

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO PLANNING COMMISSION
February 4, 2021**

A meeting of the Louisville Metro Planning Commission was held on February 4, 2021 at 1:00 p.m. via Cisco Webex Video Teleconferencing. On the recommendation of the Louisville Metro Department of Health and Wellness regarding congregate events and social distancing, the special Planning Commission meeting set for today was held online.

Commission members present:

Marilyn Lewis
Lula Howard
Jeff Brown
Rich Carlson
Robert Peterson
Ruth Daniels
Jim Mims
Pat Seitz
Te'Andrea Sistrunk
Patricia Clare

Staff Members present:

Emily Liu, Planning and Design Director
Joe Reverman, Planning and Design Assistant Director
Brian Davis, Planning and Design Manager
Joe Haberman, Planning and Design Manager
Julia Williams, Planning Supervisor
Dante St. Germain, Planner II
Joel Dock, Planner II
Molly Clark, Planner I
Sherie' Long, Landscape Architect
Beth Stuber, Engineering Supervisor
Laura Ferguson, Legal Counsel
Pamela M. Brashear, Management Assistant

The following matters were considered:

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APPROVAL OF MINUTES

**JANUARY 21, 2021 PLANNING COMMISSION ANNUAL MEETING MINUTES –
12:30 PM**

On a motion by Commissioner Carlson, seconded by Commissioner Sistrunk, the following resolution was adopted.

RESOLVED, that the Planning Commission does hereby **APPROVE** the minutes of its meeting conducted on January 21, 2021 at 12:30 p.m.

The vote was as follows:

YES: Commissioners Brown, Carlson, Clare, Howard, Mims, Peterson, Seitz, Sistrunk and Lewis

NOT PRESENT FOR THIS CASE: Commissioner Daniels

**JANUARY 21, 2021 PLANNING COMMISSION REGULAR MEETING MINUTES –
1:00 PM**

On a motion by Commissioner Carlson, seconded by Commissioner Peterson, the following resolution was adopted.

RESOLVED, that the Planning Commission does hereby **APPROVE** the minutes of its meeting conducted on January 21, 2021 at 1:00 p.m.

The vote was as follows:

YES: Commissioners Carlson, Clare, Mims, Peterson, Seitz, Sistrunk and Howard

NOT PRESENT FOR THIS CASE: Commissioner Daniels

ABSTAINING: Commissioners Brown and Lewis

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20-ZONE-0111

Project Name: Louisville Vegan Jerky
Location: 1311 S. Shelby Street
Owner(s): Second Chance Grocers, LLC
Applicant: Louisville Vegan Jerky
Representative(s): Gregg Rochman
Jurisdiction: Louisville Metro
Council District: 4 – Jecorey Arthur
Case Manager: Joel P. Dock, AICP, Planner II

Discussion

00:08:28 Joel Dock stated this case was scheduled for public hearing on February 18, 2021, but staff has received a petition for an evening hearing for that date. Staff recommends the item be included on the agenda with a note saying it will not start before 6:00 p.m. The meeting will be held virtually and at 444 S. 5th Street, room 101 for those that want to come in person.

Commissioner Peterson asks if there will be security. Ms. Liu said she will check on it.

Gregg Rochman, 1624 Trevilian Way, Louisville, Ky. 40205, is in agreement with the night hearing date and time.

Maria Gurren is in agreement as well.

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.

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

RESOLVED, that the Louisville Metro Planning Commission does hereby schedule this case for the February 18, 2021 Planning Commission evening hearing at 6:00 p.m.

The vote was as follows:

YES: Commissioners Brown, Carlson, Clare, Daniels, Howard, Mims, Peterson, Seitz, Sistrunk and Lewis

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BUSINESS SESSION

LDC REFORM UPDATE - 020421

Request: Land Development Code Reform
Staff Case Manager: Emily Liu, Director of Planning and Design Services

Discussion

00:17:23 Emily Liu, Planning & Design Director, provided an update for the LDC Reform project.

Mr. Haberman explained how to access the information on the website - to look up recommendations and provide feedback.

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.

NO ACTION

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BUSINESS SESSION

PARKING RESOLUTION - 020421

Request: Parking Resolution
Staff Case Manager: Emily Liu, Director of Planning and Design

Discussion

00:41:29 Emily Liu, Planning & Design Director, said staff would like the Planning Commission to pass a resolution to direct staff to re-evaluate the recently passed parking regulations.

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.

On a motion by Commissioner Carlson, seconded by Commissioner Peterson, the following resolution based on the recommendation by the Planning and Design Director was adopted.

RESOLVED, that the Louisville Metro Planning Commission does hereby **ADOPT** the Parking Resolution and direct staff to assign the appropriate number sequence.

The vote was as follows:

YES: Commissioners Brown, Carlson, Clare, Howard, Mims, Peterson, Seitz, Sistrunk and Lewis

NOT PRESENT AND NOT VOTING: Commissioner Daniels

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OLD BUSINESS

20-MPLAT-0135

Request: Waiver from Table 5.3.1 to not provide the minimum lot width
Project Name: Cleo Avenue Minor Subdivision Plat
Location: 1343 Cleo Avenue
Owner: Brentwood Property Design and Investment
Applicant: Clarisa De Luna
Representative: Clarisa De Luna
Jurisdiction: Louisville Metro
Council District: 2 – Barbara Shanklin
Case Manager: Molly Clark, Planner I

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

Discussion

00:47:34 Molly Clark stated the case needs to be continued to the February 18, 2021 Planning Commission meeting while the revised plat is being reviewed.

Clarisa De Luna is the applicant and stated she agrees with the case being continued.

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.

On a motion by Commissioner Howard, seconded by Commissioner Carlson, the following resolution was adopted.

RESOLVED, that the Louisville Metro Planning Commission does hereby **CONTINUE** this case to the February 18, 2021 Planning Commission meeting.

The vote was as follows:

YES: Commissioners Brown, Carlson, Clare, Daniels, Howard, Mims, Peterson, Seitz, Sistrunk and Lewis

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OLD BUSINESS

20-ZONE-0086

Request: Change in Zoning from R-4 to PRD with Detailed District Development Plan, Binding Elements, Major Preliminary Subdivision and Waivers
Project Name: Tucker Station Road Subdivision
Location: 3311 Tucker Station Road
Owner: Lori & Christopher Jones
Applicant: Tucker Station Development
Representative: Bardenwerper, Talbott & Roberts
Jurisdiction: Louisville Metro
Council District: 20 – Stuart Benson
Case Manager: Dante St. Germain, AICP, Planner II

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

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

NOTE: COMMISSIONERS BROWN, DANIELS AND SEITZ RECUSED

Agency Testimony:

00:53:18 This case was continued from the January 21, 2021 Planning Commission meeting.

Dante St. Germain presented a landscape exhibit that was provided by the applicant (see recording for details). The exhibit shows what the buffer between Tucker Station Road and the proposed rears of houses would look like.

Sherie Long provided a more detailed overview of the landscape exhibit provided by the applicant. The exhibit has a mixture of small and large trees, both deciduous and evergreen, as well as some shrubs and ornamental grasses to provide year-round buffering.

Dante St. Germain presented a rear façade exhibit showing what the rear of the units would look like from Tucker Station Road. These facades would be behind the landscaping shown in the landscape exhibit.

The following spoke in favor of this request:

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20-ZONE-0086

John Talbott, Bardenwerper, Talbott and Roberts, 1000 North Hurstbourne Parkway,
Louisville, Ky. 40222
Doug Schultz, Sabak, Wilson and Lingo, 608 South 3rd Street, Louisville, Ky. 40202

Summary of testimony of those in favor:

John Talbott spoke on behalf of the applicant. Mr. Talbott showed some slides from his PowerPoint presentation (see recording for detail and presentation). The applicant agrees to have a binding element that there will be no playground equipment or sheds in the rears that back up to Tucker Station. The applicant also previously agreed to irrigate the berm and to have the fence. In regards to the contiguous homes, Mr. Talbott believes this waiver is frequently granted and that the design of the homes is such that it does not look out of character with the area. The development is close to proposed Urton Lane and the Tyler Center so this density is appropriate.

Responding to a question from Commissioner Carlson, Doug Schultz, said the sidewalk at lot 24 will be 3-4 feet off the property line.

The following spoke in opposition to this request:

Steve Porter, 2406 Tucker Station Road, Louisville, Ky. 40299

Summary of testimony of those in opposition:

Steve Porter spoke in opposition to the request. Most of the issues his clients had have been taken care of by the applicant. The only remaining objective is that the development is not a conservation subdivision, and there isn't enough open space in the proposed development to meet that standard.

Rebuttal

John Talbott spoke in rebuttal. The neighborhood plan does not require conservation neighborhood plans, it encourages them. This development has an adequate amount of open space for the size of the development and its location.

Deliberation

01:40:09 Planning Commission deliberation.

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OLD BUSINESS

20-ZONE-0086

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 Howard, seconded by Commissioner Sistrunk, the following resolution based on the Plan 2040 Staff Analysis, testimony heard today and evidence provided was adopted.

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Community Form because, the proposed zoning district would not permit higher density or intensity uses; the proposed zoning district would allow uses that are of substantially similar scale and intensity to the existing uses near the site; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Form because, the proposal would permit new development providing residential uses; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Community Form because, no wet or highly permeable soils, or severe, steep or unstable slopes are evident on the site; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 4: Community Form because, most tree canopy on the site consisted of invasive species which have been removed; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Mobility because, the site is located near an existing activity center. The proposal would not permit higher density and intensity uses; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Mobility because, access to the site is via Tucker Station Road, a primary collector at this location; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Mobility because, Transportation Planning has approved the proposal; no direct residential access to high speed roadways is proposed; and

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WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Facilities because, the relevant utilities have approved the proposal; Louisville Water Company has approved the proposal; MSD has approved the proposal; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Livability because, the majority of the tree canopy on the site consisted of invasive species. The proposal will include replacement tree canopy which is not invasive; no karst topography is evident on the site; the site not located in the regulatory floodplain; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Housing because, the proposal would increase the variety of housing available in the neighborhood; the proposal would support aging in place by increasing the options for older adults and people with disabilities to live in the neighborhood; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Housing because, the proposal would permit inter-generational, mixed-income development that is connected to the neighborhood and surrounding area; the site is not located on or near a transit corridor, but is located near an existing activity center providing neighborhood goods and services; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Housing because, the proposal would encourage the provision of fair and affordable housing by providing a variety of ownership options and unit costs throughout Louisville Metro. It would expand opportunities for people to live in quality, variably priced housing in locations of their choice; no existing residents will be displaced by the proposal; The proposal would permit innovative methods of housing.

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to 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 Carlson, Clare, Howard, Mims, Peterson, Sistrunk and Lewis

RECUSED: Commissioners Brown, Daniels and Seitz

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Waivers

#1 – Waiver from 5.3.1.D.1.b.vi to allow more than 4 contiguous units in a PRD (20-WAIVER- 0100)

WHEREAS, the waiver will not adversely affect adjacent property owners as the extra contiguous units will be internal to the site and will generally not be visible to neighbors; and

WHEREAS, the waiver will not violate specific guidelines of Plan 2040 as Plan 2040 does not address the number of contiguous units in attached housing. Plan 2040 encourages a variety of housing options be provided in Louisville Metro, including both attached and detached housing units; 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 as having only four contiguous units would, in some places on the site, result in a single detached unit or two attached units, a less advantageous configuration than 5 or 6 attached units; and

#2 – Waiver from 7.3.30.E to allow a drainage easement to overlap a rear yard by more than 15% (20-WAIVER-0113)

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

WHEREAS, the waiver will not adversely affect adjacent property owners as the overlap between the rear yard and the drainage easement is not likely to be visible outside the property or increase drainage off the property; and

WHEREAS, the waiver will not violate specific guidelines of Plan 2040 as Plan 2040 does not address overlap between required yards and drainage easements; 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 as the overlap is made necessary by MSD generally requiring drainage easements to be in rear yards; and

WHEREAS, the Louisville Metro Planning Commission further finds 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 by requiring excess rear

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yard be reserved on lots that have the drainage easement, negatively impacting the building envelopes.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** Waiver #1 from 5.3.1.D.1.b.vi to allow more than 4 contiguous units in a PRD (20-WAIVER- 0100) and Waiver #2 from 7.3.30.E to allow a drainage easement to overlap a rear yard by more than 15% (20-WAIVER-0113).

The vote was as follows:

YES: Commissioners Carlson, Clare, Howard, Mims, Peterson, Sistrunk and Lewis

RECUSED: Commissioners Brown, Daniels and Seitz

Detailed District Development Plan/Major Preliminary Subdivision (20-MSUB-0008) with Binding Elements

On a motion by Commissioner Howard, seconded by Commissioner Peterson, the following resolution was adopted.

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 has approved the preliminary development plan; and

WHEREAS, open space is being provided in compliance with the requirements of the Land Development Code; 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

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the Detailed District Development Plan/Major Preliminary Subdivision (20-MSUB-0008), **SUBJECT** to the following Binding Elements:

1. 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.

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2. 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.
3. 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.
4. 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 trees and fences within buffer areas 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.
5. 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.
6. 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.
7. A note shall be placed on the preliminary plan, construction plan(s) and the record plat that states, "Construction fencing shall be erected to protect trees on site and 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

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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 areas.”

8. The applicant shall submit a plan for approval by Planning Commission staff showing trees/tree masses to be preserved prior to beginning any construction procedure (i.e. clearing, grading, demolition). Adjustments to the tree preservation plan which are requested by the applicant may be approved by Planning Commission staff if the revisions are in keeping with the intent of the approved tree preservation plan. The plan shall exhibit the following information:
 - a. Proposed site plan (showing buildings, edges of pavement, property/lot lines, easements, existing topography, and other significant site features (LOJIC topographic information is acceptable).
 - b. Preliminary drainage considerations (retention/detention, ditches/large swales, etc.).
 - c. Location of all existing trees/tree masses existing on the site as shown by aerial photo or LOJIC maps.
 - d. Location of construction fencing for each tree/tree mass designated to be preserved.
9. An original stamped copy of the approved Tree Preservation Plan shall be present on site during all clearing, grading, and construction activity and shall be made available to any DPDS inspector or enforcement officer upon request.
10. 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.
11. Trees will be preserved and/or provided on site and maintained thereafter as required by Chapter 10, Part 1 of the Land Development Code and as indicated in the Tree Canopy Calculations on the Preliminary Subdivision Plan. The applicant shall submit a landscape plan for approval by Planning Commission staff for any trees to be planted to meet the Tree Canopy requirements of Chapter 10, Part 1 of the Land Development Code. A tree preservation plan shall be submitted for review and approval for any trees to be preserved to meet the Tree Canopy requirements of Chapter 10.

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12. The signature entrance shall be submitted to the Planning Commission staff for review and approval prior to recording the record plat.
13. The applicant shall submit a landscape plan for approval by Planning Commission staff showing plantings and/or other screening and buffering materials to comply with the Chapter 10 of the Land Development Code prior to recording the record plat. The applicant shall provide the landscape materials on the site as specified on the approved Landscape Plan prior to issuance of Certificates of Occupancy for the site.
14. The applicant shall install signs, each to be located within the public right-of-way of Street B, one at the northern terminus of Street B, and one at the eastern terminus of Street B. These signs shall indicate that Street B shall, in the future, extend beyond the subject property and connect to roadways on adjacent properties. Such signage and location are subject to the prior approval by the Louisville Metro Public Works Department and shall be installed prior to release of bonds for the installation of the street infrastructure.
15. The developer shall be responsible for maintenance of all drainage facilities and undeveloped lots ensuring prevention of mosquito breeding, until such time as the drainage bond is released.
16. After release of the drainage bond, mosquito abatement on open space lots shall be the responsibility of the Homeowners Association. Accumulations of water in which mosquito larvae breed or have the potential to breed are required to be treated with a mosquito larvicide approved by the Louisville Metro Health Department. Larvicides shall be administered in accordance with the product's labeling. This language shall appear in the deed of restrictions for the subdivision.
17. PRD Transfer of Infrastructure Binding Element Covenants, Conditions, and Restrictions ("CCRs") shall be prepared by the developer to be submitted to and reviewed and approved by Planning Commission legal counsel, prior to recording of the subdivision's Record Plat, for consistency with any binding elements that mandate inclusion in the CCRs, as well as the inclusion of the following requirements:
 - (a) all road, drainage, sanitary sewer, water, other necessary infrastructure and other required landscaping and facilities shall be installed by the developer prior to turn-over of maintenance responsibilities to the Home Owners Association ("HOA");
 - (b) any shared water meters and property service connections for sanitary sewers shall be the sole responsibility of the HOA;

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- (c) any water, sewer and drainage facilities that cross lot lines shall be included in blanket easements for purposes of both lot owner and HOA access and maintenance; and
 - (d) where attached residences are proposed, easements shall be provided to provide for incidental encroachments, property maintenance and repair.
18. The rear facades of the building constructed on lots 24-27 shall be substantially similar to the elevations shown at the February 4, 2021 Planning Commission hearing.
19. The developer shall submit a landscape plan which reflects, at a minimum, the landscaping depicted in the landscape exhibit shown at the February 4, 2021 Planning Commission hearing. The landscape plan shall be in compliance with Chapter 10 of the Land Development Code.
20. Lighting shall comply with the following restrictions:
- a) All exterior lighting, whether freestanding or attached to any structure, including street lights and lighting for any signage, shall be fully shielded, shall utilize flat or hidden lenses, and shall be pointed directly to the ground. The following are exceptions to this requirement:
 - i) A partly shielded or unshielded decorative wall sconce(s) shall be allowed at a front entry to a residence if the total output in lumens does not exceed 2000 lumens,
 - ii) Open flame gas lamps,
 - iii) Lighting installed with a vacancy sensor, where the sensor extinguishes the lights no more than 15 minutes after the area is vacated,
 - iv) Low voltage landscape lighting aimed away from adjacent properties and not exceeding 2000 lumens in output
 - b) No LED or metal halide lighting shall have a correlated color temperature (CCT) exceeding 3000 degrees Kelvin.
 - c) These lighting restrictions shall also be included in the subdivision Covenants, Conditions and Restrictions (CCR's) which are recorded and shall be provided to every purchaser of property in the subdivision.

The vote was as follows:

YES: Commissioners Carlson, Clare, Howard, Mims, Peterson, Sistrunk and Lewis

RECUSED: Commissioners Brown, Daniels and Seitz

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PUBLIC HEARING

20-ZONE-0092

Request: Change in Zoning from R-4 to PRD with Waiver, Detailed District Development Plan, Binding Elements, abandonment of existing Binding Elements, and Major Preliminary Subdivision

Project Name: Cedar Ridge

Location: 8203 & 8211 Cedar Creek Road, Parcel 065700830000

Owner: Limestone Builders Inc.

Applicant: Limestone Builders Inc.

Representative: Wyatt, Tarrant & Combs, LLP

Jurisdiction: Louisville Metro

Council District: 22 – Robin Engel

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

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

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

Agency Testimony:

01:57:50 Dante St. Germain 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, 400 West Market Street, Suite 2000, Louisville, Ky. 40202
Kelli Jones, Sabak, Wilson and Lingo, 608 South 3rd Street, Louisville, Ky. 40202

Summary of testimony of those in favor:

02:05:40 Jon Baker gave a power point presentation. The request is for a zoning change and associated development review applications in the form of a preliminary subdivision. Section 1 will be amended to remove the buildable lots and expanding the detention basin/open space. There will also be a subdivision plan for Section 2. There is also a waiver to allow an easement to occupy at least 50% of the rear yard requirement.

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02:13:03 Kelli Jones continued the power point presentation. The road width dimensions were corrected. There have been discussions with Metro Public Works and the applicant has agreed to do some road improvements across the frontage of Section 2 (couple of options). There has been extensive work with MSD to make sure to reduce the impacts of any increased impervious area. No drainage will go to the neighbor's pond and the runoff will be restricted.

02:22:47 Jon Baker discussed the traffic – left turn lane is not warranted. There are 90 buildable lots and renderings of the homes were provided.

Commissioner Mims asked what will be used to deter children from wandering onto the neighbor's land/pond. Jon Baker said there are a number of ponds with trees surrounding them. A four-foot fence would be keeping with the character of the neighborhood or vegetation to screen. Kelli Jones said screening is not required.

The following spoke in opposition to this request:

Karen Sims, 8305 Cedar Creek Road, Louisville, Ky. 40291

Summary of testimony of those in opposition:

02:33:21 Karen Sims said there is a fence around the entire perimeter of the rock quarry. A barrier is needed for the pond because it will entice children. Also, there will be flooding because of the additional paving.

Karen Sims said she doesn't want the detention basin draining through her property.

Commissioner Mims said it should be easy to put up some type of barrier. Can Kelli respond to the detention basin issue? Kelli Jones said they are doing what MSD has instructed them to do.

Commissioner Carlson suggests a four-board horse fence. Jon Baker said they would prefer a wrought iron or aluminum fence.

Deliberation

02:45:06 Planning Commission deliberation.

Dante St. Germain read the following binding element regarding the fence (replace binding element in staff report): The developer shall install a black aluminum or wrought

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iron fence between the southern property line of the development site and the property located at 8305 Cedar Creek Rd. Said property line being the distance of approximately 455 feet. The fence shall be 4 feet in height and the HOA shall be responsible for maintenance and, when necessary, replacement of the fence. Jon Baker said he prefers the responsibility lies with each individual property/lot owner instead of the HOA. Dante St. Germain said it will be hard to enforce that. Consensus of the commissioners is that the fence isn't warranted.

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 Seitz, the following resolution based on the Plan 2040 Staff Analysis and testimony heard today was adopted.

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Community Form because, the proposal is not for a higher intensity or density zoning district. The site is located adjacent to existing PRD zoning; the proposal will comply with transition requirements; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Form because, the proposal is for new development and a residential zoning district; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Community Form because, no wet or highly permeable soils, or severe, steep or unstable slopes are evident on the site; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 4: Community Form because, no distinctive cultural features are evident on the site; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Mobility because, the proposal is not for a higher intensity or density zoning; and

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WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Mobility because, access to the development will be achieved via Cedar Creek Road, a secondary collector at this location; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Mobility because, Transportation Planning has approved the proposal; No direct residential access to high speed roadways is proposed; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Facilities because, the relevant utilities have approved the proposal; Louisville Water Company has approved the proposal; MSD has approved the proposal; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Livability because, tree canopy and open space will be provided in accordance with the Land Development Code; no karst features are evident on the site; the subject site is not located in the regulatory floodplain; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Housing because, the proposal encourages a variety of housing types, including detached and attached single family; the proposal would support aging in place by increasing the variety of housing options in the neighborhood; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Housing because, the proposed zoning district will allow for inter-generational, mixed-income development that is connected to the neighborhood and surrounding area; the proposal will provide connectivity to Bardstown Road, and will be located less than one mile from Bardstown Road, a multi-modal transportation corridor; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Housing because, the proposed zoning district would expand the provision of fair and affordable housing by increasing the variety of ownership options and unit costs in Louisville Metro; no existing residents will be displaced by the proposal; the proposed zoning district will allow the use of innovative methods of housing.

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to Metro Council the change in zoning from R-4, Single Family

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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, Clare, Daniels, Howard, Mims, Peterson, Seitz, Sistrunk and Lewis

Waiver from 7.3.30.E to allow a rear yard to overlap a drainage easement by more than 15% (21-WAIVER-0007)

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

WHEREAS, the waiver will not adversely affect adjacent property owners as the overlap between the rear yard and the drainage easement is not likely to be visible outside the property or increase drainage off the property; and

WHEREAS, the waiver will not violate specific guidelines of Plan 2040 as Plan 2040 does not address overlap between required yards and drainage easements; 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 as the overlap is made necessary by MSD generally requiring drainage easements to be in rear yards; and

WHEREAS, the Louisville Metro Planning Commission further finds 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 by requiring excess rear yard be reserved on lots that have the drainage easement, negatively impacting the building envelopes.

WHEREAS, the requested waiver relief from Chapter 7 of the LDC is to allow design of Cedar Creek Section II to mimic the existing design of Cedar Creek Section I, which allows for smaller sized single-family lots, as supported by the PRD zoning designation the applicant currently seeks. As part of the overall Cedar Ridge site design, the proposed waiver relief will allow for the applicant to properly handle drainage throughout the development, which will benefit adjacent property owners. The relief to allow a certain amount of rear yards to be occupied by drainage

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easements is primarily internal to the development, for all required building setbacks within the proposed Section II of Cedar Ridge will comply with LDC requirements. Accordingly, the waiver will not adversely affect adjacent property owners; and

WHEREAS, Cedar Ridge is within the Neighborhood Form District. Plan 2040 's Community Form Plan Element Goal 1, Policy 3.1.3 advises the Neighborhood Form is characterized predominantly by residential uses that vary from low to high density and that blend compatibly into the existing overall landscape and neighborhood areas. Further, Plan 2040 states the Neighborhood Form should provide diverse housing types and housing choices for differing ages, incomes, and abilities. New neighborhoods are encouraged to incorporate these different housing types and styles within a neighborhood as long as the different types are designed to be compatible with nearby land uses. Consistent with the goals and policies of Plan 2040's Neighborhood Form are the Goals set forth in Plan 2040's Housing Plan Element, which aim to: 1) Expand and ensure a diverse range of housing choices 2) Facilitate the development of connected mixed -use neighborhoods; and 3) Ensure long-term affordability and livable options in all neighborhoods. The PRD zoning district being sought for the Property is an LDC zoning regulation consistent with these aforementioned Plan 2040 Goals and, what's more, is a method by which applicants can implement these very Plan 2040 Goals because it provides for flexibility in design of residential developments, allowing zero lot line, townhouse, cluster housing, reduced lot sizes and building setbacks, and other innovative site designs. Provided the support for differentiation of site design of residential developments set forth within the Comprehensive Plan and encouragement for residential developments to provide a variety in housing styles and types, and with the PRD regulations being an implementation tool of these Comprehensive Plan policies, the requested waiver is not incongruent nor violative with Plan 2040. Rather the opposite is the case, for when sites are designed to create those residential subdivisions that are more compact in nature, land area is more constricted and limited, thereby leaving less area for accommodating utility and drainage systems throughout the subject site. Here, the rear yard areas where the drainage easements will overlap will remain usable by the resident and will not appear as anything other than a rear yard. As it applies to Cedar Ridge Section 11, this waiver will allow the applicant to properly mitigate excess runoff onsite and will have no effect on the requirements of the Comprehensive Plan. Accordingly, the granting of the requested waiver will not violate the Comprehensive Plan; and

WHEREAS, the Louisville Metro Planning Commission finds, the Applicant has designed the site so that the extent of the waiver is the minimum necessary to afford relief to the applicant within the confines of the property and so that no building setback requirements will be affected by encroachment or negatively

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minimized. And, as mentioned, the rear yards of the proposed lots will allow for use of said backyards, just no location therein of structures. Therefore, the extent of waiver of the regulation is the minimum necessary to afford relief to the applicant; and

WHEREAS, the Louisville Metro Planning Commission further finds the strict application of zoning regulation requirements would deprive the applicant of a reasonable use of the land and create an unnecessary hardship on the applicant because to comply with this particular Chapter 7 regulation, the applicant would need to reduce the size of the building footprints of the majority of the houses proposed for Cedar Ridge Section II, thereby creating an unbalanced development between Cedar Ridge Sections I and II. Moreover, the applicant might be required to drop a number of building lots, which seems to run counter to the intent of the PRO regulation, which promotes flexibility in site design of residential developments such as the proposed Cedar Ridge, which the applicant specifically designed with reduced lot sizes because there is high demand for this very housing product, as evidenced by the popularity of the houses in Cedar Ridge Section I. Strict adherence to LDC 7.3.30.E would deprive the applicant of the ability to build out Section II of Cedar Ridge to match the look and feel of existing Cedar Ridge Section I, potentially damaging the ability to sell residential lots in Section II as well as creating an unbalanced looking residential development in general. Avoiding this unnecessary hardship warrants relief from LDC 7.3.30.E.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** a Waiver from 7.3.30.E to allow a rear yard to overlap a drainage easement by more than 15% (21-WAIVER-0007).

The vote was as follows:

YES: Commissioners Brown, Carlson, Clare, Daniels, Howard, Mims, Peterson, Seitz, Sistrunk and Lewis

Detailed District Development Plan/Major Preliminary Subdivision with abandonment of existing Binding Elements and adopt proposed Binding Elements (20-MSUB-0010)

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

Existing Binding Elements/Conditions of Approval (to be abandoned)

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1. 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.
2. 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.
3. 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.
4. 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 trees and fences within buffer areas 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.
5. 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.

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6. 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.
- ~~7. The homes in the development shall have varying garage door detail to provide a variety of appearance.~~
- ~~8. Each home shall have a minimum of 75 percent masonry (brick, stone, etc.) exterior on the 1st floor.~~
9. A note shall be placed on the preliminary plan, construction plan(s) and the record plat that states, "Construction fencing shall be erected to protect trees on site and 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 areas."
10. The applicant shall submit a plan for approval by Planning Commission staff showing trees/tree masses to be preserved prior to beginning any construction procedure (i.e. clearing, grading, demolition). Adjustments to the tree preservation plan which are requested by the applicant may be approved by Planning Commission staff if the revisions are in keeping with the intent of the approved tree preservation plan. The plan shall exhibit the following information:
 - a. Proposed site plan (showing buildings, edges of pavement, property/lot lines, easements, existing topography, and other significant site features (LOJIC topographic information is acceptable).
 - b. Preliminary drainage considerations (retention/detention, ditches/large swales, etc.).
 - c. Location of all existing trees/tree masses existing on the site as shown by aerial photo or LOJIC maps.
 - d. Location of construction fencing for each tree/tree mass designated to be preserved.
11. An original stamped copy of the approved Tree Preservation Plan shall be present on site during all clearing, grading, and construction activity and shall be made available to any DPDS inspector or enforcement officer upon request.
12. 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

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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.

13. Trees will be preserved and/or provided on site and maintained thereafter as required by Chapter 10, Part 1 of the Land Development Code and as indicated in the Tree Canopy Calculations on the Preliminary Subdivision Plan. The applicant shall submit a landscape plan for approval by Planning Commission staff for any trees to be planted to meet the Tree Canopy requirements of Chapter 10, Part 1 of the Land Development Code. A tree preservation plan shall be submitted for review and approval for any trees to be preserved to meet the Tree Canopy requirements of Chapter 10.
14. The signature entrance shall be submitted to the Planning Commission staff for review and approval prior to recording the record plat.
15. The applicant shall submit a landscape plan for approval by Planning Commission staff showing plantings and/or other screening and buffering materials to comply with the Chapter 10 of the Land Development Code prior to recording the record plat. The applicant shall provide the landscape materials on the site as specified on the approved Landscape Plan prior to issuance of Certificates of Occupancy for the site.
16. The applicant shall install signs, each to be located within the public right-of-way of Street B, one at the northern terminus of Street B, and one at the southern terminus of Street B. These signs shall indicate that Street B shall, in the future, extend beyond the subject property and connect to roadways on adjacent properties. Such signage and location are subject to the prior approval by the Louisville Metro Public Works Department and shall be installed prior to release of bonds for the installation of the street infrastructure.
17. Developer shall be responsible for any required utility relocations, final surface overlay, signage, and striping associated with required road improvements to Cedar Creek Road as shown on the approved detailed district development plan / major subdivision preliminary plan. Construction plans, bond, and permit are required by Metro Public Works prior to construction approval and issuance of MPW encroachment permit. Developer shall not request a certificate of occupancy until road improvements are complete.
- ~~18. Prior to issuance of the first certificate of occupancy:
a. Applicant shall install a standard Kentucky four board fence approximately along the common property line of Walter M. and Sharon Miller (DB 5852, P 522)~~

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~~(the "Millers") beginning 30 feet back from the Cedar Creek Road right-of-way, and extending back the length of the common property line except where the fence would be in the right-of-way in which case the fence shall be located on the Millers' side of the common property line. The fence to the extent it is on the applicant's property shall be maintained by Applicant or its successors in good condition thereafter.~~

~~b. Applicant shall install the same style four board fence on the Millers' property where it abuts the stub of Gentlewind Way for the width of the Gentlewind Way right-of-way (60 feet), provided that the Millers' grant all necessary construction easements and licenses to Applicant, its representatives and contractors. Following installation, Applicant shall have no responsibility to maintain the fence to the extent it is located on the Millers' property.~~

~~19. Future development of Millers' property. At such time as either Street B or Gentlewind Way is connected through the Millers' property, the fence shall be removed to the extent necessary as determined by Louisville Metro Public Works for adequate sight distance and safety. Such fence removal shall not be the responsibility of Applicant or Applicant's successors.~~

~~20. The approved landscaping plan shall provide for landscaping materials (3 Type A/B trees per 100 linear feet) within the 15' buffer area (as shown on the approved preliminary subdivision plan).~~

~~21. Design flexibility. In order to promote design flexibility and market responsiveness, Applicant reserves the right to vary the distribution of two-plex and three-plex units only from that shown on the approved district development plan in accordance with LDC Section 11.4.E.3 and Planning Commission Policy 4.05.07.~~

~~22. Landscaping, to include shrubs where appropriate, shall be installed in the greenspaces between driveways to provide relief between expanses of pavement. Proposed planting materials and details shall be reviewed by the staff Landscape Architect at the time of landscape plan review/approval.~~

23. PRD Transfer of Infrastructure Binding Element Covenants, Conditions, and Restrictions ("CCRs") shall be prepared by the developer to be submitted to and reviewed and approved by Planning Commission legal counsel, prior to recording of the subdivision's Record Plat, for consistency with any binding elements that mandate inclusion in the CCRs, as well as the inclusion of the following requirements: (a) all road, drainage, sanitary sewer, water, other necessary infrastructure and other required landscaping and facilities shall be installed by the developer prior to turn-over of maintenance

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responsibilities to the Home Owners Association ("HOA"); (b) any shared water meters and property service connections for sanitary sewers shall be the sole responsibility of the HOA; and (c) any water, sewer and drainage facilities that cross lot lines shall be included in blanket easements for purposes of both lot owner and HOA access and maintenance; and ~~(d) where attached residences are proposed, easements shall be provided to provide for incidental encroachments, property maintenance and repair.~~

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the Detailed District Development Plan/Major Preliminary Subdivision with abandonment of existing Binding Elements and **SUBJECT** to the following Binding Elements (20-MSUB-0010):

1. 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.
2. 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.
3. 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.
4. 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

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and open space, maintenance of trees and fences within buffer areas 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.

5. 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.
6. 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.
7. A note shall be placed on the preliminary plan, construction plan(s) and the record plat that states, "Construction fencing shall be erected to protect trees on site and 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 areas."
8. The applicant shall submit a plan for approval by Planning Commission staff showing trees/tree masses to be preserved prior to beginning any construction procedure (i.e. clearing, grading, demolition). Adjustments to the tree preservation plan which are requested by the applicant may be approved by Planning Commission staff if the revisions are in keeping with the intent of the approved tree preservation plan. The plan shall exhibit the following information:
 - e. Proposed site plan (showing buildings, edges of pavement, property/lot lines, easements, existing topography, and other significant site features (LOJIC topographic information is acceptable).
 - f. Preliminary drainage considerations (retention/detention, ditches/large swales, etc.).
 - g. Location of all existing trees/tree masses existing on the site as shown by aerial photo or LOJIC maps.
 - h. Location of construction fencing for each tree/tree mass designated to be preserved.

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9. An original stamped copy of the approved Tree Preservation Plan shall be present on site during all clearing, grading, and construction activity and shall be made available to any DPDS inspector or enforcement officer upon request.
10. 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.
11. Trees will be preserved and/or provided on site and maintained thereafter as required by Chapter 10, Part 1 of the Land Development Code and as indicated in the Tree Canopy Calculations on the Preliminary Subdivision Plan. The applicant shall submit a landscape plan for approval by Planning Commission staff for any trees to be planted to meet the Tree Canopy requirements of Chapter 10, Part 1 of the Land Development Code. A tree preservation plan shall be submitted for review and approval for any trees to be preserved to meet the Tree Canopy requirements of Chapter 10.
12. The signature entrance shall be submitted to the Planning Commission staff for review and approval prior to recording the record plat.
13. The applicant shall submit a landscape plan for approval by Planning Commission staff showing plantings and/or other screening and buffering materials to comply with the Chapter 10 of the Land Development Code prior to recording the record plat. The applicant shall provide the landscape materials on the site as specified on the approved Landscape Plan prior to issuance of Certificates of Occupancy for the site.
14. The applicant shall install a sign, to be located within the public right-of-way of Cedar Crest Lane, at the northern terminus. This sign shall indicate that Cedar Crest Lane shall, in the future, extend beyond the subject property and connect to roadways on adjacent properties. Such signage and location are subject to the prior approval by the Louisville Metro Public Works Department and shall be installed prior to release of bonds for the installation of the street infrastructure.
15. The developer shall be responsible for maintenance of all drainage facilities and undeveloped lots ensuring prevention of mosquito breeding, until such time as the drainage bond is released.

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16. After release of the drainage bond, mosquito abatement on open space lots shall be the responsibility of the Homeowners Association. Accumulations of water in which mosquito larvae breed or have the potential to breed are required to be treated with a mosquito larvicide approved by the Louisville Metro Health Department. Larvicides shall be administered in accordance with the product's labeling. This language shall appear in the deed of restrictions for the subdivision.
17. Developer shall be responsible for any required utility relocations, final surface overlay, signage, and striping associated with required road improvements to Cedar Creek Road as shown on the approved detailed district development plan / major subdivision preliminary plan. Construction plans, bond, and permit are required by Metro Public Works prior to construction approval and issuance of MPW encroachment permit. Developer shall not request a certificate of occupancy until road improvement schematics presented at the February 4, 2021 Planning Commission meeting are complete.
18. PRD Transfer of Infrastructure Binding Element Covenants, Conditions, and Restrictions ("CCRs") shall be prepared by the developer to be submitted to and reviewed and approved by Planning Commission legal counsel, prior to recording of the subdivision's Record Plat, for consistency with any binding elements that mandate inclusion in the CCRs, as well as the inclusion of the following requirements: (a) all road, drainage, sanitary sewer, water, other necessary infrastructure and other required landscaping and facilities shall be installed by the developer prior to turn-over of maintenance responsibilities to the Home Owners Association ("HOA"); (b) any shared water meters and property service connections for sanitary sewers shall be the sole responsibility of the HOA; and (c) any water, sewer and drainage facilities that cross lot lines shall be included in blanket easements for purposes of both lot owner and HOA access and maintenance.

The vote was as follows:

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

NO: Commissioners Carlson and Clare

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Request: Change in Zoning from OR-2 to C-2, with Conditional Use Permit for Mini-Warehouse, Detailed District Development Plan and Binding Elements, Waiver and Variance

Project Name: Chestnut Indoor Self Storage

Location: 718 – 722 E Chestnut Street

Owner: Matt Ellis & Daughters LLC

Applicant: Matt Ellis & Daughters LLC

Representative: Dinsmore & Shohl LLC

Jurisdiction: Louisville Metro

Council District: 4 – Jacorey Arthur

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

NOTE: CHAIR LEWIS RECUSED

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:

03:04:13 Dante St. Germain discussed the case summary, standard of review and staff analysis from the staff report.

Commissioner Clare asked if the vehicular entrance in the front of the building requires a variance. Dante St. Germain said it does require relief from part of the conditional use permit.

The following spoke in favor of this request:

Cliff Ashburner, Dinsmore and Shohl, 101 South 5th Street, Suite 2500, Louisville, Ky. 40202

Scott Kremer, Studio Kremer Architect, 1231 South Shelby Street, Louisville, Ky. 40203

Summary of testimony of those in favor:

03:16:22 Cliff Ashburner gave a power point presentation. The proposed area is undergoing a fair amount of development/redevelopment and there's a mixture of

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building types in the area. We will try to accommodate some of Dave Marchal's comments regarding the design. The building will be set back and screened with landscaping. The loading trucks will enter the building before loading/unloading. The proposed building is 4-stories and will cover the entire block. The dumpster will be relocated (if needed) to comply with the fire code.

03:31:24 Scott Kremer discussed the elevations. The brick details are being used to reference the historical idea that there would have been windows that had to be closed in when this building was conceptually converted to warehousing. The north façade facing Chestnut is intended to mimic the historic fire houses. The doors will have normal functionality.

03:36:36 Commissioner Clare asked, on the front elevation, do you reference that height in any way architecturally? Scott Kremer said there will be no horizontal banding but is trying to give a tall vertical scale of the windows – good definition of the scale of each floor. Some horizontal banding can be added in the brick work.

Commissioner Daniels asked if there was any thought given to providing more than 1 door for trucks to enter the building. Scott Kremer said the door is wide and there's room inside for 4 vehicles to be inside the building at any given time.

Commissioner Sistrunk suggests, in addition to banding, adding colors in the brick. Cliff Ashburner said there will be a binding element to work with the design staff.

Commissioner Clare stated that vehicular (loading) door on Chestnut doesn't feel right and the treatment of that door will be critical in terms of how the building works with Chestnut St. and how it develops in the future. Commissioner Sistrunk suggests that the applicant use a historical firehouse door. Scott Kremer said they will look into it.

Commissioner Seitz asked if there are any other buildings in the area that are close in height. Mr. Ashburner said yes, the LDG development across Springer Alley (4-stories).

Commissioner Seitz said the siding on top of the building will make it look more massive.

Commissioner Carlson asked about construction of the building and if there will there be a sprinkler system. Mr. Ashburner said the building will be black and steel with concrete floors (limited combustible).

Commissioner Carlson said it doesn't look like a fire station.

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The following spoke neither for nor against the request:

Kyle Shemp, 322 Zorn Avenue, Louisville, Ky.

Summary of testimony of those neither for nor against:

04:01:35 Kyle Shemp is concerned about the back alley (very narrow). Is it wide enough for the trucks?

04:05:45 Vice Chair Howard stated she doesn't have a copy of the justification statement. Could Mr. Ashburner address the conditional use permit (B, F and G)? Mr. Ashburner explained (see recording for details).

Rebuttal

04:09:24 Mr. Ashburner said industrial has been at that location for decades. The downtown area is changing and that change is good. The influx of multi-family brings about a demand for storage. We will continue to work with the Urban Design staff and will agree to a binding element that the final elevations will be approved by them as well.

Commissioner Clare asked Mr. Ashburner if they considered coming in from the alley and not have the loading door on Chestnut so the maneuvering would be inside the building. Mr. Ashburner said no because maneuvering in the building would have eliminated almost all of the entire first floor.

Deliberation

04:14:12 Commissioner Peterson agrees with letting staff handle the design issue. Height was a concern but building design addresses that.

Commissioner Carlson agrees with the change in zoning but is concerned about the building size.

Commissioner Clare is in agreement with the zoning change but concerned about the design. Commissioner Seitz agrees.

Commissioner Sistrunk said he wants to see the final product.

Commissioner Daniels has issues with the design, entrance, egress and the amount of traffic through the alley.

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Commissioner Mims agrees with Commissioners Daniels and Sistrunk.

Vice Chair Howard is concerned about the conditional use permit. It's an overbuild of the site and she wants to see the final product as well.

Dante St. Germain wants to know if the plan should come back to DRC or Urban Design staff. The consensus is to bring the case back to the next public hearing, February 18, 2021.

NOTE: COMMISSIONER BROWN LEFT

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.

On a motion by Commissioner Carlson, seconded by Commissioner Sistrunk, the following resolution was adopted.

RESOLVED, that the Louisville Metro Planning Commission does hereby **CONTINUE** this case to the February 18, 2021 Planning Commission meeting to allow the applicant architect to re-design the building. The only testimony to be heard will be regarding the design of the building.

The vote was as follows:

YES: Commissioners Carlson, Daniels, Peterson and Sistrunk

NO: Commissioners Clare, Mims, Seitz and Howard

NOT PRESENT AND NOT VOTING: Commissioner Brown and Lewis

MOTION FAILED

Zoning Change from OR-2 to C-2

On a motion by Commissioner Mims, seconded by Commissioner Seitz, the following resolution based on the Plan 2040 Staff Analysis and testimony heard today was adopted.

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Community Form because, the site is adjacent to existing commercial zoning and an activity center across Springer Alley. The proposal

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would not constitute a non-residential expansion into a residential neighborhood; the site is located on E Chestnut Street, a minor arterial and transit corridor at this location; the proposed zoning district would not permit hazardous uses. Uses with air, noise and light emissions must comply with Louisville Metro Ordinances and the Land Development Code; the proposed zoning district would not permit uses which generate noxious odors, particulates or emissions; access to the site is achieved via E Chestnut Street, a minor arterial at this location, and Springer Alley; adverse impacts from noise will be mitigated by landscaping; the proposed zoning district would not permit industries which handle hazardous or flammable materials or are potentially offensive such as junkyards, landfills or quarries; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Form because, the site is adjacent to an existing activity center. Design must comply with the Land Development Code. Density is compatible with the designed form, adjacent uses, and existing and planned infrastructure; the site is located on E Chestnut Street, a minor arterial and transit corridor at this location. The site has appropriate access and connectivity; the proposed zoning district would permit retail commercial development. The site is located adjacent to an existing activity center; the proposed zoning district would permit a more compact development pattern in an existing activity center; the proposed zoning district would permit a mixture of compatible land uses in an existing activity center; the proposed zoning district would permit residential and office uses above retail and other mixed-use multi-story retail buildings; the proposal does not include any underutilized parking lots; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Community Form because, no natural features are evident on the subject site; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 4: Community Form because, the existing structure on the site is not proposed to be preserved. The structure does not appear to have historic or architectural value; the existing structure on the site is not proposed to be preserved. The structure does not appear to be a distinctive cultural feature; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Mobility because, the site is located adjacent to an existing activity center and is located on a transit corridor; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Mobility because, access to the site is via E Chestnut

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Street and Springer Alley, and will not be through areas of significantly lower intensity or density; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Mobility because, the proposed zoning district would permit a mix of complementary neighborhood serving businesses and services; the site is easily accessible by bicycle, car, transit, pedestrians and people with disabilities; the proposed zoning district would permit higher density mixed-use developments; Transportation Planning has approved the proposal; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Facilities because, the relevant utilities have approved the proposal; Louisville Water Company has approved the proposal; MSD has approved the proposal; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Economic Development because, the site is located near the intersection with two minor arterials (E Chestnut Street and S Shelby Street); and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Housing because, the proposed zoning district would permit housing options and environments that support aging in place; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Housing because, the proposed zoning district would permit housing options that encourage inter-generational mixed-income and mixed-use development; the site is located on a multi-modal transportation corridor providing safe and convenient access to employment opportunities, as well as within proximity to amenities providing neighborhood goods and services; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Housing because, no existing residents will be displaced by the rezoning request; the proposed zoning district would permit the use of innovative methods of housing.

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to Metro Council the change in zoning from OR-2, Office Residential to C-2, Commercial on property described in the attached legal description be **APPROVED**.

The vote was as follows:

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YES: Commissioners Carlson, Clare, Daniels, Mims, Peterson, Seitz, Sistrunk and Howard

NOT PRESENT AND NOT VOTING: Commissioners Brown and Lewis

Conditional Use Permit to allow mini-warehouse (LDC 4.2.35) (20-CUP-0071)

Waiver from LDC section 10.2.4.B.1 to permit a building and parking area to encroach into a required property perimeter Landscape Buffer Area (LBA) (20-WAIVER-0038)

Variance from LDC section 5.1.12.A.2.d to permit a building's height to exceed 125% of the maximum infill building height on the block face (125% = 32.5', proposed height 45', variance of 12.5') (20-VARIANCE-0048)

Detailed District Development Plan with Binding Elements

On a motion by Commissioner Mims, seconded by Commissioner Clare, the following resolution based on the testimony and discussion heard today was adopted.

RESOLVED, that the Louisville Metro Planning Commission does hereby **CONTINUE** the Conditional Use Permit to allow mini-warehouse (LDC 4.2.35) (20-CUP-0071), Waiver from LDC section 10.2.4.B.1 to permit a building and parking area to encroach into a required property perimeter Landscape Buffer Area (LBA) (20-WAIVER-0038), Variance from LDC section 5.1.12.A.2.d to permit a building's height to exceed 125% of the maximum infill building height on the block face (125% = 32.5', proposed height 45', variance of 12.5') (20-VARIANCE-0048) and the Detailed District Development Plan with Binding Elements **ON CONDITION** that they come back to the February 18, 2021 Planning Commission meeting.

The vote was as follows:

YES: Commissioners Carlson, Clare, Daniels, Mims, Peterson, Sistrunk and Howard

NO: Commissioner Seitz

NOT PRESENT AND NOT VOTING: Commissioners Brown and Lewis

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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 5:45 p.m.

DocuSigned by:

Chair BBFFBFA70FE34D6...

DocuSigned by:

Planning Director