounds the Property, which is primarily bordered by rear yards of lots situated within the Woodmont subdivision; the Property is just north of the Old Henry Road and Factory Lane intersection, where R-5A Multi-Family Residential developments exist on both sides of the intersection; and just south of this same intersection on Old Henry Road is the Hamilton Springs residential community, which was rezoned to PRD in 2010 (Case No. 13856); similar to the aforementioned nearby R-5A and PRD developments on Old Henry Road, the proposed PRD zoning will provide an appropriate transition between the soon-to-be widened Old Henry Road thoroughfare and the Woodmont residences that back up to the Property; Meadows Pointe is an efficient and compact development and the proposed PRD zoning will offer a mix of residential choices in the area, thereby contributing to the diversity of opportunity for potential home owners who wish to reside on their own, low-maintenance lot within the neighborhood; an internal sidewalk will connect to a walking trail that overlooks the intermittent stream on the Property, which will provide safe pedestrian movements throughout the development; as a result, the Proposal adds to the range of housing styles in the area, thereby promoting the Neighborhood Form goal of providing diverse housing options for differing ages and incomes; accordingly, the proposed development complies with Guideline 1 of the Comprehensive Plan; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Centers guideline because the proposed rezoning of the Property from R-5A to PRD advances Guideline 2 of Cornerstone 2020, which encourages a mixture of uses, housing types and residential densities within activity centers; the proposed development promotes the Centers policies by providing an efficient housing development, quality building style and low-maintenance lots that are in short supply in the area; the innovative design of Meadows Pointe promotes a distinct and unique sense of place in the neighborhood; being in an area undergoing robust growth in residential, commercial and office development on nearby properties, the subject property is within an existing residential activity center adequately serviced by two nearby commercial/office activity

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centers; the Property's close proximity to the Old Henry Road/Gene Snyder Freeway interchange combined with recent and future road improvements to the Old Henry corridor ensure adequate infrastructure for residents, nearby employees, and the movement of goods; additional commercial services are located nearby within the activity center located at Factory Lane and La Grange Road, including a shopping center anchored by a Kroger grocery store; for the foregoing reasons, the proposed development complies with Guideline 2 of the Comprehensive Plan; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Compatibility guideline because the proposed rezoning is in agreement with the intent and applicable policies of Guideline 3 because the single-family townhomes the Applicant intends to build on the Property will be compatible with the scale, form and function of the surrounding single-family residential uses; the townhomes will average around 2,280 square feet in area, be built from durable, quality building materials consistent with the building materials utilized in the established single-family neighborhood surrounding the Property, and will not exceed the maximum 35-foot height limitation permitted in the Neighborhood Form District; the 75-foot parkway setback along Old Henry Road will not be affected by the Proposal, for the site has been designed to have the townhomes setback approximately 100 feet from the Old Henry right-of-way; the Property is surrounded on all sides by properties zoned single-family residential – predominantly the Woodmont neighborhood; this PRD Proposal will act as a suitable transition between Old Henry Road and the Woodmont properties that back up to the Property; the adjacent residential lots behind and to the sides of the Property, excluding the Forrester property which shares half of the southern property line, are located on land that sits above and slopes down toward the Property; as a result, the proposed townhomes will not overlook adjacent private yards; A combination of existing mature trees around the Property's perimeter the Applicant intends to preserve together with newly planted trees and landscaping along the perimeter and throughout the site will provide an appropriate screen between adjacent residential developments, ultimately strengthening compatibility and privacy; perimeter landscape buffer areas, interior landscaping, and tree canopy areas will comply if not exceed LDC requirements; as shown on the subdivision plan, a walking trail will be provided on a portion of the property that overlooks the stream that traverses the northeast section of the Property and will connect to an internal sidewalk to ensure pedestrian connectivity inside the development and out to Old Henry Road; outdoor lighting will be residential in character and will comply with LDC requirements. Therefore, the proposed development complies with Guideline 3 of the Comprehensive Plan; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Open Space and Natural Areas and Scenic Historic Resources guideline because as part of the Proposal, the Applicant intends to provide almost double the amount of open space required by the LDC; there are no historic or cultural resources on the site;

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a stream runs across the northeast portion of the Property and will be protected by a 25-foot stream buffer; a walking path above the stream is intended to promote pedestrian activity in an area where residents can enjoy the permanently preserved natural area; setbacks to perimeter property lines are increased to keep intact a portion of the mature tree canopy between the Property and surrounding single-family residences; accordingly, the proposed development meets Guidelines 4 and 5 of the Comprehensive Plan; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Circulation, Transportation Facility Design and Bicycle, Pedestrian and Transit guideline because the proposed development complies with Cornerstone 2020's Guidelines 7, 8, and 9 because the Property will have proper site access and will not adversely affect adjacent areas; the Applicant will be required to dedicate additional right-of-way, which will provide increased land area on which Louisville Metro Public Works and KYTC can implement improvements along Old Henry Road, a minor arterial roadway; the corresponding subdivision plan submitted herewith incorporates a depiction of KYTC's future improvements to Old Henry Road – as shown on KYTC's roadway plan for this section of Old Henry Road – so the Proposal's access design is appropriately coordinated with future roadway improvements; verge areas within the Old Henry right-of-way will be provided per Metro Public Works; KYTC review is also required; a private residence (Forester property) adjacent to the south of the Property currently prevents a vehicular connection from the Property to local road Oakvista Way; Meadows Pointe will be served by interconnected private roadways, with an interior sidewalk connected to a walking trail on the northeast side of the property to promote pedestrian movement; each of the proposed townhomes will have a 2-car garage and an 18-foot wide driveway that connects to one of three 24-foot wide private access roadways which, together, provide a uniform access to Old Henry Road; circulation and turning radii will all meet minimum standards of Metro Transportation Planning and Public Works; adequate parking spaces are provided on the subject property as required by the LDC, including handicapped spaces as required by the ADA; a common parking area is also provided onsite to accommodate extra guest parking that may not fit within the individual driveways, should said driveway space already be occupied; the subject property is not on an existing transit route, so there are no transit specific requirements; as mentioned, the private drives internal to the development will have 24 feet of pavement width within a 50-foot wide access easement, which provides ample room to accommodate bicycle traffic; therefore, the proposed development complies with Guidelines 7, 8, and 9 of the Comprehensive Plan; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Flooding, Stormwater and Water Quality guideline because Guidelines 10 and 11 of Cornerstone 2020 were put in place to minimize the potential for impacts of flooding and stormwater, protect water quality and assure the rate of flows of post-development

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stormwater drainage from the property being developed remains the same or less than the rate of flows of pre-development stormwater drainage; the proposed rezoning complies with Guidelines 10 and 11 of the Comprehensive Plan because the Proposal will include onsite stormwater detention and post-development peak flows will be limited to pre-development peak flows for the 2, 10, 25 and 100-year storms or to the capacity of the downstream system, whichever is more restrictive, thereby protecting adjacent and downstream properties from adverse impacts of stormwater drainage leaving the Property; as required by a note on the subdivision plan, local regulatory floodplain will be developed prior to MSD construction plan approval; any fill required in the local regulatory floodplain shall be compensated on the Property at a ratio of 1.5 to 1; to ensure completion of proposed storm-water infrastructure, the Property will be subject to MSD drainage bonding prior to construction plan approval; moreover, the final design of this project must meet all MS4 water quality regulations established by MSD; the layout of the site may change at the design phase to facilitate proper sizing of green best management practices; due to the Property's near proximity to Oldham County, Oldham County Environmental Authority must provide its approval of the sanitary sewer connection prior to MSD's approval of the construction plan; in addition, prior to site disturbance, an Erosion Prevention and Sediment Control Plan utilizing MSD's best management practices will be implemented; for the foregoing reasons, the proposed development complies with Cornerstone 2020's Guidelines 10 and 11; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Air Quality guideline because the Proposal complies with Cornerstone 2020 Guideline 12 because the applicant proposes a development that will cause very low impacts to existing traffic within the area; the efficient design of the site's access and internal roadway network will freely move automobiles to, from and around the site thereby not causing any degradation of air quality in the immediate area; the previous property owner dedicated necessary right-of-way along Old Henry Road frontage to accommodate mandated roadway improvements, which will assist KYTC and Public Works can improve existing roadway infrastructure, help prevent traffic congestion in the area, and ensure adequate road infrastructure for all proposed uses relying on Old Henry Road; a combination of sidewalk and walking path within the proposed development will encourage pedestrian activity around the site as well as provide a pedestrian connection to Old Henry Road; All of these measures will improve traffic conditions and, as a result will minimize air pollution; therefore, the proposed rezoning complies with Cornerstone 2020 Guideline 12; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Landscape Character guideline because the proposed rezoning complies with Guideline 13 of the Comprehensive Plan because it will meet the landscaping requirements of the Land Development Code; the intent of Guideline 13 is to make sure new communities, like Meadows Pointe, include internal landscaping and provide perimeter screening and

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buffering to provide appropriate transitions between developments; today, the site enjoys a robust tree canopy and the applicant intends to preserve an amount of the existing trees to exceed the tree canopy required by the LDC; perimeter setback areas on the Property will be maintained to help preserve mature trees, which constitute an effective natural screen between the Property and the adjacent single-family residences; a waiver is required for a detention basin easement to be located within the 50-foot parkway buffer along Old Henry Road; the detention basin will be an earthen basin and plantings will be installed within the parkway buffer to meet or exceed applicable LDC obligations, thereby reducing any effect the detention basin might have on the parkway buffer; Accordingly, the Commission finds the proposed development complies with Guideline 13; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Infrastructure and Community Facilities guideline because the proposed rezoning complies with Guidelines 14 and 15 of the Comprehensive Plan because utilities are available and can be affordably brought to the Property; furthermore, as mentioned, property has been dedicated to the Old Henry Road right-of-way, which will assist in facilitating the improvements KYTC has planned for Old Henry Road; sewers are available by lateral extension and will be serviced by Oldham County; the development is served by the Anchorage and/or Middletown Fire Department; for all of the reasons set forth at the LD&T Committee meeting and the November 27, 2018 Planning Commission public hearing, as well as all of the information submitted in the administrative record for Case No. 18ZONE1033, as evidenced by the most recent detailed development plan presented to the Commission, the applicant's request to change the zoning designation of the Property from R-4 Single-Family Residential to PRD Planned Residential Development to allow 31 single-family dwellings, some attached and some semi-detached, to be constructed on their own respective fee simple property is in agreement with all other applicable Intents, Policies, and Guidelines of the Cornerstone 2020 Comprehensive Plan; as a result, the Planning Commission finds the proposed rezoning complies with the required statutory criteria of KRS 100.213.

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council the change in zoning from R-4, Single Family Residential to PRD, Planned Residential Development on property described in the attached legal description be **APPROVED**.

The vote was as follows:

YES: Commissioners Brown, Carlson, Daniels, Howard, Lewis, Peterson, Robinson and Jarboe

NOT PRESENT AND NOT VOTING: Commissioners Smith and Tomes

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Variance from 5.3.1.D.1.B.v. to reduce the rear yard setback from 25' to 12.5' for Lots 16-27

On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution based on the Standard of Review and Staff Analysis, testimony heard today and the Applicant's Findings was adopted.

WHEREAS, the variance will not adversely affect the public health, safety or welfare because the proposed reduced rear yards are located internal to the site and will not affect the existing adjacent residential; and

WHEREAS, the requested variance will not alter the essential character of the general vicinity because the proposed reduced rear yards are located internal to the site and will not affect the existing adjacent residential; and

WHEREAS, the requested variance will not cause a hazard or nuisance to the public because the proposed reduced rear yards are located internal to the site and will not affect the existing adjacent residential; and

WHEREAS, the requested variance will not allow an unreasonable circumvention of the zoning regulations because the proposed reduced rear yards are located internal to the site and will not affect the existing adjacent residential; and

WHEREAS, the requested variance does not arise from any special circumstances. The applicant is proposing to reduce the rear yards of a couple of lots where most of the lots in the area meet the 25' rear yard but are located on large lots; and

WHEREAS, the Louisville Metro Planning Commission finds, the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant because the proposed reduced rear yards are located internal to the site and will not affect the existing adjacent residential; and

WHEREAS, the Louisville Metro Planning Commission further finds the circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought. The applicant chose to reduce the rear yards on only the lots that are internal that will not affect the adjacent properties; and

WHEREAS, in conjunction with the change in zoning from R-4, Single-Family Residential to PRD, Planned Residential Development for Meadows Pointe, the applicant requests a variance from Land Development Code ("LDC") Section 5.3.1.D.1.B.v. to allow a rear yard setback of 12.5 feet for townhome units 16 through 27 (the "Variance") on property located at 14798 & 14714 Old Henry Road (the

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“Property”); the requested Variance, as more fully explained herein complies with KRS 100.243; and

WHEREAS, the Variance will not adversely affect the public health, safety nor welfare because, as seen on the detailed development/subdivision plan submitted for Case No 18ZONE1033, the reduction in rear-yard setbacks involve townhome units that back up to each other within the middle of the Property and does not involve a reduction to rear-yard setbacks neighboring the single-family properties bordering the Property; given that the Variance being requested by the applicant is internal to the proposed development, its approval will not result in any adverse effects to the public health, safety, or welfare; and

WHEREAS, the requested Variance will not alter the essential character of the general vicinity because, as stated, the variance request seeks to reduce the rear-yard requirement of townhome units located in the middle of the development, thereby containing any negative effects the Variance could possibly convey toward the essential character of the general vicinity; as more fully described by the zoning compliance statement, the proposed PRD zoning will allow for a compact and efficient residential development on the Property not all that different in design to residential developments fronting on Old Henry Road to the south of the Property; the Meadows Pointe development proposes attached or semi-detached townhome residences on individual single-family lots; the applicant plans to construct these townhomes with the same level of quality in building materials and character in design as reflected by existing residential homes in the surrounding area; the Perimeter landscape buffer areas, interior landscaping, and tree canopy requirements will be met and maintained per LDC standards; accordingly, the Variance will not alter the essential character of the general vicinity; and

WHEREAS, the requested Variance to reduce the rear yard setback to a minimum of 12.5 feet will not cause a hazard or nuisance to the public; the proposed Variance of the internal-setback requirement will not affect properties outside of the development; and

WHEREAS, the requested Variance will not allow an unreasonable circumvention of the requirements of the zoning regulations because the Variance simply allows for the efficient development of the Property as single-family residential lots as opposed to an R-5A condominium development, which would permit this overall layout without requiring a variance, the Variance is internal to the Property and therefore does not negatively affect adjacent property owners; the proposed residential development will meet all landscape requirements of the Land Development Code and will promote the efficient use of land and investment in existing infrastructure;

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WHEREAS, in making the findings above, the Planning Commission must consider: (1) that special circumstances exist that do not apply to land in the general vicinity or in the same zone because the Property has a stream that traverses the eastern portion of the property, which the applicant seeks to permanently preserve; the presence of this natural feature on the Property is a primary thrust behind why the applicant appropriately seeks PRD zoning for the Property and PRD's allowance for flexible design of the site; (2) that while the applicant is responsible for the proposed building and site design, the above-referenced circumstances, especially the development limitations imposed upon the Property by the stream, are not the result of actions taken by the applicant subsequent to the adoption of the zoning regulation from which relief is granted; moreover, the applicant is not responsible for the current financial markets, which pose a significant bar to condominium development; consequently, the PRD rezoning and the associated Variance offer a reasonable alternative to condominium development by allowing for the development of Meadow Ponte on individual single-family lots; and (3) that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land because the Variance is internal to the development of the property and will not convey any negative impacts onto surrounding properties; ultimately the Variance will permit an efficient, compact design of residential development for the Property, similar to approved R-5A developments along Old Henry Road but with individual lots instead of having multiple dwellings on a shared property as found in R-5A condominium developments.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** a variance from 5.3.1.D.1.B.v. to reduce the rear yard setback from 25 feet to 12.5 feet for Lots 16-27.

The vote was as follows:

YES: Commissioners Brown, Carlson, Lewis, Peterson, Robinson and Jarboe

NO: Commissioners Daniels and Howard

NOT PRESENT AND NOT VOTING: Commissioners Smith and Tomes

Waiver from 10.3.5 to permit the encroachment of a detention basin into the parkway buffer along Old Henry Road

On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution based on the Standard of Review and Staff Analysis, testimony heard today and the Applicant's Findings was adopted.

WHEREAS, the waiver will not adversely affect adjacent property owners since the overlap of the easement will create more green space along Old Henry Road and all planting requirements will still be met; and

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WHEREAS, Guideline 3, Policy 9 calls for the protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigate 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 to mitigate 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 the 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 7 calls for the protection of the character of parkways and scenic by-ways and corridors through standards for buffers and landscape treatment. The intent of parkway buffers is to protect existing scenic and aesthetic qualities, to ensure a quality visual experience on developing corridors and to protect and improve the visual experience on established corridors. The parkway will still be protected since the overlap of the easement will create more green space along Old Henry Road and all planting requirements will still be met; and

WHEREAS, the Louisville Metro Planning Commission finds, the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since the overlap of the easement will create more green space along Old Henry Road and all planting requirements will still be met; and

WHEREAS, the Louisville Metro Planning Commission further finds 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 overlap of the easement will create more green space along Old Henry Road and all planting requirements will still be met; and

WHEREAS, in conjunction with the change in zoning application from R-4 Single-Family Residential District to PRD Planned Residential Development District ("PRD"), the applicant, Meadows Pointe, LLC, also requests a waiver of Land Development Code (LDC) Chapter 10.3.5.A.7 to allow the proposed detention basin located at the front of the Subject Property to encroach into the parkway buffer by more than 50%; the request will provide sufficient room to install all plantings in the parkway buffer along Old Henry Road as required by the LDC, is consistent with previously-approved waiver requests on property similarly situated on Old Henry Road, including for Case No 13856 (previously Docket No. 9-99-98), complies with listed requirements for granting waivers under the current LDC regulation standards as explained below and, therefore, should be approved; and

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WHEREAS, the requested waiver will not adversely affect adjacent property owners because the applicant will furnish nearly 30 feet of parkway buffer area on the Subject Property and will install landscaping around and within the proposed detention area, thereby appropriately blending the detention basin into property's natural landscape; in addition, as compared to the adjacent properties along Old Henry Rd., a generous portion of the Subject Property's frontage has already been dedicated for use as public right-of-way area along Old Henry Rd., resulting in a parkway buffer area and detention area on the Subject Property that will be located farther away from Old Henry Rd. than both the single-family home located on the property immediately to the south and the existing lift station located on the next-door property to the northeast; as a result of these considerations, the requested waiver will not adversely affect adjacent property owners; and

WHEREAS, the requested waiver will not violate the Comprehensive Plan because Meadows Pointe will be extensively landscaped and the detention basin will not diminish one bit from the aesthetic design of the development nor from the natural-looking view shed into Meadows Pointe from Old Henry Rd; no structures will be placed within the parkway setback; as mentioned, similar relief to the Old Henry Rd parkway buffer restriction has been granted in the past for properties located in the neighborhood, notably Hamilton Springs (Case No. 13856), where lakes (retention areas) were permitted as appropriately located within the parkway buffer; moreover, the requested waiver will not violate the Comprehensive Plan for all the reasons set forth in the applicant's justification statement for the proposed change in zoning; thus, the granting of this waiver request to allow a proposed detention basin to encroach within the Parkway Buffer by more than 50% will not violate the Comprehensive Plan; and

WHEREAS, the extent of the requested waiver is the minimum necessary to afford relief to the applicant because the proposed location for the detention basin is the ideal location on the Subject Property and, once constructed and planted, said basin will fit within the character of a landscaped buffer area; further, because a significant portion of the property was previously dedicated to public right-of-way, a substantial amount of green area will exist between the frontage of the property and the pavement of Old Henry Rd., and, combined with the additional plantings and parkway buffer area undisturbed by the detention basin, the view of the Subject Property from Old Henry Rd. will appear as if the parkway buffer area is fully intact; and

WHEREAS, the strict application of the regulations would cause an unnecessary hardship on the applicant because substantial area from the Subject Property was previously dedicated to Old Henry Rd public right-of-way, a portion of which will not be paved as part of the realignment and widening of Old Henry Rd and said unpaved area will act as an extension of the parkway buffer located on the Subject Property; consequently, the Subject Property's parkway buffer area will be wider than the parkway buffer areas on its

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neighboring properties; no structures will be located within the parkway buffer area and the detention basin area will be heavily landscaped, therefore the waiver relief will be imperceptible to drivers and pedestrians traveling past the Subject Property, and, therefore, the strict application of the landscaping regulation would deprive the applicant of the reasonable use of the Subject Property and cause the applicant an unnecessary hardship.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** a waiver from the Land Development Code section 10.3.5 to permit the encroachment of a detention basin into the parkway buffer along Old Henry Road.

The vote was as follows:

YES: Commissioners Brown, Carlson, Daniels, Howard, Lewis, Peterson, Robinson and Jarboe

NOT PRESENT AND NOT VOTING: Commissioners Smith and Tomes

District Development Plan/Preliminary Subdivision Plan with Binding Elements

On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution based on the Standard of Review and Staff Analysis and testimony heard today was adopted.

WHEREAS, the existing intermittent stream is being preserved on the site and the site is preserving 17% of the 79% existing tree canopy on the site; and

WHEREAS, 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 approved the preliminary development plan; and

WHEREAS, open space requirements are being met on the site through the stream buffer preservation and detention basin; and

WHEREAS, 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 Louisville Metro Planning Commission finds, the overall site design and land uses are compatible with the existing and future development of the area.

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Appropriate landscape buffering and screening will be provided to screen adjacent roadways. Buildings and parking lots will generally meet all required setbacks; and

WHEREAS, the Louisville Metro Planning Commission further finds the development plan generally conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the District Development Plan/Preliminary Subdivision 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. The development shall be in accordance with the approved Preliminary Subdivision Plan. No further subdivision of the land into a greater number of lots than originally approved shall occur without approval of the Planning Commission.
3. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
4. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
5. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, 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. 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.

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- c. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
6. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
 7. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the 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. 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 filed with the Secretary of State and recorded in the office of the Clerk of Jefferson County and the Certificate of Incorporation of the Homeowners Association.
 - b) A deed of restriction in a form approved by Counsel to the Planning Commission addressing (responsibilities for the maintenance of common areas and open space, maintenance of noise barriers, maintenance of WPAs, TTPAs) and other issues required by these binding elements / conditions of approval.
 - c) Bylaws of the Homeowner's Association in a form approved by the Counsel for the Planning Commission.
 9. At the time the developer turns control of the homeowner's association over to the homeowners, the developer shall provide sufficient funds to ensure there is no less than \$3,000 cash in the homeowner's association account. The subdivision performance bond may be required by the Planning Commission to fulfill this funding requirement.
 10. 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 dripline of the tree canopy and shall remain in place until all construction is completed. No parking,

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material storage, or construction activities shall be permitted within the fenced area."

11. All street signs shall be installed by the Developer, and shall conform with the Manual on Uniform Traffic Control Devices (MUTCD) requirements. Street signs shall be installed prior to the recording of the subdivision record plat or occupancy of the first residence on the street, and shall be in place at the time of any required bond release. The address number shall be displayed on a structure prior to requesting a certificate of occupancy for that structure.
12. 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.
13. The signature entrance shall be submitted to the Planning Commission staff for review and approval prior to recording the record plat.
14. Cross connectivity to the proposed private road on the development site will be permitted should the adjacent Forester property ever develop residentially.
15. Prior to the issuance of a building permit for lot 21. Commissioner Brown agreed and read the following: Prior to the issuance of the 21st building permit, if KYTC Project No. 5-367.20 has not went into construction phase, the developer shall pay the sidewalk fee-in-lieu amount based on the cost of the 10' multi-use path construction.
16. The building materials and design of the proposed structures shall be substantially the same as the building materials and design of the proposed structures depicted on the building elevations and renderings, as presented to the Planning Commission during its public hearing held on November 27, 2018. Building materials of the proposed structures shall consist of the combination of 70-80% brick, 15-25% fiber cement, and 2-5% stone.
17. Except for trees, vegetation and brush that pose a hazard or safety concern to persons or property, Applicant/Developer shall retain all existing vegetation, brush, and trees' driplines within specifically identified areas, measuring approximately 16 feet in depth, along the subject property's west and north perimeter property lines, as more specifically identified on the Applicant's Grading Worksheet, dated November 11, 2018, as submitted to the administrative record for Case No. 18ZONE1033. (On the Applicant's Grading Worksheet, The 16-foot boundary to these areas along the west and north property lines where the above vegetation is to be retained are marked in red ink and further identified by arrows). Dead or dying trees and vegetation, as

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determined by a licensed landscape architect or certified arborist, do not have to be retained within the specified area.

18. If any existing vegetation, brush, and/or trees located in the 16-foot area where vegetation, brush and/or trees are to be preserved, as required in binding element #17, are inadvertently destroyed during the construction phase(s), an arborist or licensed landscape architect approved by Planning & Design will coordinate with developer to replace the same with Kentucky native species. Developer shall be responsible for the costs associated with replanting, including the hiring of the arborist or licensed landscape architect.
19. With the exception of Lot # 15 and the end of Street C, as they are depicted on the submitted District Development Plan for 18ZONE1033, Applicant/Developer shall attempt in good faith to retain vegetation, brush and trees within a 16-foot-wide area as measured from the subject property's perimeter boundary for all areas along the subject property's perimeter boundary not identified by binding element #2 on the west, north, and east perimeter property lines of the Subject Property.
20. The proposed residential structures wall faces shall be constructed no closer than 33 feet from the west and north perimeter with the exception of unit 6 being setback 27' at its closest point from the northwest corner wall and 20' from the east perimeter as depicted on the proposed detailed district development plan/preliminary subdivision plan for case number 18zone1033.

The vote was as follows:

YES: Commissioners Brown, Carlson, Daniels, Lewis, Peterson, Robinson and Jarboe

NO: Commissioner Howard

NOT PRESENT AND NOT VOTING: Commissioners Smith and Tomes

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STANDING COMMITTEE REPORTS

Land Development and Transportation Committee

No report given.

Site Inspection Committee

No report given.

Planning Committee

No report given.

Development Review Committee

No report given.

Policy and Procedures Committee

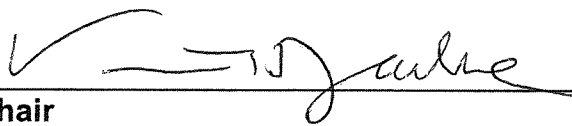
No report given.

CHAIRPERSON/DIRECTOR'S REPORT


No report given.

ADJOURNMENT

The meeting adjourned at approximately 9:12 p.m.



Chair



Planning Director

