

**MINUTES OF THE MEETING
OF THE
LAND DEVELOPMENT AND TRANSPORTATION COMMITTEE
May 16, 2019**

A meeting of the Land Development and Transportation Committee was held on, May 16, 2019 at 1:00 p.m. in the Old Jail Building, located at 514 W. Liberty Street, Louisville, Kentucky.

Committee Members present were:

Rob Peterson, Vice Chair
Richard Carlson
Jeffrey Brown
Ruth Daniels

Committee Members absent were:

Marilyn Lewis, Chair

Staff Members present were:

Joe Reverman, Planning and Design Assistant Director
Julia Williams, Planning and Design Supervisor
Joel Dock, Planner II
Dante St. Germain, Planner II
Jay Lockett, Planner I
Beth Stuber, Engineering Supervisor
John Carroll, Legal Counsel
Pamela M. Brashear, Management Assistant

The following matters were considered:

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APPROVAL OF MINUTES

APRIL 25, 2019 LD&T COMMITTEE MEETING MINUTES

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

RESOLVED, that the Land Development & Transportation Committee does hereby **APPROVE** the minutes of its meeting conducted on April 25, 2019.

The vote was as follows:

YES: Commissioners Carlson, Daniels and Peterson
NOT PRESENT FOR THIS CASE: Commissioner Lewis
ABSTAINING: Commissioner Brown

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OLD BUSINESS
CASE NO. 19ZONE1001

Request: Change in zoning from R-4 to R-5 with associated Major Preliminary Subdivision for 35 lots on 9.01 acres, rear yard waiver, and binding elements

Project Name: Shepherdsville Road Subdivision

Location: 8809 Shepherdsville Road

Owner: Linda Sue Goodwin Neubeck

Applicant: Superior Builders, Inc.

Representative: Mindel Scott

Jurisdiction: Louisville Metro

Council District: 23 – James Peden

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

The staff report prepared for this case was incorporated into the record. This report was available to any interested party prior to the LD&T meeting. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

00:03:25 Ms. St. Germain discussed the case summary, standard of review and staff analysis from the staff report. The revised plan was received late. MSD has not provided any additional comments and Transportation Planning still requests a left turn lane, which is not present on the revised plan.

The following spoke in favor of this request:

Nick Pregliasco, Bardenwerper, Talbott and Roberts, 1000 North Hurstbourne Parkway, Louisville, Ky. 40223

David Mindel, Mindel, Scott and Associates, 5151 Jefferson Boulevard, Suite 101, Louisville, Ky. 40219

Kathy Linares, Mindel, Scott and Associates, 5151 Jefferson Boulevard, Suite 101, Louisville, Ky. 40219

Summary of testimony of those in favor:

00:06:17 Mr. Pregliasco gave a power point presentation showing the changes to the plan. There is a loss of 1 lot (35 to 34). Adding a left turn lane will be too costly for the applicant because it's a small development (not cost-effective).

Deliberation

00:12:02 Planning Commission deliberation.

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CASE NO. 19ZONE1001

Commissioner Brown stated there's still an issue with the left turn lane. An exception does not need to be made for this case because the applicant is rezoning and generating additional traffic.

00:13:35 Mr. Reverman asked if it would change the plan if the 3rd lane was added because it seems like the applicant has shown a lot of right-of-way? Commissioner Brown said it depends on which side they widen, one or both sides.

00:14:01 Mr. Pregliasco said he doesn't believe the left turn lane is warranted, but is not trying to convince the committee today. The request is for a public hearing date. There is confirmation that MSD is satisfied.

00:15:21 Mr. Mindel stated for 34 lots, relocating utility lines and providing roadway improvements would make the property undevelopable.

00:17:10 Ms. Linares said she spoke with Tony Kelly from MSD. He has reviewed the revised plan and will be giving preliminary approval.

00:17:44 Commissioner Carlson said the left turn lane needs to be on the plan. Everything that's developed on Shepherdsville Rd., even fewer units, has added a left turn lane.

00:29:56 Commissioner Brown stated, from a technical standpoint, the applicant is not meeting the requirement set forth by Transportation Planning. Any type of rezoning at this lot will require the 3 lane section given the conditions of the road.

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

On a motion by Commissioner Carlson, seconded by Commissioner Daniels, the following resolution based on the staff report and information heard today was adopted.

RESOLVED, that the Louisville Metro Planning Commission does hereby **CONTINUE** this case to a date uncertain until such time as the applicant shows a left turn lane on the plan.

The vote was as follows:

YES: Commissioners Brown, Carlson, Daniels and Peterson
NOT PRESENT AND NOT VOTING: Commissioner Lewis

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**OLD BUSINESS
CASE NO. 19ZONE1011**

Request: Change in zoning from C-1 to C-2, with associated Detailed District Development Plan with Binding Elements and removal of General Plan Binding Elements

Project Name: Townfair Center Rezoning

Location: 1915 and 1917 South Hurstbourne Parkway

Owner: Hurstbourne Townfair Station LLC

Applicant: Hurstbourne Townfair Station LLC

Representative: Bardenwerper Talbott & Roberts

Jurisdiction: Louisville Metro

Council District: 18 – Marilyn Parker

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

The staff report prepared for this case was incorporated into the record. This report was available to any interested party prior to the LD&T meeting. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

00:31:51 Ms. St. Germain discussed the case summary, standard of review and staff analysis from the staff report.

The applicant has submitted a new plan and it's different than the plan received in the commissioners' packets. The request for a zoning change of C-1 to C-2 is only for 1 lot.

The following spoke in favor of this request:

Nick Pregliasco, Bardenwerper, Talbott and Roberts, 1000 North Hurstbourne Parkway, Louisville, Ky. 40223

Summary of testimony of those in favor:

00:35:17 Mr. Pregliasco gave a power point presentation. A traffic study is not being requested by Ky. Transportation because no changes are being proposed. This issue has been remedied and this case can move forward to be heard by the Planning Commission. The request for rezoning is for the Walmart building and the parking lot.

The following spoke in opposition to this request:

Jim Lynch, 1903 Hurstbourne Circle, Louisville, Ky. 40220

Summary of testimony of those in opposition:

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**OLD BUSINESS
CASE NO. 19ZONE1011**

00:38:37 Mr. Lynch stated he's glad the applicant decreased the request but there's still a problem. There's a historic home (1855) that provides weddings, parties, etc. and it may be negatively impacted.

Mr. Lynch said he proposed binding elements to the applicant/representatives but they haven't responded. The following are not wanted: a bus depot; boat storage; outside dining; outside music and dancing.

00:43:23 Commissioner Carlson suggests that Mr. Lynch provide a list to staff before the public hearing.

Rebuttal:

00:45:00 Mr. Pregliasco said they can eliminate the bus depot and agree to a use binding element. Some C-2 uses are lower traffic generators than C-1. Commissioner Brown asked if automobile storage and sales are allowed in C-1 and C-2. Mr. Pregliasco said auto sales would be allowed in C-2. Ms. Williams said auto storage would not be allowed in C-1 but is permitted in C-2.

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

The Committee by general consensus placed this case on the June 6, 2019 public hearing at the Old Jail Building.

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NEW BUSINESS
CASE NO. 19STREETS1003

Request: Street/Alley Closure
Project Name: Hay Court
Location: Hay Court
Owner: Louisville Metro
Applicant: Barnie R. Elder Living Trust
Representative: Schroll Land Surveying, LLC – Bill Schroll
Jurisdiction: Louisville Metro
Council District: 13 – Mark Fox
Case Manager: Joel P. Dock, AICP, Planner II

The staff report prepared for this case was incorporated into the record. This report was available to any interested party prior to the LD&T meeting. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

00:49:06 Mr. Dock discussed the case summary, standard of review and staff analysis from the staff report. Commissioner Carlson said the Fairdale Fire Dept. needs to review this case. Mr. Dock will note the change.

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

The Committee by general consensus placed this case on the Consent Agenda for the May 23, 2019 public hearing at the Old Jail Building.

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NEW BUSINESS
CASE NO. 18STREETS1027

Request: Street/Alley Closure
Project Name: Beargrass Avenue/Mehlers Road
Location: Beargrass Avenue and Mehlers Road at Beargrass Creek
Owner: Louisville Metro
Applicant: Louisville Metro Public Works
Representative: Jeff Brown
Jurisdiction: Louisville Metro
Council District: 9 – Bill Hollander
Case Manager: Jay Lockett, AICP, Planner I

The staff report prepared for this case was incorporated into the record. This report was available to any interested party prior to the LD&T meeting. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

00:52:13 Mr. Lockett discussed the case summary, standard of review and staff analysis from the staff report.

00:53:11 Commissioner Brown stated he acted as the applicant for this case. It's old unimproved right-of-ways which were originally the site of MSD's combined sewer overflow. It was eventually taken off in-lieu-of a tunnel.

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

The Committee by general consensus placed this case on the Consent Agenda for the May 23, 2019 public hearing at the Old Jail Building.

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NEW BUSINESS
CASE NO. 19DEVPLAN1068

Request: Category 3 Development Plan
Project Name: Stout Apartments
Location: 330 North Spring Street
Owner: Advanced Material Handling Company
Applicant: Deylen Realty, Inc.
Representative: Kovert Hawkins Architects
Jurisdiction: Louisville Metro
Council District: 4 – Barbara Sexton Smith
Case Manager: Jay Lockett, AICP, Planner I

The staff report prepared for this case was incorporated into the record. This report was available to any interested party prior to the LD&T meeting. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

00:54:20 Mr. Lockett discussed the case summary, standard of review and staff analysis from the staff report.

00:55:53 Mr. Reverman asked if the renderings meet the Land Development Code standards. Mr. Lockett said yes, the overlay and Butchertown Architectural Review Committee approved it.

The following spoke in favor of this request:

Curtis Petty, Kovert Hawkins Architects, 630 Walnut Street, Jeffersonville, Indiana 47130

Summary of testimony of those in favor:

00:55:31 Mr. Petty said he's here to answer questions.

Deliberation

00:57:51 Planning Commission deliberation.

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

Category 3 Development Plan

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NEW BUSINESS
CASE NO. 19DEVPLAN1068

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

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the Category 3 Development Plan.

The vote was as follows:

YES: Commissioners Brown, Carlson, Daniels and Peterson
NOT PRESENT AND NOT VOTING: Commissioner Lewis

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NEW BUSINESS
CASE NO. 19DEVPLAN1091

Request: Revised District Development Plan
Project Name: The Arch
Location: 2501 South 4th Street
Owner: CREI Louisville, LLC.
Applicant: CREI, LLC.
Representative: Gresham Smith
Jurisdiction: Louisville Metro
Council District: 6 – David James
Case Manager: Jay Luckett, AICP, Planner I

The staff report prepared for this case was incorporated into the record. This report was available to any interested party prior to the LD&T meeting. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

00:58:46 Mr. Luckett discussed the case summary, standard of review and staff analysis from the staff report.

00:59:59 Commissioner Daniels asked when the building was built. Mr. Luckett said 2010. It was built with more 2 and 3 bedrooms but the applicant wants to downgrade to more 1 bedroom units.

The following spoke in favor of this request:

Christian Elliott, CREI, LLC, 402 Office Park Drive, Suite 150, Birmingham, Alabama 35223

Summary of testimony of those in favor:

01:00:38 Mr. Elliott stated they're increasing the entry door counts and decreasing the number of people living there by 132. The 1 bedroom units are needed in that area. Commissioner Carlson asked if there would be any modifications to the exterior of the building. Mr. Elliott said no.

Deliberation

01:02:43 Planning Commission deliberation.

An audio/visual recording of the Land Development & Transportation Committee meeting related to this case is available on the Planning & Design Services

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website, or you may contact the Customer Service staff to view the recording or to obtain a copy.

Revised District Development Plan and Binding Elements

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

WHEREAS, there do not appear to be any environmental constraints or historic resources on the subject site. Tree canopy requirements of the Land Development Code will be provided on the subject 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, there are no open space requirements pertinent to the current proposal; 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 Land Development & Transportation Committee finds, the overall site design and land uses are compatible with the existing and future development of the area. Appropriate landscape buffering and screening will be provided to screen adjacent properties and roadways. Buildings and parking lots will meet all required setbacks; and

WHEREAS, the Louisville Metro Land Development & Transportation Committee further finds the development plan 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 Revised District Development Plan **SUBJECT** to the following Binding Elements:

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

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- submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
 3. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
 4. Before any permit (including but not limited to building, parking lot, change of use, site disturbance) is requested:
 - a. The development plan must receive full construction approval from Louisville Metro Department of Inspections, Permits and Licenses, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. A minor plat or legal instrument shall be recorded consolidating the property into one lot. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of the approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
 - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 5. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
 6. The design of proposed structures shall be substantially the same as depicted in the rendering as presented at the December 13, 2012 Land Development & Transportation meeting.

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7. Bus Stops, Benches and Trash Receptacles shall be constructed at the main entrance and secondary entrance to the site. The bus stops should be designed as a part of the building design with a canopy overhang or building design which has a covered area for bus users. The Owner / Developer shall also clean the Transit stop on a daily or as needed basis.

The vote was as follows:

YES: Commissioners Brown, Carlson, Daniels and Peterson

NOT PRESENT AND NOT VOTING: Commissioner Lewis

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**NEW BUSINESS
CASE NO. 19DEVPLAN1063**

Request: Revised Detailed District Development Plan with Binding Elements and Waiver
Project Name: Blankenbaker Station III Lot 7
Location: 2701 Constant Comment Place
Owner: HO3 Chestnut LLC
Applicant: HO3 Chestnut LLC
Representative: Mindel Scott & Associates
Jurisdiction: Louisville Metro
Council District: 20 – Stuart Benson
Case Manager: Dante St. Germain, AICP, Planner II

The staff report prepared for this case was incorporated into the record. This report was available to any interested party prior to the LD&T meeting. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

01:04:16 Ms. St. Germain discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Kent Gootee, Mindel, Scott and Associates, 5151 Jefferson Boulevard, Louisville, Ky. 40219

Summary of testimony of those in favor:

01:08:22 Mr. Gootee stated they moved the parking back 25 feet from the right-of-way. MSD will allow more grading in the detention basin as long as the volume stays the same. Also, the 5 trees will be provided along the property line.

Deliberation

01:10:40 Planning Commission deliberation.

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

Waiver from Section 10.2.4.B.8 to encroach into the required 15' property perimeter LBA by 10' on the eastern property line

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

WHEREAS, the waiver will not adversely affect adjacent property owners as the most affected property is utilized as a detention basin; and

WHEREAS, the waiver will not violate specific guidelines of Plan 2040 as Plan 2040 encourages appropriate transitions between uses, including landscaped buffer yards. The proposed buffer will be fully planted according to Chapter 10 requirements, although the width of the yard will be reduced; and

WHEREAS, the Louisville Metro Land Development & Transportation Committee finds, the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the applicant would not be able to fit in adequate maneuvering area for the loading bays without the encroachment; and

WHEREAS, the Louisville Metro Land Development & Transportation Committee 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 by reducing the usability of the site for a warehouse use, a use that is common in the area, which is an industrial park.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the waiver from section 10.2.4.B.8 to encroach into the required 15 foot property perimeter landscape buffer area by 10 feet on the eastern property line.

The vote was as follows:

YES: Commissioners Brown, Carlson, Daniels and Peterson
NOT PRESENT AND NOT VOTING: Commissioner Lewis

Revised Detailed Development Plan and Binding Elements

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

WHEREAS, there do not appear to be any environmental constraints or historic resources on the subject site. The site is almost fully cleared and no natural resources appear to exist on the site; and

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WHEREAS, provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community has been provided. Louisville Metro Public Works has provided preliminary approval of the plan; and

WHEREAS, there are no open space requirements pertinent to the current proposal; 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 Land Development & Transportation Committee finds, the overall site design and land uses are compatible with the existing and future development of the area. The proposal is for an office/warehouse in an existing industrial center; and

WHEREAS, the Louisville Metro Land Development & Transportation Committee further finds the development plan conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code, with the exception of the requested waiver.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the Revised Detailed District Development Plan **SUBJECT** to the following Binding Elements:

Existing General Plan Binding Elements

1. The development shall be in accordance with the approved district development plan, land use and agreed upon binding elements unless amended pursuant to the Zoning District Regulations. No further development shall occur without prior approval from the Planning Commission.
2. Prior to development of each site or phase of this project, a detailed district development plan shall be submitted to the Planning Commission for approval. Each plan shall be in adequate detail and subject to additional binding elements. The additional binding elements may relate, but not be limited, to the following items:
 - a. screening, buffering, landscaping, tree preservation
 - b. density, floor area, size and height of buildings
 - c. points of access and site layout with respect to on-site circulation
 - d. land uses
 - e. signs

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- f. loading berths
 - g. parking
 - h. sidewalks
 - i. site design elements relating to alternative transportation modes
 - j. outdoor lighting
 - k. minor subdivision plat approval
 - l. air pollution
 - m. the timing of construction to coincide with the availability of flood protection measures, municipal sewer service, and adequate fire protection
 - n. dumpsters
 - o. soil erosion control plan
3. There shall be no vehicular access to Rehl Road.
4. No outdoor advertising signs (billboards), small freestanding (temporary) signs, pennants or banners shall be permitted on the site.
5. Outdoor lighting shall be directed down and away from surrounding residential properties. No building mounted lights shall be placed on any facades adjacent to residentially zoned lots.
6. The screening (buffering/landscaping) plan shown on the approved district development plan shall be implemented prior to occupancy and maintained thereafter.
7. Regarding the landscape buffer areas along Rehl Road, the applicant shall submit a plan for approval by the Planning Commission staff's landscape architect showing trees/tree masses to be preserved prior to beginning any construction procedure (i.e. clearing, grading, demolition). Adjustments to the tree preservation plan which are requested by the applicant may be approved by the Planning Commission staff's landscape architect if the revisions are in keeping with the intent of the approved tree preservation plan. The plan shall exhibit the following information:
- a. Proposed site plan (showing buildings, edges of pavement, property/lot lines, easements, existing topography, and other significant site features (LOJIC topographic information is acceptable).
 - b. Preliminary drainage considerations (retention/detention, ditches/large swales, etc.).
 - c. Location of all existing trees/tree masses existing on the site as shown by aerial photo or LOJIC maps.
 - d. Location of construction fencing for each tree/tree mass designated to be preserved.

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8. Before a building or alteration permit and/or a certificate of occupancy is requested:
 - a. The development plan must be re-approved by the Jefferson County Department of Public Works and Transportation and the Metropolitan Sewer District.
 - b. A major subdivision plat creating the lots and roadways as shown on the approved district development plan shall be recorded prior to issuance of any building permits.
9. If a certificate of occupancy (building permit) is not issued within one year of the date of approval of the plan or rezoning, whichever is later, the property shall not be used in any manner unless a revised district development plan is approved or an extension is granted by the Planning Commission.
10. A certificate of occupancy must be received from the appropriate code enforcement office 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.
11. 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, material storage, or construction activities shall be permitted within the fenced area."
12. A soil erosion and sedimentation control plan shall be developed and implemented in accordance with the Metropolitan Sewer District and the USDA Soil Conservation Service recommendations. A copy of the approved plan shall be submitted to the Planning Commission prior to recording the plat.
13. The applicant shall relocate the existing drainage ditch along the north side of Rehl Road to provide a shoulder in conformance with Jefferson County Public Works standards.

All binding elements from the approved General Development Plan are applicable to this site, in addition to the following:

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed

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upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.

2. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
3. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
4. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested:
 - a. The development plan must receive full construction approval from Develop Louisville, Louisville Metro Public works and the Metropolitan Sewer District.
 - b. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - c. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
5. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
6. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.

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7. There shall be no outdoor storage on the site.
8. There shall be no outdoor music (live, piped, radio or amplified), outdoor entertainment or outdoor PA system audible beyond the property line.
9. If work is required within the easements causing removal or damage of landscape materials, the property owner shall be responsible for replacement of materials according to the approved landscape plan.
10. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the May 16, 2019 Land Development and Transportation Committee meeting.

The vote was as follows:

YES: Commissioners Brown, Carlson, Daniels and Peterson
NOT PRESENT AND NOT VOTING: Commissioner Lewis

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**NEW BUSINESS
CASE NO. 19ZONE1015**

Request: Change in zoning from R-5 to R-6 with a District
Development Plan with Binding Elements
Project Name: Swiss Hall Residential
Location: 719 Lynn Street
Owner: Swiss Village LLC
Applicant: Swiss Village LLC
Representative: Heritage Engineering; Bardenwerper Talbott and Roberts
PLLC
Jurisdiction: Louisville Metro
Council District: 15- Kevin Triplett
Case Manager: Julia Williams, AICP, Planning Supervisor

The staff report prepared for this case was incorporated into the record. This report was available to any interested party prior to the LD&T meeting. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

01:13:08 Ms. Williams discussed the case summary, standard of review and staff analysis from the staff report.

01:14:54 Commissioner Brown asked if the setback variance is an infill standard. Ms. Williams said no. Also, is it the open porches or the building that encroaches into the setback? Ms. Williams said the applicant will be able to explain it better.

The following spoke in favor of this request:

John Talbott, Bardenwerper, Talbott and Roberts PLLC, 1000 North Hurstbourne Parkway, Louisville, Ky. 40223
John Campbell, Heritage Engineering, 642 South 4th Street, Suite 100, Louisville, Ky. 40202
Carrie Frye, 701 South Barbee Way, Louisville, Ky.

Summary of testimony of those in favor:

01:15:53 Mr. Talbott gave a power point presentation. The proposed site (Swiss Hall) has been used as a meeting hall for a long time. The new use will be less intense. There are several alleys that greatly need improvement but the neighbors do not want them in use again. The townhomes will be built in the empty field and the existing building will be preserved.

01:25:54 Commissioner Daniels asked what the square footage of the townhomes would be. Mr. Talbott said about 1,650 square feet. Commissioner Carlson asked the

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NEW BUSINESS
CASE NO. 19ZONE1015

applicant/representatives to make sure the fire dept. approves of the plan. Mr. Campbell stated he met with Sgt. Martin with the Louisville Fire Dept. and he provided some design criteria, which was incorporated into the plan.

01:31:21 Ms. Frye said this plan is a great use for the space and the density is appropriate.

The following spoke neither for nor against the request:

Wayne Rentschler, 2062 South Shelby Street, Louisville, Ky. 40217-2129

Summary of testimony of those neither for nor against:

01:26:48 Mr. Rentschler stated he's concerned about the access and the alleys are very narrow. The entire area has limited access. There is also a concern for safety. Making the alley a main thoroughfare is too risky.

Rebuttal:

01:32:10 Mr. Talbott said he can't solve everyone's problems but will definitely improve some of the issues. There will be 2 accesses/options other than going around Mr. Rentschler's home.

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

The Committee by general consensus placed this case on the June 6, 2019 public hearing at the Old Jail Building.

**LAND DEVELOPMENT AND TRANSPORTATION COMMITTEE MINUTES
May 16, 2019**

**NEW BUSINESS
CASE NO. 18ZONE1067**

Request: Change in zoning from R-5 to C-1 and C-2 with detailed plan, setback variance and design and connectivity waivers
Project Name: Southside Drive
Location: 7382 Southside Drive
Owner: DP. Rentals, LLC
Applicant: DP. Rentals, LLC
Representative: Bardenwerper, Talbott, & Roberts, PLLC
Jurisdiction: Louisville Metro
Council District: 25 – David Yates
Case Manager: Joel P. Dock, AICP, Planner II

The staff report prepared for this case was incorporated into the record. This report was available to any interested party prior to the LD&T meeting. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

01:36:24 Mr. Dock discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

John Talbott, Bardenwerper, Talbott and Roberts, PLLC, 1000 North Hurstbourne Parkway, Louisville, Ky. 40223

Summary of testimony of those in favor:

01:39:12 Mr. Talbott gave a power point presentation. There are two addresses to be set up on 2 tracts – 1 will be a contractor shop and the other will face the street (existing house). The commercial surrounds the subject site and it's pinned in by Newcut Rd. and Southside Dr. It's zoned R-5 but is not appropriate. The site has become a dumping ground and can potentially draw criminal activity.

01:47:09 Commissioner Brown asked if the parking areas will be gravel. Mr. Talbott said no they should be paved.

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

**LAND DEVELOPMENT AND TRANSPORTATION COMMITTEE MINUTES
May 16, 2019**

**NEW BUSINESS
CASE NO. 18ZONE1067**

The Committee by general consensus placed this case on the June 6, 2019 public hearing at the Old Jail Building.

LAND DEVELOPMENT AND TRANSPORTATION COMMITTEE MINUTES
May 16, 2019

NEW BUSINESS
CASE NO. 19ZONE1007

Request: Change in zoning from R-7 to R-8A, multi-family with detailed plan, sidewalk waiver and height and private yard variances

Project Name: Cherokee Springs
Location: 1576 Cherokee Road
Owner: W. Earl Reed III
Applicant: Cherokee Springs, LLC
Representative: Wyatt, Tarrant, & Combs, LLP
Jurisdiction: Louisville Metro
Council District: 8 – Brandon Coan
Case Manager: Joel P. Dock, AICP, Planner II

The staff report prepared for this case was incorporated into the record. This report was available to any interested party prior to the LD&T meeting. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

01:49:01 Mr. Dock discussed the case summary, standard of review and staff analysis from the staff report.

Mr. Dock provided the commissioners with letters and posting of the application materials received after publication of the agenda.

The following spoke in favor of this request:

Jon Baker, Wyatt, Tarrant and Combs, LLP, 500 West Jefferson Street, Suite 2800, Louisville, Ky. 40202
Cash Motor, Joseph and Joseph Architects, 550 South 4th Street, Louisville, Ky. 40202

Summary of testimony of those in favor:

01:54:20 Mr. Baker gave a power point presentation. The developer wants to provide sidewalks at a later date so it can be coordinated properly. The proposed site is close to Cherokee Park and will be an added feature for the tenants. There are numerous access points. There's a mixture of zoning, intensities, densities, architecture, housing style, owners and renters in the area. It's a very dynamic and diverse neighborhood.

02:09:00 Commissioner Carlson asked if there's something else on the roof? Mr. Baker said there will be bulk heads for the elevators. Cash Motor said the elevator will extend to the roof. The roof will be accessible. Commissioner Carlson said the alley in the rear is very narrow and there was agreement of a binding element stating you would

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comply with the fire lane access requirements. It no longer reads that way. Mr. Baker will answer this at the public hearing. Vice Chair Peterson asked, if the zoning stays at R-7, what are the limitations? Mr. Baker said the floor area ration limitation is 1.0.

The following spoke in opposition to this request:

Robert Connolly, 2300 Bonnycastle Avenue, Louisville, Ky. 40205
Alison Cromer, 2140 Bonnycastle Avenue, Unit 1A, Louisville, Ky. 40205
Gail Henson, 2335 Bonnycastle Avenue, Louisville, Ky. 40205
Randy Strobo, 239 South 5th Street, Suite 917, Louisville, Ky. 40202
Ed Henson, 2335 Bonnycastle Avenue, Louisville, Ky. 40205
William Barth, 1572 Cherokee Road, Louisville, Ky. 40205
Jay Harris, 1611 Spring Drive, 2D, Louisville, Ky. 40205
Tom Cooper, 1578 Cherokee Road, Louisville, Ky. 40205
Mike Mangeof, 2322 Alta Avenue, Louisville, Ky. 40205

Summary of testimony of those in opposition:

02:14:26 Mr. Connolly stated he doesn't like the fact this case is being heard shortly after the original case was denied.

Mr. Connolly has the following concerns; sewer, water, fire, safety access, erosion of green space in the neighborhood and the arguments of the developer setting a precedent for R-8 and changing the character of the neighborhood.

02:16:10 Ms. Cromer, president of the Bonnycastle Neighborhood Association, stated the process to uphold the standard operator procedure requiring the 2 year waiting period meant to protect the developer and residents has failed (waste of resources as well). The area is diverse but there's no R-8A buildings in the area. This is not a different application as they are still seeking up-zoning and a height variance.

02:19:08 Ms. Henson stated she was not notified of the hearing on January 25, 2019. A major concern is the alley (11 ft. in some areas).

02:21:06 Mr. Strobo, attorney representing Ed Henson, Gail Henson and Tom Cooper, stated the application is not proper today or for the January meeting. There was no notification for the January meeting as required by the Land Development Code and by-laws. This is essentially the same plan.

02:27:47 Mr. Henson stated he's opposed to the project that was proposed last year and now. Also, there's a concern for the process and notification. There were no specifics given as to why the 2040 Plan would affect this site. A 3% change of the footprint is not significant.

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02:36:15 Mr. Barth stated he lives next door to the proposal. The alley is very narrow and can't be expanded because his carriage house, garage and a telephone pole are there.

Mr. Barth said his driveway backs up to Cherokee Rd. and is very dangerous to navigate. Traffic will be increased and even more dangerous. The proposal is too big and will shadow his house.

02:38:17 Mr. Harris stated R-8A would be the first in the neighborhood. The proposed building needs to be fitted to what is permitted (R-7). There is not much change in the design.

02:43:31 Mr. Cooper read comments from the April, 2018 public hearing. This current application disrespects the commissioners' previous decision, disrespects the process and treats the neighborhood unfairly.

02:46:09 Mr. Mangeof stated he agrees with the neighborhood and cautions the committee to be informed as to what the developer is saying.

02:48:46 Mr. Reverman asked Mr. Strobo what regulation/by-laws he was speaking of in his testimony. Mr. Strobo stated if there is an application filed, in this case a waiver of the 2-year rule, notice must be given to 1st and 2nd tier adjoining property owners.

Rebuttal:

02:49:59 Mr. Baker stated this policy has been in the Planning Commission's by-laws and policies for decades. That policy requests the Planning Commission to refile an application from scratch. The application requires due process, but the request to ease a policy is not the same. The request is for relief of a policy, which as a subcommittee of the Planning Commission, can suspend the policies at any given time with a majority vote. The original vote was close – 3 to 4 for denial. Also, there's a brand new Comprehensive Plan with a whole plan element on housing that was absent from the previous Comprehensive Plan. That is the very standard the Planning Commission uses to judge zoning applications. The Planning Commission agreed that is a substantial change.

02:54:10 Mr. Carroll asked if the Planning Commission officially waived the policy regarding the 2-year rule. Mr. Baker said yes, they made a determination based on a finding of fact that there was a significant change in the application. Mr. Carroll said he would like to review the minutes from the meeting. Mr. Dock said he can review a digital copy. The Planning Commission did make a resolution on the request to accept the application.

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02:55:13 Mr. Baker added, the previous case Smith Hall was allowed to refile as well and it was decided in the same manner as this case.

02:56:46 Commissioner Carlson asked what elements on this plan are significantly different? Mr. Reverman stated, the objection seems to be with the process and notification and not the decision itself. This committee doesn't need to determine if the request is substantially different because the Planning Commission has already determined that it is.

Deliberation

03:02:02 Commissioner Daniels said she would like to know for sure if the Planning Commission approved this case to come back again in less than a 2 year period. Mr. Reverman explained that it wasn't an application or a waiver of the Land Development Code, but a request to allow the applicant to apply for a zoning change that was denied within 2 years. There's no notice requirement for the applicant to move this new application forward.

03:07:07 Commissioner Brown stated he was at the meeting that the Planning Commission agreed to accept the new application. There was a reduction in height, units, floor area ratio and there's a new guideline so the decision was appropriate. It's ready for a public hearing.

03:07:39 Commissioner Carlson stated he would like to see some improvement in the process. Notice should be given in the future. This case is ready to be moved forward and more time (for all speakers) needs to be given at the public hearing.

03:09:05 Vice Chair Peterson stated the applicant made their request in Business Session of the public hearing and after approval, sent notification for this meeting. It was done appropriately. The changes were very subjective.

03:11:04 Commissioner Carlson requested a binding element for the alley width. Mr. Dock said he found the language in the minutes for the previous case and have noted to change it to the proposed language.

03:11:53 Commissioner Daniels stated it would not be fair to deny the applicant a public hearing. The proposal initiates a complete change to the character in the neighborhood. Also, there's no way to widen the alley. It is ready to go before the full Planning Commission.

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03:12:47 Commissioner Carlson wants to extend the time limits for the public hearing. Mr. Reverman said typically we limit the agenda and if the applicant or opposition request additional time, it's considered/granted. Mr. Baker requests the extra time, 35 – 60 minutes. Mr. Carroll stated the same time limits for a night hearing could be implemented. Mr. Dock said it's outlined in Planning Commission Policy 7.09.01 – 1 hour for the applicant, 75 minutes for the opposition and 15 minutes for the rebuttal.

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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 July 18, 2019 public hearing and allow the applicant/representatives and others in favor of the application 1 hour for remarks, persons opposed 75 minutes and the rebuttal 15 minutes.

The vote was as follows:

YES: Commissioners Brown, Carlson, Daniels and Peterson
NOT PRESENT AND NOT VOTING: Commissioner Lewis

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ADJOURNMENT

The meeting adjourned at approximately 4:28 p.m.

Mauley W. Lewis

Chair

[Signature]

Planning Director