

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO PLANNING COMMISSION
August 19, 2021**

A meeting of the Louisville Metro Planning Commission was held at 1:00 p.m. on Thursday, August 19, 2021 via Webex.

Commission members present:

Marilyn Lewis, Chair
Lula Howard
Jeff Brown
Rich Carlson
Ruth Daniels
Jim Mims
Patricia Seitz
Patricia Clare

Commission members absent:

Rob Peterson
Te'Andre Sistrunk

Staff Members present:

Emily Liu, Director, Planning & Design Services
Joe Reverman, Assistant Director, Planning & Design Services
Brian Davis, Planning & Design Manager
Joe Haberman, Planning & Design Manager
Julia Williams, Planning Supervisor
Dante St. Germain, Planner II
Joel Dock, Planner II
Jay Lockett, Planner I
Zach Schweiger, Planner I
Laura Ferguson, Legal Counsel
Beth Stuber, Transportation Planning
Pamela M. Brashear, Management Assistant

The following matters were considered:

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APPROVAL OF MINUTES

AUGUST 5, 2021 PLANNING COMMISSION REGULAR MEETING MINUTES

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

RESOLVED, that the Planning Commission does hereby **APPROVE** the minutes of its meeting conducted on August 5, 2021.

The vote was as follows:

YES: Commissioners Carlson, Mims and Lewis

NOT PRESENT FOR THIS CASE: Commissioners Daniels, Peterson and Sistrunk

ABSTAINING: Commissioners Brown, Clare, Howard and Seitz

PLANNING COMMISSION MINUTES
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BUSINESS SESSION

6405 CHISM ROAD BE FINAL ORDER

Project Name: Binding Element Final Order
Address: 6405 Chism Road
Municipality: Louisville Metro
Council District: 14 – Cindi Fowler
Case Manager: Laura Ferguson, Assistant County Attorney

Discussion

00:06:30 Laura Ferguson stated this case is a binding element citation issued February 10, 2021 and was not appealed. As a result, this final order is being heard today as a ministerial action.

Laura Ferguson discussed the binding element #1 citation and answered questions from the commissioners (see recording for detailed presentation).

Councilwoman Cindi Fowler, 1426 Pollystaff Road, Louisville, Ky. 40272

Cindi Fowler explained that the property has been a problematic site for years (becoming junk yard). It's the same tenant with a different owner (see recording for detailed presentation).

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 Howard, the following resolution based on legal counsel's information provided today was adopted.

WHEREAS, on February 10, 2021, Louisville Metro Code Enforcement Officer Steven Bodner issued a Binding Element Violation Citation ("Citation") to DNJ, LLC, the property owner (the "Owner"), for violation of Binding Element No. 1 under Docket Number 17149 ("applicable binding element"), on the property located at 6405 Chism Road and being in Louisville, Kentucky (hereafter "Subject Property") because: 1. The development will be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's for review and approval; any changes/additions/alterations not so referred shall not be valid. However, the Subject Property is not in accordance with the approved detailed district development plan because the Subject Property was approved for an auto repair shop, but currently the tenants are hauling in wrecked vehicles and the Subject Property is becoming a junk

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BUSINESS SESSION

6405 CHISM ROAD BE FINAL ORDER

yard, while the landscape buffer between the Subject Property and the residential property on the east side was never installed.

WHEREAS, the Owner failed to contest the Citation and did not request an appeal before the Louisville Metro Planning Commission (the "Commission"); and

WHEREAS, the Commission finds, based on the evidence submitted into the record under Docket Number Binding Element Final Order 6405 Chism Road, that the Owner committed violations for Binding Element 1 on the Subject Property because the Owner failed to comply with the applicable binding element on the Subject Property as put forth herein above. It is hereby **ORDERED** by the Commission that the Citation issued on February 10, 2021, to the Owner is **UPHELD**, and that the Owner shall bring the Subject Property into full compliance with the most recently approved development plan for the Subject Property within thirty (30) calendar days from when the Commission entered this Final Order, as specified by the dated signatures below. It is hereby further **ORDERED** by the Commission, after considering the Owner's lack of achieving compliance with the applicable binding elements on the Subject Property, the Commission hereby fines the Owner \$1,000.00 and that the Owner shall pay said fine by certified check made payable to the Louisville Metro Finance, within thirty (30) calendar days from when the Commission entered this Final Order, as specified by the dated signatures below.

RESOLVED, that the Louisville Metro Planning Commission does hereby **UPHOLD** the citation issued February 10, 2021 and **APPROVE** the final order.

The vote was as follows:

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

NOT PRESENT AND NOT VOTING: Commissioners Peterson and Sistrunk

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PUBLIC HEARING

21-PARKWAIVER-0003

Project Name: Bunkhouse Hotel
Location: 730 E. Market Street
Owner(s): Green Building, LLC
Applicant: Charles Stephen Wendell – Mountain & River City, LLC
Jurisdiction: Louisville Metro
Council District: 4 – Jecorey Arthur
Case Manager: Zach Schweiger, Planner I

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

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

Agency Testimony:

00:21:53 Zach Schweiger discussed the case summary, standard of review and staff analysis from the staff report.

Zach Schweiger answered questions from the commissioners (see recording for detailed presentation).

Joe Reverman stated this type of parking waiver triggers the requirement for a parking study but Planning and Design Services did not require it because it's close enough to downtown, where it's not required (see recording for detailed presentation).

The following spoke in favor of this request:

Chip Hamm, 710 West Market Street, Louisville, Ky. 40202

Summary of testimony of those in favor:

Chip Hamm said he represents the applicant. He answered questions from the commissioners (see recording for detailed presentation).

The following spoke neither for nor against the request:

Jessie Errington, 220 South Clay Street, Louisville, Ky. 40202
Creighton Mershon, 220 South Clay Street, Louisville, Ky. 40202

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21-PARKWAIVER-0003

Summary of testimony of those neither for nor against:

Jessie Errington stated she owns 2 historical buildings on S. Clay St. and relies on street parking for the tenants and residents. Parking will be an issue (see recording for detailed presentation).

Creighton Mershon added, the hotel needs to offer plans and incentives to have parking spaces for employees or use the valet services (see recording for detailed presentation).

Rebuttal

Chip Hamm said the downtown directive of urban infill development is to fill in unimproved vacant lots like this one.

Deliberation

Commissioner Clare said she thinks there should be a parking study but not paid for by this applicant because it's a district-wide issue.

Commissioner Brown agreed stating, residents shouldn't have to suffer consequences for employee parking that should be provided by retail or commercial establishments.

Commissioner Howard mentioned ubers, lyfts and shuttles being alternate transportation modes as well as the area being urban and walkable.

Commissioner Daniels said the local people do drive and need the parking.

Commissioner Seitz wants to know if the commission can request a parking study since it's not in the Downtown District.

Commissioner Howard asks who will be paying for the parking study.

Commissioner Brown stated, the Land Development Code requires a parking study for this type of application but staff opted to waive it.

Commissioner Carlson suggests a form district change application.

Commissioner Howard added, you are expecting one person to do something that has been caused by every developer in the area and it's not fair to ask for a parking study when 25 parking spaces are being provided.

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21-PARKWAIVER-0003

Commissioner Mims agrees with Commissioners Howard and staff.

Chair Lewis said a parking study would be reasonable so as not to compound parking issues for the residents.

Joe Reverman discussed possible options for the commissioners to think about for this case (see recording for detailed presentation). Staff encouraged the applicant to request more of a waiver because they were proposing to use all the parking on the adjacent lot on the corner of Shelby and Jefferson.

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.

Parking Waiver from Land Development Code table 9.1.3B to reduce the minimum number of parking spaces from 47 to 28, a 40.4% waiver, for a proposed 72,614 sq. ft. hotel at 730 E. Market Street with a joint parking agreement at 221 S. Shelby Street

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

RESOLVED, that the Louisville Metro Planning Commission does hereby **CONTINUE** this case to the October 21, 2021 Planning Commission meeting to allow staff to gather additional information, as discussed today, and present it to the Planning Commission.

The vote was as follows:

YES: Commissioners Brown, Carlson, Clare, Daniels, Mims and Lewis

NO: Commissioners Howard and Seitz

NOT PRESENT AND NOT VOTING: Commissioners Peterson and Sistrunk

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PUBLIC HEARING

21-DDP-0050

Request: Revised Detailed District Development Plan with a landscape waiver
Project Name: 7770 and 7800 Dixie Auto Sales and Service
Location: 7770 and 7800 Dixie Hwy
Owner: BHPH Properties LLC
Applicant: N3 Property Advisors LLC
Representative: BTM Engineering, Inc.
Jurisdiction: Louisville Metro
Council District: 25 – Amy Holton Stewart
Case Manager: Jay Lockett, AICP, Planner I

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:

01:33:09 Jay Lockett discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

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

Summary of testimony of those in favor:

John Addington discussed the changes to the plan (see recording for detailed presentation).

Commissioner Carlson is concerned about additional noise if the business does other repair work (instead of just oil changes). Chair Lewis said that should be covered in the Noise Ordinance. Brenna Wadleigh said there are no repairs to be performed - maybe tire rotations (less than 5-10%). There is a lease agreement for 15 years (see recording for detailed presentation).

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21-DDP-0050

Deliberation

Planning Commission deliberation.

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

Waiver of Land Development Code section 10.2.10 to allow existing and proposed parking areas to encroach into the required 15' Vehicle Use Area Landscape Buffer Area up to 5 feet as shown on the development plan.

On a motion by Commissioner Carlson, seconded by Commissioner Clare, 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 development will be in keeping with other development in the area. Most of the waiver area concerns encroachment of existing pavement. The applicant has agreed to provide all required screening and planting around the subject site, including within the Dixie Highway right-of-way subject to KYTC approval; and

WHEREAS, the waiver will not violate the Comprehensive Plan. The development will be compatible with other development in the area and the form district. Significant new tree canopy and buffers will be established with this proposal; and

WHEREAS, the Louisville Metro Planning Commission finds, the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since all other aspects of the Land Development Code are being met for the subject site, including all required planting and screening; and

WHEREAS, the Louisville Metro Planning Commission further finds the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land. The site has existing paving, and much of the waiver areas were previously approved under the 2012 rezoning case. The applicant will provide all required screening and planting.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** a Waiver of Land Development Code section 10.2.10 to allow existing and proposed parking areas to encroach into the required 15' Vehicle Use Area Landscape Buffer Area up to 5 feet as shown on the development plan.

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The vote was as follows:

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

NOT PRESENT AND NOT VOTING: Commissioners Peterson and Sistrunk

Revised Detailed District Development Plan with revisions to Binding Elements

On a motion by Commissioner Carlson, seconded by Commissioner Seitz, 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; 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 KYTC 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 Planning Commission 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, except where waivers are approved. Buildings and parking lots will meet all required setbacks; and

WHEREAS, the Louisville Metro Planning Commission 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 Detailed District Development Plan, **SUBJECT** to the following Binding Elements:

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

2. 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 Construction Review, 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 reciprocal access and crossover easement agreement in a form acceptable to Planning Commission legal counsel shall be secured from the adjoining property owner and recorded prior to construction approval. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services.

d. A minor subdivision plat or legal instrument shall be recorded creating the lot lines as shown on the development plan as well as dedicating additional right-of-way to Dixie Highway to provide a total of 65 feet from the centerline. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services prior to obtaining a building permit.

e. Final elevations/renderings shall be submitted for review and approval by Planning Commission staff. A copy of the approved rendering shall be available in the case file on record in the offices of the Louisville Metro Planning Commission.

3. Signs shall be in accordance with Chapter 8. Any portion of the existing sign in the right-of-way must be relocated onto the subject site unless the Kentucky Transportation Cabinet agrees to a license agreement for the sign to remain.

4. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.

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21-DDP-0050

5. Hours of operation shall be limited to 7 AM to 7 PM Monday through Friday and 8 AM to 6 PM Saturday and Sunday.

The vote was as follows:

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

NOT PRESENT AND NOT VOTING: Commissioners Peterson and Sistrunk

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PUBLIC HEARING

21-DDP-0014

Request:	Revised detailed district development plan/major preliminary subdivision plan with variance
Project Name:	Netherwood Patio Homes
Location:	11001 Jordain Drive
Owner:	ST Ventures LLC
Applicant:	ST Ventures LLC
Representative:	Bardenwerper, Talbott & Roberts, PLLC
Jurisdiction:	Louisville Metro
Council District:	17 – Markus Winkler
Case Manager:	Joel Dock, AICP, Planner II

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

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

Agency Testimony:

01:56:37 Joel Dock discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Nick Pregliasco, Bardenwerper, Talbott and Roberts, PLLC, 1000 North Hurstbourne Parkway, Louisville, Ky. 40223
Ann Richard, Land Design and Development, 503 Washburn Avenue, Louisville, Ky. 40222

Summary of testimony of those in favor:

Nick Pregliasco gave a power point presentation. The original case for this plan was requested 15 years ago before the real estate recession. A portion was constructed and now a new developer will finish it. The request is to change from attached duplexes to detached single family homes (see recording for detailed presentation).

Ann Richard discussed sidewalks, curbs and gutters. Also, there will be more trees provided than what's shown on the plan (see recording for detailed presentation).

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21-DDP-0014

The following spoke neither for nor against the request:

Paul Calbertine, 104 Netherwood Stream, Louisville, Ky. 40241

Summary of testimony of those neither for nor against:

Paul Calbertine said the project needs a construction road entrance at a different location (see recording for detailed presentation).

Rebuttal

Nick Pregliasco said the construction entrance is the same as the currently approved plan and will remain at that location.

Ann Richard explained why the construction entrance needs to stay as-is (safer) (see recording for detailed presentation).

Deliberation

Planning Commission deliberation (see recording for detailed presentation).

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.

Variance from Land Development Code, section 5.3.1.C to reduce the required 20' front/street side yard setback as described on the development plan

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

WHEREAS, the requested variance will not adversely affect the public health, safety or welfare as the setback does not impede the safe movement of pedestrians or vehicles and garages will be setback from sidewalks and roadways where sidewalks aren't present to provide for pedestrian and vehicular movement; and

WHEREAS, the requested variance will not alter the essential character of the general vicinity as the setback from pavement or sidewalks appears consistent adjacent development; and

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WHEREAS, the requested variance will not cause a hazard or nuisance to the public as the setback does not impede the safe movement of pedestrians or vehicles and the setback from pavement or sidewalks appears consistent adjacent development; and

WHEREAS, the requested variance will not allow an unreasonable circumvention of the zoning regulations as the variance does not create a hazard or nuisance, or adversely impact public health, safety, or welfare; and

WHEREAS, the requested variance arises from special circumstances which do not generally apply to land in the general vicinity, or the same zone as public roads were required for this detached unit development even in the absence of lot boundaries; and

WHEREAS, the Louisville Metro Planning Commission finds, the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land as relief in accordance with items 'a' through 'd' of the standard of review have been adequately justified; and

WHEREAS, the Louisville Metro Planning Commission further finds the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as no development has occurred.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** a Variance from Land Development Code, section 5.3.1.C to reduce the required 20' front/street side yard setback as described on the development plan, **SUBJECT** to the following condition of approval.

1. The applicant shall provide a 6-foot integral vertical curb and sidewalk along Court A and Street A that abuts the residential driveways, which will be permitted at 22-foot length from the face of the garage to the back of the sidewalk.

The vote was as follows:

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

NOT PRESENT AND NOT VOTING: Commissioners Peterson and Sistrunk

Revised Detailed District Development/Major Preliminary Subdivision Plan

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

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WHEREAS, the conservation of natural resources on the property proposed for development, including: trees and other living vegetation, steep slopes, water courses, flood plains, soils, air quality, scenic views, and historic sites will be conserved while also allowing for the site to be developed in compliance with the Land Development; and

WHEREAS, safe pedestrian and vehicular connectivity is being provided as required by the Land Development Code; and

WHEREAS, the provision of sufficient open space (scenic and recreational) to meet the needs of the proposed has been provided in accordance with 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

WHEREAS, the Louisville Metro Planning Commission finds, the overall site design is compatible with nearby development as the proposal provides for detached units and public roadways with sidewalks. This is compatible with the existing condominium development, as well as nearby standard subdivisions; and

WHEREAS, the Louisville Metro Planning Commission further finds the proposed development plan conforms to Plan 2040 and generally conforms with the Land Development Code as public roads and sidewalk are provided to increase mobility and connectivity and a different, but compatible, residential option is being provided.

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

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

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2. The development shall be in accordance with the approved Preliminary Subdivision Plan. No further subdivision of the land into a greater number of lots than originally approved shall occur without approval of the Planning Commission.

3. 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 Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. Encroachment permits must be obtained from the Kentucky Transportation Cabinet.
 - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - d. A 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.
 - e. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance

5. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.

6. 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

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assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.

7. 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."

8. When limits of disturbance are shown on the plan, a note shall be placed on the preliminary plan, construction plan and the record plat that states, "Construction fencing shall be erected at the edge of the limits of disturbance area, prior to any grading or construction activities. The fencing shall remain in place until all construction is completed. No parking, material storage, or construction activities shall be permitted within the fenced area."

9. 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.

10. 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.

The vote was as follows:

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

NOT PRESENT AND NOT VOTING: Commissioners Peterson and Sistrunk

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PUBLIC HEARING

21-ZONE-0046

Request: Change in zoning from R-6 to C-2, with Detailed District Development Plan and Binding Elements, and Waivers
Project Name: Vine Street Rezoning
Location: 749 & 751 Vine Street
Owner: CJ & Friends LLC
Applicant: CJ & Friends LLC
Representative: Dinsmore & Shohl
Jurisdiction: Louisville Metro
Council District: 4 – Jecorey Arthur
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:

02:33:06 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:

Cliff Ashburner, Dinsmore and Shohl, 101 South 5th Street, Louisville, Ky. 40202
Ann Richard, Land Design and Development, 503 Washburn Avenue, Louisville, Ky. 40222

Summary of testimony of those in favor:

Cliff Ashburner gave a power point presentation. The proposal accomplishes several goals from the Comprehensive Plan 2040 – preserving and reusing a historic building, providing commercial (with other commercial in building) and meeting the form of the neighborhood which the building sits (see recording for detailed presentation).

Ann Richard discussed the landscape waivers for the side and rear, street trees and the parking study (see recording for detailed presentation).

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21-ZONE-0046

Deliberation

Planning Commission deliberation.

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

Change in zoning from R-6 Multi-Family Residential to C-2 Commercial

On a motion by Commissioner Howard, seconded by Commissioner Seitz, the following resolution based on Plan 2040 Staff Analysis, testimony 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 proposal would not constitute a nonresidential expansion into an existing residential area. The structure has been used commercially for many years and has nonconforming rights as a restaurant; the site is relatively close to E Broadway, a major transit and commercial corridor; the proposed zoning district would not permit hazardous uses. Uses with air, noise or light emissions must comply with LMCO and LDC requirements; the proposed zoning district would not permit uses generating noxious odors, particulates or emissions; the existing restaurant's traffic has been a part of the neighborhood for many years. The short-term rental traffic is likely to be minimal and parking has been approved by the Planning Director; Noise impacts from the existing restaurant have been part of the neighborhood for many years. The proposed short-term rentals are unlikely to create noise impacts; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Form because, the site has appropriate access and connectivity; The site has been utilized as a restaurant for many years; the proposed zoning district would allow for a mixture of compatible land uses in an existing activity center; the proposal would permit residential uses above an existing restaurant; the proposal would include the rehabilitation and re-use of an existing structure; the proposal does not include underutilized parking lots; the site has been used as a restaurant for many years. The placement, design and scale of the development is appropriate for the neighborhood; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 4: Community Form because, the proposal preserves the existing structure; and

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WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Mobility because, the site is located in proximity to a major commercial marketplace corridor at E Broadway; 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 Vine Street, through development of similar intensity and 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 improve the mix of complementary neighborhood serving businesses and services in proximity to an existing neighborhood center at E Broadway; the site is accessible by bicycle, car, transit, pedestrians and people with disabilities. The proposal would permit housing near an activity corridor at E Broadway; The proposal would permit higher density mixed-use development in an existing neighborhood; 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 traffic generated by the existing restaurant on the site has been part of the neighborhood for many years. The proposed short-term rentals are unlikely to generate high volumes of traffic; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Housing because, the proposed zoning district would promote an environment that supports aging in place by increasing the mix of complementary neighborhood-serving uses in proximity to the commercial corridor at E Broadway; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Housing because, the proposal would permit mixed-income and mixed-use inter-generational development that is connected to the neighborhood and surrounding area; the site is in proximity to E Broadway, a multimodal transportation corridor and commercial corridor providing neighborhood goods and services; and

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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 proposal; the proposal would permit innovative methods of housing.

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council the change in zoning from R-6, Multi-Family Residential to C-2, Commercial on property described in the attached legal description be **APPROVED**.

The vote was as follows:

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

NOT PRESENT AND NOT VOTING: Commissioners Peterson and Sistrunk

Waiver #1: from 10.2.4 to allow structures to encroach into to the required property perimeter Landscape Buffer Area (21-WAIVER-0053)

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

WHEREAS, the waiver will not adversely affect adjacent property owners as the structure and patio have been at their current locations and in commercial uses for many decades without any evident adverse impact on adjacent property owners; and

WHEREAS, the waiver will not violate specific guidelines of Plan 2040 as Plan 2040 encourages appropriate buffering and transitions between uses that are significantly different in density or intensity. The appropriate transitions will be provided; 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 site is relatively small and the encroachment will only become necessary when the zoning is changed; 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 because the building would have to be reduced in size and the patio moved or reduced in size, creating a significant hardship.

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RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** Waiver #1: from 10.2.4 to allow structures to encroach into to the required property perimeter Landscape Buffer Area (21-WAIVER-0053).

The vote was as follows:

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

NOT PRESENT AND NOT VOTING: Commissioners Peterson and Sistrunk

Waiver #2: from 10.2.8.A to omit two required type C street trees along Vine Street (21- WAIVER-0092)

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

WHEREAS, the waiver will not adversely affect adjacent property owners as two street trees will still be provided, which will increase the street tree canopy along Vine Street; and

WHEREAS, the waiver will not violate specific guidelines of Plan 2040 as Plan 2040 encourages increasing the Metro-wide tree canopy, which will be accomplished with the addition of street trees, even if the full street tree requirement cannot be provided; 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 two street trees to be waived are impractical to provide in the right-of-way; 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 because the provision of additional street trees in the right-of-way is impractical.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** Waiver #2: from 10.2.8.A to omit two required type C street trees along Vine Street (21-WAIVER-0092).

The vote was as follows:

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

NOT PRESENT AND NOT VOTING: Commissioners Peterson and Sistrunk

Detailed District Development Plan with Binding Elements

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

WHEREAS, the existing structure is proposed to be retained. No natural resources currently exist on the site. Some tree canopy exists which is proposed to be preserved; 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 has approved the preliminary development plan; and

WHEREAS, no open space requirements are pertinent to the 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 Planning Commission finds, the overall site design is compatible with the existing and future development of the area. The structure to be used already exists and has existed on the site for many decades, becoming part of the fabric of the neighborhood; and

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

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

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

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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 Construction Review, 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 certificate of occupancy. 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. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
6. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
7. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.

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The vote was as follows:

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

NOT PRESENT AND NOT VOTING: Commissioners Peterson and Sistrunk

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21-ZONE-0052

Request: Change in zoning from R-4 to PRD, with Detailed District Development Plan/Major Preliminary Subdivision and Binding Elements, and Waiver
Project Name: Crosby Farm Subdivision
Location: 9300 Old Bardstown Road & Parcel ID 066600250000
Owner: Quartz Enterprises Inc.
Applicant: Quartz Enterprises Inc.
Representative: Mindel Scott & Associates
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:

03:09:34 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:

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

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

Summary of testimony of those in favor:

Kathy Linares gave a power point presentation. She listed some criteria they are meeting following the Comprehensive Plan 2040. The open space is very significant (~25%) (see recording for detailed presentation).

David Mindel said the Louisville Water Co. has run tests concerning low water pressure (see recording for detailed presentation).

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Kathy Linares and David Mindel discussed the turning lane (see recording for detailed presentation).

The following spoke in opposition to this request:

Christy Justice, 9912 Tuscan Ridge Drive, Louisville, Ky. 40291
Kelly Bowman, 11111 Kaufman Farm Drive, Louisville, Ky. 40291
Tamara Guelda, 9218 Fairmount Road, Louisville, Ky. 40291

Summary of testimony of those in opposition:

Christy Justice stated the water pressure is very poor. Other issues include: traffic; blasting caused damage in past to foundation; erosion in driveway; and grading issues (see recording for detailed presentation).

Kelly Bowman stated she is very fearful of another development being done by Fisher Homes and the quality of their homes because of their haphazard approach to building. "Fisher Homes will wipe their hands clean of any responsibility and walk away like they've done with our neighborhood in the past." (see recording for detailed presentation).

Tamara Guelda is concerned about the traffic (horrific). There's a lot more retail being added to Old Bardstown Rd. (see recording for detailed presentation).

Rebuttal

David Mindel said the traffic will be helped by connectivity. There will be a storm line and pick up flow with catch basins and all that water will be going underground. There will be a pre-blast survey, which is required by the Ky. Dept. of Mining. Commissioner Carlson requests a binding element that would require the developer to offer a pre-blast survey to anyone within 500-feet of where blasting occurs.

Deliberation

Planning Commission deliberation.

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

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Zoning Change from R-4 Single Family Residential to PRD Planned Residential Development

On a motion by Commissioner Howard, seconded by Commissioner Carlson, the following resolution based on the Plan 2040 Staff Analysis, testimony and evidence provided 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 higher density or intensity use; the proposal is not substantially different in scale or intensity or density compared with the development around it; 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 1: Mobility because, the proposal is not for higher density or intensity zoning; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Mobility because, access to the development is through areas of similar intensity and density; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Mobility because, the site is easily accessible by car. The proposal would increase the accessibility of the neighborhood by bicycle, pedestrians and people with disabilities. Bardstown Road is a transit corridor that can be reached by going through the connected neighborhoods to the intersection at Fairmount Road; 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

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WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Livability because, the site is largely cleared at this time and tree canopy will be provided with the development; no karst features are evident on the site; 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 a variety of housing types within the same development; the proposal would support aging in place by providing smaller, lower-cost homes in an established neighborhood, thereby increasing housing choice for persons who may wish to remain in the neighborhood as they age; 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 inter-generational mixed-income development. The site is connected to the neighborhood and the surrounding area; 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 increasing the variety of ownership options and unit costs in the neighborhood, and within Louisville Metro; no existing residents would be displaced by the proposal; the proposal would permit innovative methods of housing.

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

The vote was as follows:

YES: Commissioners Carlson, Daniels, Howard, Mims, Seitz and Lewis

NOT PRESENT AND NOT VOTING: Commissioners Brown, Clare, Peterson and Sistrunk

Waiver from 7.3.30.E to allow a rear yard to overlap a drainage easement by more than 15% (21-WAIVER-0056)

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

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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.

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-0056).

The vote was as follows:

YES: Commissioners Carlson, Daniels, Howard, Mims, Seitz and Lewis

NOT PRESENT AND NOT VOTING: Commissioners Brown, Clare, Peterson and Sistrunk

Detailed District Development Plan/Major Preliminary Subdivision with Binding Elements

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

WHEREAS, the site is lightly wooded and few natural resources exist on the site currently. Required tree canopy will be provided; 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, 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

WHEREAS, the Louisville Metro Planning Commission finds, the overall site design is in compliance with existing and planned future development in the area. The proposal would provide an increase in the variety of housing in the neighborhood by permitting semi-detached houses in an area predominantly developed with single-family and large-lot single-family residences; and

WHEREAS, the Louisville Metro Planning Commission further finds the development plan conforms to applicable guidelines and policies of the Land Development Code and Plan 2040 with the exception of the requested waiver.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the Detailed District Development Plan/Major Preliminary Subdivision Plan, **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.
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

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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 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

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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.

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.

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14. The applicant shall install signs, each to be located within the public right-of-way at the terminuses of Streets B, C, D, E and F, and at the southern terminus of the Kaufman Farm Drive extension. These signs shall indicate that these streets 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;

(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. Above and below ground obstructions (including but not limited to fire hydrants, valves, utility poles, guy wires, pad transformers, splice and pull boxes, light standards, buildings, pools, ponds, trees, drainage culverts, and shrubbery) shall not be permitted on LG&E's right-of-way, easement or lease area without

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LG&E's express prior written approval. Any obstructions allowed by LG&E are subject to future removal by LG&E for purposes of pipeline maintenance or construction and LG&E shall not be liable for their replacement. This restriction shall be clearly noted on the recorded plat of the development and shall be written into the CCRs. Purchasers of lots 51, 85, 86, 87, 90 and 91 shall be notified by the Developer of this restriction until such time as control of the development passes to the homeowners' association; the homeowners association shall be responsible for notification thereafter. Purchasers of the affected lots shall also be informed as to the signs of a gas pipeline leak (smell of gas, bubbling after rain, discolored or dead grass over the pipeline) and referred to LG&E for more information.

19. The left-turn lane as shown on the development plan shall be constructed as depicted prior to issuance of the 60th Certificate of Occupancy.

20. All property owners within 500 feet of a proposed blasting location shall be notified 30 days before any blasting operations occur and be offered pre-blast surveys. Any homeowners who opt to have a pre-blast survey conducted shall be provided copies of all materials resulting from that survey including any photos and/or videos. Any blast survey shall be done in a manner consistent with Kentucky Blasting Regulations.

The vote was as follows:

YES: Commissioners Carlson, Daniels, Howard, Mims, Seitz and Lewis

NOT PRESENT AND NOT VOTING: Commissioners Brown, Clare, Peterson and Sistrunk

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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.

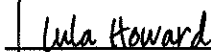
CHAIRPERSON/DIRECTOR'S REPORT

No report given.

ADJOURNMENT

The meeting adjourned at approximately 5:25 p.m.

DocuSigned by:



Chair 0B6F7FEAC7453...

DocuSigned by:



Planning Director 0458D318AFF...