

**MINUTES OF THE MEETING  
OF THE  
LOUISVILLE METRO PLANNING COMMISSION  
February 7, 2019**

A meeting of the Louisville Metro Planning Commission was held on February 7, 2019 at 1:00 p.m. at the Old Jail Building, located at 514 W. Liberty Street, Louisville, Kentucky.

**Commission members present:**

Rich Carlson – Acting Chair  
Jeff Brown  
Lula Howard  
Robert Peterson  
David Tomes  
Donald Robinson  
Ruth Daniels

**Commission members absent:**

Vince Jarboe, Chair  
Marilyn Lewis, Vice Chair  
Emma Smith

**Staff Members present:**

Emily Liu, Director, Planning and Design Director  
Joe Reverman, Planning and Design Assistant Director  
Brian Davis, Planning and Design Manager  
Joe Haberman, Planning and Design Manager  
Julia Williams, AICP, Planning and Design Supervisor  
Chris French, Planning and Design Supervisor  
Joel Dock, Planner II  
Jay Lockett, Planner I  
Dante St. Germain, Planner II  
Regina Thomas, Administrative Coordinator  
Beth Stuber, Engineering Supervisor  
Olivia Troehler, Engineer I  
Travis Fiechter, Legal Counsel  
Pamela M. Brashear, Management Assistant

**Others Present:**

Tony Kelly, Metropolitan Sewer District

The following matters were considered:

**PLANNING COMMISSION MINUTES  
February 7, 2019**

**APPROVAL OF MINUTES**

**JANUARY 24, 2019 PLANNING COMMISSION REGULAR MEETING MINUTES**

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

**RESOLVED**, that the Planning Commission does hereby **APPROVE** the minutes of its meeting conducted on January 24, 2019.

**The vote was as follows:**

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

**PLANNING COMMISSION MINUTES**  
**February 7, 2019**

**CONSENT AGENDA**  
**CASE NO. 19STREETS1000**

Request:	Street Name Change
Project Name:	North 26 <sup>th</sup> Street to Marine Street
Location:	North 26 <sup>th</sup> Street at Marine Street
Owner:	Louisville Metro Government
Applicant:	Louisville Metro Public Works
Representative:	Jeff Brown
Jurisdiction:	Louisville Metro
Council District:	5 – Donna Purvis
<b>Case Manager:</b>	<b>Jay Lockett, AICP, Planner I</b>

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

**Discussion**

00:18:39 Mr. Lockett stated there was 100% consent for this street name change.

**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 Peterson, seconded by Commissioner Daniels, the following resolution based on the staff report and testimony heard today was adopted.

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council the street name of North 26<sup>th</sup> Street be changed to Marine Street.

**The vote was as follows:**

**YES: Commissioners Daniels, Howard, Peterson, Tomes and Carlson**  
**NOT PRESENT AND NOT VOTING: Commissioners Robinson, Smith, Lewis and Jarboe**  
**ABSTAINING: Commissioner Brown**

**PLANNING COMMISSION MINUTES**  
**February 7, 2019**

**PUBLIC HEARING**  
**UPDATE STAFF APPROVABLE PROCEDURES**

**Discussion:**

00:20:57 Mr. Reverman stated this was discussed at Planning Committee a couple of weeks ago and they made some recommendations to update the bylaws and policies of the Louisville Metro Planning Commission. The details of the changes proposed are outlined in the January 23, 2019 Policies and Procedures Committee meeting minutes – fees for Boards and Commissions and changes as to what staff can approve.

**Deliberation**

00:29:49 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.**

On a motion by Commissioner Tomes, seconded by Commissioner Peterson, the following resolution based on the evidence and testimony heard today was adopted.

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** the Staff Approvable Procedures as outlined in the January 23, 2019 Policies and Procedures Committee minutes.

**The vote was as follows:**

**YES: Commissioners Brown, Daniels, Howard, Peterson, Tomes and Carlson**  
**NOT PRESENT AND NOT VOTING: Commissioners Robinson, Smith, Lewis and Jarboe**

**PLANNING COMMISSION MINUTES**  
**February 7, 2019**

**PUBLIC HEARING**  
**CASE NO. 18AMEND1001**

Request: Amendment to Land Development Code Section 9.1.4  
Project Name: Driveway Width LDC Amendment  
Location: Louisville Metro  
Applicant: Louisville Metro  
Jurisdiction: Louisville Metro  
Council District: All Council Districts  
**Case Manager: Chris French, AICP, Planning and Design Supervisor**

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

**Discussion**

00:33:00 Mr. French discussed the case summary and staff analysis from the staff report.

**Deliberation**

00:39:37 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.**

**Amend Section 9.1.4, of the Land Development Code (LDC) regarding driveway width for single family residential and duplexes**

Off-street parking is prohibited in all required building setbacks unless specifically authorized in the Form District Regulations. Exception: Parking for single-family residential uses and duplexes is permitted in the required front or street side yard only on a hard surface or approved semi-pervious driveway that does not exceed (20) feet in width and that leads to a garage, carport, house or rear yard. In the Neighborhood Form District, the driveway width may exceed 20 feet as long as the resulting driveway width does not exceed 32 feet or 50% of the individual frontage at the building restriction line, whichever is less. Parking on approved circular driveways may be permitted as long as the circular driveway has been approved by the Director of Public Works or designee. The circular driveway shall be constructed in accordance with Metro Public Works standards. On a motion by Commissioner Brown, seconded by Commissioner Peterson, the following resolution based on the Cornerstone 2040 Staff Analysis and the testimony heard today was adopted.

**PLANNING COMMISSION MINUTES**  
**February 7, 2019**

**PUBLIC HEARING**  
**CASE NO. 18AMEND1001**

**WHEREAS**, the Planning Commission finds that the proposed amendments to the provisions of the LDC comply with the applicable policies of Plan 2040; and

**WHEREAS**, the Planning Commission further finds that the proposed amendments to section 9.1.4 of the LDC comply with Community Form Goal 1, Policy 12 by providing greater flexibility in driveway width for motorists to ensure adequate parking can be provided on single family and duplex residential lots within the Neighborhood Form District; and

**WHEREAS**, the Planning Commission further finds that the proposed amendments to section 9.1.4 of the LDC comply with Mobility Goal 3, Policy 19 by providing regulations on driveway width for single family and duplex residential lots within the Neighborhood Form District to ensure driveway functionality and to promote safety for all users.

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council and other legislative bodies having zoning authority **APPROVE** the amendment of section 9.1.4 of the Land Development Code regarding driveway width for single family residential and duplexes.

**The vote was as follows:**

**YES: Commissioners Brown, Daniels, Howard, Peterson, Smith and Carlson**  
**NOT PRESENT AND NOT VOTING: Commissioners Robinson, Smith, Lewis and Jarboe**

**PLANNING COMMISSION MINUTES**  
**February 7, 2019**

**PUBLIC HEARING**  
**CASE NO. 19AMEND1001**

Request: Amendment to Land Development Code Section 7.2.45  
(Subdivision Regulations)  
Project Name: Subdivision Bond LDC Amendment  
Location: Louisville Metro  
Applicant: Louisville Metro  
Jurisdiction: Louisville Metro  
Council District: All Council Districts  
**Case Manager: Chris French, AICP, Planning and Design Supervisor**

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

**Discussion:**

00:42:34 Mr. French discussed the case summary, standard of review and staff analysis from the staff report.

00:44:10 Mr. Reverman added, part of the resolution discussed by Metro Council included concerns of bonding private roads with regards to subdivisions. For the record, "We are beginning to bond private roads with new proposals that include private roads in subdivisions".

00:45:05 Commissioner Howard stated that members of the Building Industry Association are represented in the Planning Committee.

**Deliberation**

00:48:04 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.**

**Amend Section 7.2.45, of the Land Development Code (LDC) regarding subdivision bonds**

A. Subdivider's Commitment - The subdivider shall be responsible for the installation, good repair and proper functioning of all improvements, including private roads, required by the approved construction plan and the installation of all reference monuments required by the record plat. Installation shall begin within a year after approval of the record plat, or within any one year extension granted by the Director of

**PLANNING COMMISSION MINUTES**  
**February 7, 2019**

**PUBLIC HEARING**  
**CASE NO. 19AMEND1001**

Works, and shall proceed in a manner which, in the judgment of the Director of Works, does not cause unreasonable harm, inconvenience or annoyance to any other property owner in or outside of the subdivision. The judgment of the Director of Works with respect to the manner of proceeding may not be questioned in any judicial proceeding by anyone except the subdivider, but said judgment when exercised in favor of the subdivider shall not constitute a defense to the subdivider in a judicial action against the subdivider by a complaining property owner. This obligation of the subdivider shall continue until the Director of Works, acting on behalf of the Planning Commission, has granted a release pursuant to Section 7.2.60.

1. The required installations shall be completed and properly functioning within five (5) years from the date of which construction plans are approved, unless an extension is requested by the subdivider and approved by the Director of Works in writing. If an extension is granted, the Director of Works may increase the amount of the bond, if necessary, to ensure fulfillment of the subdivider's commitment.
2. If eighty percent (80%) of the lots do not have a completed structure on them, the subdivider may request that the Director of Works, also acting on behalf of MSD, waive the eighty percent (80%) requirement and notify the Planning Commission of such waiver. If the waiver is granted, the subdivider or design engineer, acting on behalf of the subdivider, shall initiate the bond release process by sending a written request for bond release inspection to Public Works, MSD, the Health Department, and the local fire protection district.
3. At any time after the date of approval of the record plat, the subdivider shall abide by any time limits which the Director of Works may specify in writing. This obligation shall be evidenced in writing signed by the subdivider on forms provided by the Director of Works.

On a motion by Commissioner Howard, seconded by Commissioner Daniels, the following resolution based on the Cornerstone 2040 Staff Analysis, testimony and discussion was adopted.

**WHEREAS**, the Planning Commission finds that the proposed amendments to the provisions of the LDC comply with the applicable policies of Plan 2040; and

**WHEREAS**, the Planning Commission further finds that the proposed amendments to the provisions of the LDC comply with Community Form Goal 3, Policy 6 by clarifying the existing language within subsection A and through the addition of language that provides the ability to increase a bond amount to ensure that all improvements are completed for developments that exceed the standard five-year construction period.



**PLANNING COMMISSION MINUTES**  
**February 7, 2019**

**PUBLIC HEARING**  
**CASE NO. 19AMEND1001**

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **AMEND** section 7.2.45 of the Land Development Code regarding subdivision bonds.

**The vote was as follows:**

**YES: Commissioners Brown, Daniels, Howard, Peterson, Smith and Carlson**  
**NOT PRESENT AND NOT VOTING: Commissioners Robinson, Smith, Lewis and Jarboe**

**PLANNING COMMISSION MINUTES**  
**February 7, 2019**

**PUBLIC HEARING**  
**CASE NO. 19AMEND1002**

Project Name: Sidewalk Fee in Lieu LDC Amendment  
Applicant: Louisville Metro  
Jurisdiction: Louisville Metro  
Council District: All Council Districts  
**Case Manager: Chris French, AICP, Planning and Design Supervisor**

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:**

00:50:39 Mr. French discussed the case summary, standard of review and staff analysis from the staff report.

00:52:45 Mr. Reverman said there was a last minute change regarding calculating the fee-in-lieu. There will not be an average used, but Metro Public Works primary contract for new sidewalks.

**Deliberation**

00:54:56 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.**

**Amend Section 6.2.6, of the Land Development Code (LDC) regarding sidewalk fee in lieu**

B. Development activity that meets the thresholds in the form district for Street and Roadside Design and new streets shall provide sidewalks in accordance with Tables 6.2.1 and 6.2.2 subject to the following exceptions:

1. Fee in Lieu Option - The Director of Works and the Director of Planning or designees may allow the payment in lieu of sidewalk construction upon a finding that construction of a sidewalk is not appropriate due to one of the following applicability requirements reasons.

• Sidewalks construction is impracticable due to topographical conditions or site constraints. Site constraints may include, but are not limited to, steep slopes, utility infrastructure, or tree removal; or

**PLANNING COMMISSION MINUTES**  
**February 7, 2019**

**PUBLIC HEARING**  
**CASE NO. 19AMEND1002**

a. ~~Amount of fee shall be set by Metro Public Works based on average sidewalk construction. The fee amount shall be calculated using the average construction cost of all primary Metro Public Works primary contracts for new sidewalks multiplied by the area of sidewalk. The area of sidewalk shall be calculated as follows. Multi-family, non-residential and major subdivision developments shall be calculated based on the area of sidewalks required to be constructed per the LDC. The fee in lieu amount for Ssingle~~ family residential property that is not part of a major-subdivision plan shall be calculated based on the minimum lot frontage of the-applicable zoning district or actual lot width, whichever is less.

b. All fees paid shall be used for sidewalk construction within the same Metro Council District. The sidewalk fee-in-lieu does not account for site constraints that may increase the cost of construction.

c. ~~It should be noted that p~~Payment of a fee in lieu of sidewalk construction is an option available to developers that must be approved by the Director of Works and the Director of Planning or designees. Applicants retain the right to request a sidewalk waiver (see B.2 below). In no case shall the Planning Commission or Director of Works require the payment of a fee in lieu of sidewalk construction.

d. ~~The fee in lieu option shall not be approved and the sidewalk shall be constructed~~ permitted when one of the following situations apply:

- Where an existing sidewalk network can be completed or extended, except in locations where site constraints cause construction difficulties as determined by the Director of Works and the Director of Planning or designees.
- The required sidewalk would provide a direct means of access to a lot that contains a pedestrian generator such as a school, church, library, community center or park, except in locations where site constraints cause construction difficulties as determined by the Director of Works and the Director of Planning or designees.

e. A new fee in lieu or sidewalk shall not be required in the future for a street frontage in which a fee in lieu has already been approved and paid.

On a motion by Commissioner Brown, seconded by Commissioner Howard, the following resolution based on the Cornerstone 2040 Staff Analysis and testimony heard today was adopted.

**WHEREAS**, the Planning Commission finds that the proposed amendments to Section 6.2.6 of the LDC comply with the applicable policies of Plan 2040; and

**WHEREAS**, the Planning Commission further finds that the proposed amendments to Section 6.2.6 are in conformance with Mobility Goal 1, Policy 1 because the proposal would help simplify the language and provide clarification where needed in order to

**PLANNING COMMISSION MINUTES**  
**February 7, 2019**

**PUBLIC HEARING**  
**CASE NO. 19AMEND1002**

better apply the sidewalk fee-in-lieu provision which will assist in identifying those areas that may not need the same level of pedestrian facilities based on site constraints and location characteristics; and

**WHEREAS**, the Planning Commission further finds that the proposed amendments to Section 6.2.6 of the LDC are in conformance with Mobility Goal 2, Policy 1 because the sidewalk fee-in-lieu provision was created to provide for context sensitive solutions for areas where sidewalk construction is impractical or incompatible to surrounding development. These proposed amendments would further that intent by simplifying the section and providing additional clarification where needed.

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council and the municipalities with zoning authority to **APPROVE** the amendment to section 6.2.6 of the Land Development Code regarding the sidewalk fee-in-lieu with the revision to item 6.2.6.B.1.a. There will not be an average used, but Metro Public Works primary contract for new sidewalks.

**The vote was as follows:**

**YES: Commissioners Brown, Daniels, Howard, Peterson, Smith and Carlson**  
**NOT PRESENT AND NOT VOTING: Commissioners Robinson, Smith, Lewis and Jarboe**

**PLANNING COMMISSION MINUTES**  
**February 7, 2019**

**PUBLIC HEARING**  
**CASE NO. 18STREETS1028**

Request: Alley Closure for an unnamed alley between East Gray Street and Springer Alley  
Project Name: Gray and Clay  
Location: 709/715 East Gray Street, 710, 712 and 716 East Chestnut Street and 616-634 South Shelby Street  
Owner: Louisville Metro Government  
Applicant: LDG Multi-Family  
Representative: Sabak Wilson and Lingo Inc.; Dinsmore and Shohl LLP  
Jurisdiction: Louisville Metro  
Council District: 4- Barbara Sexton Smith  
**Case Manager: Julia Williams, AICP, Planning Supervisor**

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:**

00:58:15 Ms. Williams 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, LLP, 101 South 5<sup>th</sup> Street, Suite 2500, Louisville, Ky. 40202  
Kelli Jones, Sabak, Wilson and Lingo Inc., 608 South 3<sup>rd</sup> Street, Louisville, Ky. 40202

**Summary of testimony of those in favor:**

01:05:33 Mr. Ashburner gave a power point presentation. The area is transitional.

01:11:10 Ms. Jones stated there will be street trees and a lot of area for residents to be outside and safe. There are overhead power lines, but the street tree canopy requirements will be met. Regarding the site distance, there will be a proposed wing wall and walkable grates.

01:15:44 Mr. Ashburner stated that the Phoenix Hill Historic District has a National Register nomination. The building is in very poor condition. There have been no neighbors to come forward wanting to preserve the building.

**Deliberation**

**PLANNING COMMISSION MINUTES**  
**February 7, 2019**

**PUBLIC HEARING**  
**CASE NO. 18STREETS1028**

01:23:09 Planning Commission deliberation. Commissioner Brown stated he can't support the variance for a 0 foot setback. Commissioner Daniels stated she has walked that area for a number of years and it is a dangerous spot. Commissioner Tomes said the sidewalk could be a little wider. Also, if the doors swing out into the public sidewalk, it could be problematic. Acting Chair Carlson stated the applicant may want to come back with a different design.

01:30:30 Mr. Ashburner proposed a variance approval conditioned upon submitting a revised plan to pull the building out of the site triangle. Commissioner Brown requests a 5 feet and 5 feet triangle. Mr. Ashburner agreed.

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

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

**WHEREAS**, adequate public facilities are available to serve existing and future needs of the community. The proposed closure does not result in an increase in demand on public facilities or services as utility agencies have coordinated with the applicant and/or applicant's representative and Planning and Design Services staff to ensure that facilities are maintained or relocated through agreement with the developer. No property adjacent or abutting the rights-of-way to be closed will be left absent of public facilities or services, or be dispossessed of public access to their property; and

**WHEREAS**, any cost associated with the rights-of-way to be closed will be the responsibility of the applicant or developer, including the cost of improvements to those rights-of-way and adjacent rights-of-way, or the relocation of utilities and any additional agreement reached between the utility provider and the developer; and

**WHEREAS**, the Louisville Metro Planning Commission finds, the request to close multiple rights-of-way is in compliance the Goals, Objectives and Plan Elements of the Comprehensive Plan as Guideline 7, Policy 1 provides that those who propose new developments bear or reasonably share in the costs of the public facilities and services made necessary by development; Guideline 7, Policy 6 strives to ensure that transportation facilities of new developments are compatible with and support access to surrounding land uses, and contribute to the appropriate development of adjacent lands; Guideline 7, Policy 9 provides that the Planning Commission or legislative body may require the developer to dedicate rights-of-way for street, transit corridors, bikeway and walkway facilities within or abutting the development as set forth in the Land

**PLANNING COMMISSION MINUTES**  
**February 7, 2019**

**PUBLIC HEARING**  
**CASE NO. 18STREETS1028**

Development Code and/or an adopted urban mobility plan; Guideline 8, Policy 8 states that Adequate street stubs for future roadway connections that support access and contribute to appropriate development of adjacent lands should be provided by new development and redevelopment; and Guideline 14, Policy 7 provides that the design and location of utility easements provide access for maintenance and repair and to minimize negative visual impacts. Any cost associated with the rights-of-way to be closed will be the responsibility of the applicant or developer. Adequate public facilities are available to serve existing and future needs of the community. Any facility required to be placed in an easement or relocated will be done so by the developer. Transportation facilities have been provided to accommodate future access and to not dispossess property owners of public access. All adjacent lands maintain access to public infrastructure and utility services will continue to be provided to these lands; and

**WHEREAS**, the Louisville Metro Planning Commission further finds there are no other relevant matters to be considered by the Planning Commission.

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council to **APPROVE** the alley closure.

**The vote was as follows:**

**YES: Commissioners Brown, Daniels, Howard, Peterson, Smith and Carlson**  
**NOT PRESENT AND NOT VOTING: Commissioners Robinson, Smith, Lewis and Jarboe**

**PLANNING COMMISSION MINUTES**  
**February 7, 2019**

**PUBLIC HEARING**  
**CASE NO. 18ZONE1052**

Request: Change in zoning from OR-2 and M-2 to C-2 with building height and setback variances  
Project Name: Gray and Clay  
Location: 709/715 East Gray Street, 710, 712 and 716 East Chestnut Street and 616-634 South Shelby Street  
Owner: TKW, LLC and Roman Catholic Bishop of Louisville  
Applicant: LDG Multi-Family  
Representative: Sabak Wilson and Lingo Inc.; Dinsmore and Shohl LLP  
Jurisdiction: Louisville Metro  
Council District: 4- Barbara Sexton Smith  
**Case Manager: Julia Williams, AICP, Planning Supervisor**

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

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

**Agency Testimony:**

00:58:15 Ms. Williams 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, LLP, 101 South 5<sup>th</sup> Street, Suite 2500, Louisville, Ky. 40202

Kelli Jones, Sabak, Wilson and Lingo Inc., 608 South 3<sup>rd</sup> Street, Louisville, Ky. 40202

**Summary of testimony of those in favor:**

01:05:33 Mr. Ashburner gave a power point presentation. The area is transitional.

01:11:10 Ms. Jones stated there will be street trees and a lot of area for residents to be outside safe. There are overhead power lines, but the street tree canopy requirements will be met. Regarding the site distance, there will be a proposed wing wall and walkable grates.



**PLANNING COMMISSION MINUTES**  
**February 7, 2019**

**PUBLIC HEARING**  
**CASE NO. 18ZONE1052**

01:15:44 Mr. Ashburner stated that the Phoenix Hill Historic District has a National Register nomination. The building is in very poor condition. There have been no neighbors to come forward wanting to preserve the building.

**Deliberation**

01:23:09 Planning Commission deliberation. Commissioner Brown stated he can't support the variance for a 0 foot setback. Commissioner Daniels stated she has walked that area for a number of years and it is a dangerous spot. Commissioner Tomes said the sidewalk could be a little wider. Also, if the doors swing out into the public sidewalk, it could be problematic. Acting Chair Carlson stated the applicant may want to come back with a different design.

01:30:30 Mr. Ashburner proposed a variance approval conditioned upon submitting a revised plan to pull the building out of the site triangle. Commissioner Brown requests a 5 feet and 5 feet triangle. Mr. Ashburner agrees.

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

**Zoning Change from OR-2 and M-2 to C-2**

On a motion by Commissioner Howard, seconded by Commissioner Peterson, the following resolution based on the Cornerstone 2020 Staff Analysis and testimony heard today was adopted.

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Community Form guideline because the proposal does not affect the existing street pattern. Sidewalks are provided within all rights of way. The proposal is for a zoning district that permits neighborhood serving uses and downzones a site from industrial to commercial. The proposal preserves public open spaces and the public realm of the right of way; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Centers guideline because the proposal will not create a new center but will include new construction where a mix of uses are permitted. The proposal is located in a mixed density/intensity neighborhood. The proposal is compact and results in an effective land use pattern. The areas infrastructure is already set up to serve an industrial which indicates it will be able to serve commercial as well, which is cost effective. The proposal is for commercial zoning which could reduce trips and support alternate

**PLANNING COMMISSION MINUTES**  
**February 7, 2019**

**PUBLIC HEARING**  
**CASE NO. 18ZONE1052**

transportation with sidewalks around the site. Transit is located nearby along Broadway and Chestnut Streets which will serve the site as well. The proposal is for commercial zoning which permits mixed uses. The proposal is a large development for the area that permits a mix of uses. The proposal provides a required entrance off an existing alley to access the interior parking garage. Utilities for the site are existing. The site provides easy access for all forms of transportation; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Compatibility guideline because building materials are compatible to the existing architecture to the area. The proposal is not a non-residential expansion into a residential area because the site is historically non-residential and is currently an M-3 zone. The proposal commercial zoning brings the site more into compliance with the surrounding commercial. APCD has no issues with the proposal. Transportation Planning has not indicated any adverse impacts to traffic. Lighting will meet LDC requirements. The proposal is for high intensity commercial located a clock away from transit and in the vicinity of an activity center and other commercial zoning. The setbacks are generally in compliance with the setbacks of the form where buildings are located at or near the right of way and property lines. There are no residential land uses facing the site. Parking is located interior to the site. A parking garage is integrated into the surroundings with access off the existing Springer Alley and is not visible from the other public streets. Signs will meet LDC requirements; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Open Space guideline because an interior courtyard provides open space for the multi-family community. The site is deficient on natural features; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Natural Areas and Scenic Historic Resources guideline because soils are not an issue for the site; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Economic Growth and Sustainability guideline because the proposal is in an area that is zoned for both a population center and employment center. The proposal is for commercial zoning located in an existing activity center located along a minor arterial. C-2 zoning will have more appropriate land uses than the M-3 which does not coincide with the neighborhood plan recommendations; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Circulation guideline because roadway improvements are not required. All types of transportation are promoted on the site. A stub street is not necessary because the site is not creating new roadways. ROW dedication is not necessary. Adequate parking is provided. Joint and cross access is not necessary because the site is constrained by roadways and existing single family residential; and

**PLANNING COMMISSION MINUTES**  
**February 7, 2019**

**PUBLIC HEARING**  
**CASE NO. 18ZONE1052**

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Transportation Facility Design guideline because a stub street is not necessary because the site is not creating new roadways. Access to the development is through public rights of way. The existing roadways provide the appropriate linkages to other development; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Bicycle, Pedestrian and Transit guideline because all types of transportation are promoted on the site; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Flooding and Stormwater guideline because MSD has preliminarily approved the proposal; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Air Quality guideline because APCD has no issues with the proposal; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Landscape Character guideline because natural corridors are not evident in or around the proposal; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Infrastructure guideline because existing utilities serve the site. Water is available to the site. The Health Department has no issues with the proposal.

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

**The vote was as follows:**

**YES: Commissioners Brown, Daniels, Howard, Peterson, Smith and Carlson**  
**NOT PRESENT AND NOT VOTING: Commissioners Robinson, Smith, Lewis and Jarboe**

**Abandonment of CUP for a hydrogen storage facility (B-267-98)**

**Abandonment of CUP for off street parking in OR-2 (B-39-88)**

**PLANNING COMMISSION MINUTES**  
**February 7, 2019**

**PUBLIC HEARING**  
**CASE NO. 18ZONE1052**

On a motion by Commissioner Howard, seconded by Commissioner Peterson, the following resolution based on the staff report and development plan showing a change in land use and those 2 uses will not be the same was adopted.

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **ABANDON** the Conditional Use Permit for a hydrogen storage facility (B-267-98) and a Conditional Use Permit for off street parking in OR-2 (B-39-88).

**The vote was as follows:**

**YES: Commissioners Brown, Daniels, Howard, Peterson, Smith and Carlson**  
**NOT PRESENT AND NOT VOTING: Commissioners Robinson, Smith, Lewis and Jarboe**

**Variances:**

1. **Variance from 5.2.2.C.2 to permit a building height of 61' instead of the required 45' (16' variance)**

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

**WHEREAS**, the requested variance will not adversely affect public health safety or welfare because the building height does not affect the public; and

**WHEREAS**, the requested variance will not alter the essential character of the general vicinity since there are other multi-story buildings in the vicinity. West of the site is the Downtown Form where high rise structures are permitted. Mainly parking lots and vacant lots surround the site; and

**WHEREAS**, the requested variance will not cause a hazard or nuisance to the public because the building height does not affect the public; and

**WHEREAS**, the requested variance will not allow an unreasonable circumvention of the zoning regulations since the variance requested is to allow 1 additional story (16') in area where there are mainly parking lots and vacant lots; and

**WHEREAS**, the requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone; and

**WHEREAS**, the Louisville Metro Planning Commission finds, the strict application of the provisions of the regulation would deprive the applicant of reasonable use of the land,

**PLANNING COMMISSION MINUTES**  
**February 7, 2019**

**PUBLIC HEARING**  
**CASE NO. 18ZONE1052**

as it would not be possible to fit the number of units allowable by the zone while also meeting the parking requirements and applicable height maximums; 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.

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** A variance from 5.2.2.C.2 to permit a building height of 61 feet instead of the required 45 feet (16 foot variance).

**The vote was as follows:**

**YES: Commissioners Brown, Daniels, Howard, Peterson, Smith and Carlson**  
**NOT PRESENT AND NOT VOTING: Commissioners Robinson, Smith, Lewis and Jarboe**

**2. Variance from 5.2.2.C.2 to permit a 0' setback along all property lines as shown on the development plan.**

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

**WHEREAS**, the variance will not adversely affect the public health, safety or welfare because the building is setback at the same distance as required as if the proposal was for a mixed use building rather than only multi-family residential; and

**WHEREAS**, the requested variance will not alter the essential character of the general vicinity because the building is setback at the same distance as required as if the proposal was for a mixed use building rather than only multi-family residential; and

**WHEREAS**, the requested variance will not cause a hazard or nuisance to the public because the building is setback at the same distance as required as if the proposal was for a mixed use building rather than only multi-family residential; and

**WHEREAS**, the requested variance will not allow an unreasonable circumvention of the zoning regulations because the building is setback at the same distance as required as if the proposal was for a mixed use building rather than only multi-family residential; and

**WHEREAS**, the requested variance arises from special circumstances because the building is setback at the same distance as required as if the proposal was for a mixed use building rather than only multi-family residential; and

**PLANNING COMMISSION MINUTES**  
**February 7, 2019**

**PUBLIC HEARING**  
**CASE NO. 18ZONE1052**

**WHEREAS**, the Louisville Metro Planning Commission finds, the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant because the building is setback at the same distance as required as if the proposal was for a mixed use building rather than only multi-family residential; 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.

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** a variance from 5.2.2.C.2 to permit a 0 foot setback along all property lines as shown on the development plan **ON CONDITION** that the development plan is updated to provide a 5 foot by 5 foot triangle area at the building where the corners intersect the alleys at Clay and Shelby Streets.

**The vote was as follows:**

**YES: Commissioners Brown, Daniels, Howard, Peterson, Smith and Carlson**  
**NOT PRESENT AND NOT VOTING: Commissioners Robinson, Smith, Lewis and Jarboe**

**District Development Plan with Binding Elements and removal of existing binding elements from 9-79-94**

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

**WHEREAS**, there do not appear to be any environmental constraints on the subject site. A historic resource has been identified and is proposed to be demolished. 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 has approved the preliminary development plan; and

**WHEREAS**, open space is provided in the form of an interior courtyard; 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

**PLANNING COMMISSION MINUTES**  
**February 7, 2019**

**PUBLIC HEARING**  
**CASE NO. 18ZONE1052**

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. The building generally meets 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 District Development Plan **ON CONDITION** that the applicant submit a revised development plan with removal of existing binding elements from 9-79-94 and **SUBJECT** to the following Binding Elements:

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

**PLANNING COMMISSION MINUTES**  
**February 7, 2019**

**PUBLIC HEARING**  
**CASE NO. 18ZONE1052**

- c. 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 prior to obtaining a building permit.
  - d. A road closure approval for the unnamed alley between Springer Alley and E. Gray Street shall be approved prior to requesting a building permit.
5. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
  6. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
  7. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the February 7, 2019 Planning Commission meeting.

**The vote was as follows:**

**YES: Commissioners Brown, Daniels, Howard, Peterson, Smith and Carlson**  
**NOT PRESENT AND NOT VOTING: Commissioners Robinson, Smith, Lewis and Jarboe**



**PLANNING COMMISSION MINUTES**  
**February 7, 2019**

**PUBLIC HEARING**  
**CASE NO. 18SUBDIV1024**

Request: Major Preliminary Subdivision with Review of Land Disturbing Activity on slopes greater than 20%, a variance and a sidewalk waiver

Project Name: South English Station Road property

Location: 1200 South English Station Road

Owner: Barbara Sorrell

Applicant: Perfection Builders

Representative: Bardenwarper, Talbott and Roberts

Jurisdiction: Louisville Metro

Council District: 20 – Stuart Benson

**Case Manager: Jay Luckett, AICP, Planner I**

**NOTE: Commissioner Peterson recused himself, left and did not vote on this case.**

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:**

01:47:01 Mr. Luckett discussed the case summary, standard of review and staff analysis from the staff report.

**The following spoke in favor of this request:**

Bill Bardenwerper, Bardenwerper, Talbott and Roberts, 1000 North Hurstbourne Parkway, 2<sup>nd</sup> floor, Louisville, Ky. 40223  
David Mindel, 5151 Jefferson Boulevard, Louisville, Ky. 40219  
Diane Zimmerman, 12803 High Meadows Pike, Prospect, Ky. 40059

**Summary of testimony of those in favor:**

01:55:19 Mr. Bardenwerper gave a power point presentation. The Land Development Code, section 4.7.7 allows smaller lots if you stay off of steep slopes. There's a lot of development in the area. The bridge over I-64 is problematic.

02:07:51 Mr. Mindel continued the power point presentation. The area with steep slopes is being preserved (43% open space). Most of the lots will be walkouts and more trees will be saved in the rear. The homes will be maintenance free.

02:12:19 Ms. Zimmerman summarized the left turn lane warrant analysis. A left turn lane is not needed.

**PLANNING COMMISSION MINUTES**  
**February 7, 2019**

**PUBLIC HEARING**  
**CASE NO. 18SUBDIV1024**

02:32:03 Mr. Bardenwerper remarked, "We don't address the Comprehensive Plan in the subdivision cases because the Comprehensive Plan is used for the purposes of writing the regulations not making determinations in ministerial acts."

**The following spoke in opposition to this request:**

Jeff Frank, P.O. Box 3, Fisherville, Ky. 40023  
Steve Henry, M.D., 2550 Ransdell, Louisville, Ky. 40204  
Mike Farmer, 15100 Old Taylorsville Road, Fisherville, Ky. 40023  
Peggy Tucella, 1108 South English Station Road, Louisville, Ky. 40299  
Charlotte M. Smith, 1120 South English Station Road, Louisville, Ky. 40299

**Summary of testimony of those in opposition:**

02:37:25 Mr. Frank stated the stream is very significant. He also requests modification of the plan.

02:40:29 Dr. Henry, founder of Future Fund and Floyds Fork Conservancy, stated he's very concerned about the runoff. Look at the density, plan and tree canopy and consider scaling it down.

02:41:45 Mr. Farmer is a member of the Fisherville Area Neighborhood Association and S. Floyds Fork Vision Advisory Committee. The loss of tree canopy is a major concern.

02:44:31 Ms. Tucella stated the proposed entrance is directly across from her driveway and was told it would be somewhere else. Why was the entrance changed? Also, has the property been looked at as an Indian burial ground?

02:46:26 Ms. Smith asked, out of the 49 acres, what is the exact number of acres to be built on? S. English Station Rd. is a scenic corridor and Ms. Smith said she would like more information on the berm and landscaping. Is there something in writing concerning maintenance of the retention basins being turned over to the homeowner's association? Is the correct number for non-buildable land 25 acres?

**The following spoke neither for nor against the request:**

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

**Summary of testimony of those neither for nor against:**

**PLANNING COMMISSION MINUTES**  
**February 7, 2019**

**PUBLIC HEARING**  
**CASE NO. 18SUBDIV1024**

02:33:21 Mr. Porter represents the Fisherville Area Neighborhood Association and stated this plan is in the Floyds Fork Area Study (to be tentatively approved in early March). Also, the tree canopy regulations are being reviewed. This case and the other case docketed today should not be finalized until the studies are complete.

**Rebuttal**

02:51:10 Mr. Bardenwerper stated estimating the tree canopy on the preliminary plan is not a good idea (misleading). The regulation is a minimum of 15% for this case. There will be 21 acres (43%) open space. The berm and landscaping will be worked out with the staff landscape architect.

02:56:06 Mr. Mindel discussed the site distance. Metro has approved the location of the entrance.

02:57:52 Ms. Linares stated there are 134 buildable lots.

02:58:17 Mr. Mindel stated the previous owner was 80 years old and had no record of any Indian burial grounds, but if anyone has that information, please give it to us to investigate. The sidewalk will be brought up to Oxford. If Commissioner Brown doesn't want us to have a mid-block crossing, we can do a cross stop at the entrance. We will work with Planning staff and Metro Public Works staff. Commissioner Brown asked if they could provide an 8 foot shoulder and move the guard rail back. Mr. Mindel said it would be very expensive to move the guard rail.

**Deliberation**

03:03:37 Planning Commission deliberation. Commissioner Tomes stated the proposal meets the standards and regulations.

03:04:37 Commissioner Daniels said there are still some unanswered questions, one being the burial grounds.

03:05:15 Commissioner Howard stated the preliminary subdivision plan is in order. There will be another plan at the construction stage that may change the lots in the areas of concern.

03:09:10 Commissioner Brown stated the left turn warrant was based on a 2016 survey of the area. Being that close to the threshold, the left turn lane needs to be constructed because it will improve safety. Having the sidewalks built would be a benefit. The traffic impact needs to be mitigated.

**PLANNING COMMISSION MINUTES**  
**February 7, 2019**

**PUBLIC HEARING**  
**CASE NO. 18SUBDIV1024**

03:12:41 Acting Chair Carlson stated he agrees with the plan and variance but the sidewalks are needed.

03:14:19 Mr. Reverman stated he confirmed with some officials from the Building Dept. The 0 foot setback is permitted, but any setback less than 5 feet requires a fire rated wall.

**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 to allow lots to meet the setbacks for the Alternative Development Incentive regulations found in Land Development Code section 5.3.1.D.1.a rather than the form district standards**

03:27:22

On a motion by Commissioner Brown, seconded by Commissioner Howard, 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 since homes in the subdivision will still maintain adequate yards and setbacks around structures. All provisions for safe circulation of traffic and access to utility infrastructure will be maintained; and

**WHEREAS**, the requested variance will not alter the essential character of the general vicinity since the mix of older and newer homes in the area have varied setbacks and a mixed rural and suburban character; and

**WHEREAS**, the requested variance will not cause a hazard or nuisance to the public since all appropriate access and utilities will be provided within the subdivision; and

**WHEREAS**, the requested variance will not allow an unreasonable circumvention of the zoning regulations, as the setbacks allowed by the request will encourage flexibility of housing design; and

**WHEREAS**, the requested variance does not arise from special circumstances, but is rather a design choice; and

**WHEREAS**, the Louisville Metro Planning Commission finds, the strict application of the provisions of the regulation would not deprive the applicant of the reasonable use of the

**PLANNING COMMISSION MINUTES**  
**February 7, 2019**

**PUBLIC HEARING**  
**CASE NO. 18SUBDIV1024**

land or create an unnecessary hardship, as the subdivision could still be generally developed as proposed with standard setbacks; and

**WHEREAS**, the Louisville Metro Planning Commission further finds the circumstances are not the result of actions taken subsequent to the adoption of the zoning regulations.

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** the variance to allow lots to meet the setbacks for the Alternative Development Incentive regulations found in Land Development Code section 5.3.1.D.1.a rather than the form district standards.

**The vote was as follows:**

**YES: Commissioners Brown, Daniels, Howard, Smith and Carlson**

**NOT PRESENT AND NOT VOTING: Commissioners Peterson, Robinson, Smith, Lewis and Jarboe**

**Waiver of Land Development Code section 5.8.1.B to not provide sidewalks in the S English Station right-of-way adjacent to lots 9-12 and a portion of lot 136 as indicated on the preliminary plan**

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

**WHEREAS**, the waiver will not adversely affect adjacent property owners, as the development will still include sidewalks for the majority of its frontage along S English Station Rd. There are currently no sidewalks available in this area; and

**WHEREAS**, the Louisville Metro Planning Commission finds, Guideline 7, Policy 1 states that developments should be evaluated for their impact on the street and roadway system and to ensure that those who propose new developments bear or reasonably share in the costs of the public facilities and services made necessary by development. Guideline 9, Policy 1 states that new development should provide for the movement of pedestrians, bicyclists and transit users with sidewalks along the streets of all developments where appropriate. The area of the requested waiver is directly south of a narrow bridge that crosses I-64, and also contains an existing drainage swale and guardrail. The sidewalk would likely not be able to connect across the bridge unless it was significantly reconstructed. The proposed waiver would have the sidewalk stop across from Oxford Station Ln.; and

**WHEREAS**, the Louisville Metro Planning Commission further finds the extent of the waiver is the minimum necessary to afford relief to the applicant, as sidewalks would be

**PLANNING COMMISSION MINUTES**  
**February 7, 2019**

**PUBLIC HEARING**  
**CASE NO. 18SUBDIV1024**

provided along all other existing and proposed rights-of-way as required by the Land Development Code.

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** the waiver of Land Development Code section 5.8.1.B to not provide sidewalks in the S. English Station right-of-way adjacent to lots 9-12 and a portion of the open space lot 136 as shown on the preliminary plan.

**The vote was as follows:**

**YES: Commissioners Brown, Daniels, Howard, Smith and Carlson**

**NOT PRESENT AND NOT VOTING: Commissioners Peterson, Robinson, Smith, Lewis and Jarboe**

**Major Preliminary Subdivision Plan (Development Potential Transfer) with review of land disturbing activity on slopes greater than 20%**

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

**WHEREAS**, a preliminary soil and slope evaluation was performed and no significant concerns with respect to slope instability or substantial erosion were observed on these scattered lots. There are some lots throughout the development that would have portions of slopes greater than 20%, however the preliminary soil and slope evaluation did not find that a full geotechnical report be completed at this time. Lots 68, 90-92 and 103-106 show some areas of slopes greater than 30% and the preliminary plan shows limits of disturbance to avoid disturbing the majority of the steepest areas. There are several karst features identified on the preliminary plan. A geotechnical engineer will evaluate and determine appropriate methods for filling any sinkholes. Overall, the design and layout appears to be the minimum necessary accommodate the proposed use of the site; and

**WHEREAS**, the final location of all utilities will be determined prior to the recording of the record subdivision plat. The preliminary location drainage features has received approval from the Metropolitan Sewer District; and

**WHEREAS**, the Louisville Metro Planning Commission finds, in general, the provided preliminary soil and slope evaluation opines that the on-site slopes in the observed areas were stable at the time of observation. It provides that disturbance of slopes should not exceed the limits of evaluation in the report. Construction measures to

**PLANNING COMMISSION MINUTES**  
**February 7, 2019**

**PUBLIC HEARING**  
**CASE NO. 18SUBDIV1024**

maintain stability have been provided and should be incorporated into the construction of all new homes and the life of those homes; and

**WHEREAS**, the Louisville Metro Planning Commission further finds Guideline 4, Policy 5 of Cornerstone 2020 calls for the integration of natural features into the pattern of development. Guideline 5, Policy 1 provides that proposals should respect the natural features of the site through sensitive site design, avoids substantial changes to the topography and minimizes property damage and environmental degradation resulting from disturbance of natural systems. In general, preliminary soil and slope evaluation demonstrates that the proposal is in conformance with the aforementioned policies of the Comprehensive Plan as construction methods have been provided to minimize property damage and environmental degradation related to disturbance of steep slopes. While some buildable lots are being placed in areas of concern, the majority of home construction will occur outside the areas of steeper slopes.

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** the Major Preliminary Subdivision Plan (Development Potential Transfer) with review of land disturbing activity on slopes greater than 20%, **ON CONDITION** that several notes be added to the plan – 1. Driveway length shall be a minimum of 25 feet between the face of the garage and the back of the right-of-way. 2. A hammerhead will be provided at the end of street A near lot 136 open space near I-64 and English Station overpass, **SUBJECT** to the following Conditions of Approval:

1. The development shall be in accordance with the approved Residential Development Preliminary Plan. No further subdivision of the land into a greater number of lots than originally approved will occur without approval of the Planning Commission.
2. 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."
3. Open space 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.
4. 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.

**PLANNING COMMISSION MINUTES**  
**February 7, 2019**

**PUBLIC HEARING**  
**CASE NO. 18SUBDIV1024**

5. 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 larvacide approved by the Louisville Metro Health Department. Larvacides shall be administered in accordance with the product's labeling. This language shall appear in the deed of restrictions for the subdivision.
6. 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.
7. 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.
8. Prior to the recording of the record plat, copies of the recorded documents listed below shall be filed with the Planning Commission.
  - a. Articles of Incorporation filed with the Secretary of State and recorded in the office of the Clerk of Jefferson County and the Certificate of Incorporation of the Homeowners Association.
  - b. A deed of restriction in a form approved by Counsel to the Planning Commission addressing responsibilities for the maintenance of common areas and open space, maintenance of noise barriers, maintenance of WPAs, TPAs and other issues required by these binding elements / conditions of approval.
  - c. Bylaws of the Homeowner's Association in a form approved by the Counsel for the Planning Commission.
9. At the time the developer turns control of the homeowners association over to the homeowners, the developer shall provide sufficient funds to ensure there is no less than \$3,000 cash in the homeowners association account. The subdivision performance bond may be required by the planning Commission to fulfill this funding requirement.



**PLANNING COMMISSION MINUTES**  
**February 7, 2019**

**PUBLIC HEARING**  
**CASE NO. 18SUBDIV1024**

10. Prior to requesting a Certificate of Occupancy for any homes on lots 11-24, the developer will construct the 5' noise barrier as described in the Kim Noise Impact Study dated January 2019 where depicted in Figure 1 of that study.
11. A left turn lane into the site at the main entrance shall be provided prior to recording of the record plat. Left turn lane shall meet all ASHTO standards and Metro Public Works standard drawings.

**The vote was as follows:**

**YES: Commissioners Brown, Daniels, Howard, Smith and Carlson**

**NOT PRESENT AND NOT VOTING: Commissioners Peterson, Robinson, Smith, Lewis and Jarboe**

**PLANNING COMMISSION MINUTES**  
**February 7, 2019**

**PUBLIC HEARING**  
**CASE NO. 18SUBDIV1025**

Request: Major Preliminary Subdivision with associated waivers and reviews  
Project Name: Dobson Lane Subdivision  
Location: 8000 Dobson Lane  
Owner(s): Glenmary Farms LLC  
Applicant: Glenmary Farms LLC  
Representative: Mindel Scott and Associates/Bardenwerper, Talbott and Roberts  
Jurisdiction: Louisville Metro  
Council District: 22 – Robin Engel  
**Case Manager: Dante St. Germain, AICP, Planner II**

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

**Agency Testimony:**

03:33:21 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:**

Nick Pregliasco, Bardenwerper, Talbott and Roberts, 1000 North Hurstbourne Parkway, 2<sup>nd</sup> floor, Louisville, Ky. 40223  
Kathy Linares, Mindel, Scott and Associates, 5151 Jefferson Boulevard, Louisville, Ky. 40219

**Summary of testimony of those in favor:**

03:43:21 Mr. Pregliasco stated the applicant has agreed to withdraw the waiver request.

Mr. Pregliasco gave a power point presentation. There's not enough right-of-way to sufficiently widen Dobson Ln. and it can't be used for primary access. It will however be used as a secondary entrance with a gate. The sewer line crossing the creek would have to comply with the Core of Engineers and MSD's requirements.

03:55:14 Ms. Linares explained the stream crossing details.

03:58:36 Chair Carlson asked if the applicant is willing to meet the requirements of the gate standards. Mr. Pregliasco said yes.

**The following spoke in opposition to this request:**

**PLANNING COMMISSION MINUTES**  
**February 7, 2019**

**PUBLIC HEARING**  
**CASE NO. 18SUBDIV1025**

Robert (Bob) Thompson, 10303 Colonel Hancock Drive, Louisville, Ky. 40291  
Doug Sharpensteen, 10907 Blacksmith Road, Louisville, Ky. 40291

**Summary of testimony of those in opposition:**

04:07:55 Mr. Thompson, president of the homeowners association, stated he does not agree with the waiver finding that it will not adversely affect the adjacent property owners. There's no additional egress. Traffic is a major issue.

04:15:08 Mr. Sharpensteen said he has 3 ways to exit his subdivision but the traffic is still horrendous.

**The following spoke neither for nor against the request:**

Vicki King, 7915 Dobson Lane, Louisville, Ky. 40291  
Donald Cox, 500 West Jefferson Street, Louisville, Ky. 40291

**Summary of testimony of those neither for nor against:**

04:00:13 Ms. King requests a binding element stating the applicant will use Blacksmith as an entrance and exit to be used by residents and construction workers. Mr. Pregliasco said Dobson is too narrow so access will be by the Glenmary subdivision connection. Acting Chair Carlson said it will be a condition of approval and Mr. Pregliasco agreed.

04:02:21 Mr. Cox stated he represents Glenmary subdivision. Sometimes it just isn't the right time for a development. Traffic impact is a great concern.

**Rebuttal**

04:17:24 Mr. Pregliasco stated the stubs were always intended for future development. The roads are public and a maintenance bond will be submitted for potential damage. The waiver request has been withdrawn.

**Deliberation**

04:27:17 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.**

**PLANNING COMMISSION MINUTES**  
**February 7, 2019**

**PUBLIC HEARING**  
**CASE NO. 18SUBDIV1025**

**Major Preliminary Subdivision with review of stream and buffer area crossings, and of land disturbing activity on slopes greater than 20%**

04:35:18

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

**WHEREAS**, the applicant must demonstrate to the Commission that the design and configuration of the utility easement and potential building construction is the minimum disturbance of slopes greater than 20%; and

**WHEREAS**, the applicant has placed a note on the plan indicating that compatible utilities shall be placed in a common trench unless otherwise required by the applicable agencies; and

**WHEREAS**, the Louisville Metro Planning Commission finds, a geotechnical report was required and provided by the applicant. The applicant must demonstrate compliance with all other provisions to the Commission; and

**WHEREAS**, the Louisville Metro Planning Commission further finds the activity is in keeping with the Comprehensive Plan as Livability Goal E2 encourages the minimization of the impact of changing land use on natural features and ecosystems. This guideline is not violated because the buffer crossing and potential building sites are the minimum impact possible to feasibly obtain sewer access for the site, and to create buildable lots on the flatter portions of the site.

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** the Major Preliminary Subdivision with review of stream and buffer area crossings, and of land disturbing activity on slopes greater than 20%, **ON CONDITION** that the applicant adheres to the Fire Gate Policy as established by metro government, **SUBJECT** to the following Conditions of Approval:

1. The development shall be in accordance with the approved Residential Development Preliminary Plan. No further subdivision of the land into a greater number of lots than originally approved will occur without approval of the Planning Commission.
2. 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 MINUTES**  
**February 7, 2019**

**PUBLIC HEARING**  
**CASE NO. 18SUBDIV1025**

- Planning Commission staff if the revisions are in keeping with the intent of the approved tree preservation plan. The plan shall exhibit the following information:
- a. Proposed site plan (showing buildings, edges of pavement, property/lot lines, easements, existing topography, and other significant site features (LOJIC topographic information is acceptable).
  - b. Preliminary drainage considerations (retention/detention, ditches/large swales, etc.).
  - c. Location of all existing trees/tree masses existing on the site as shown by aerial photo or LOJIC maps.
  - d. Location of construction fencing for each tree/tree mass designated to be preserved.
3. 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.
  4. 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."
  5. All street signs shall be installed by the Developer, and shall conform to 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.
  6. The applicant shall install signs, approved by the Metro Public Works Dept., which indicate the future extension of the public rights of way as shown on the preliminary subdivision plan. Such signs shall be installed prior to release of bonds for the installation of the street infrastructure.
  7. Open space/conservation 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.
  8. 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.

**PLANNING COMMISSION MINUTES**  
**February 7, 2019**

**PUBLIC HEARING**  
**CASE NO. 18SUBDIV1025**

9. 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 larvacide approved by the Louisville Metro Health Department. Larvacides shall be administered in accordance with the product's labeling. This language shall appear in the deed of restrictions for the subdivision.
10. 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.
11. 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.
12. Prior to the recording of the record plat, copies of the recorded documents listed below shall be filed with the Planning Commission.
  - a. Articles of Incorporation filed with the Secretary of State and recorded in the office of the Clerk of Jefferson County and the Certificate of Incorporation of the Homeowners Association.
  - b. A deed of restriction in a form approved by Counsel to the Planning Commission addressing responsibilities for the maintenance of common areas and open space, maintenance of noise barriers, maintenance of WPAs, TPAs 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.
13. At the time the developer turns control of the homeowners association over to the homeowners, the developer shall provide sufficient funds to ensure there is no less than \$3,000 cash in the homeowners association account. The subdivision performance bond may be required by the planning Commission to fulfill this funding requirement.

**PLANNING COMMISSION MINUTES**  
**February 7, 2019**

**PUBLIC HEARING**  
**CASE NO. 18SUBDIV1025**

14. Any signature entrance shall be submitted to the Planning Commission staff for review and approval prior to recording the record plat.
15. 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."
16. Construction traffic shall be prohibited from Dobson Lane.

**The vote was as follows:**

**YES: Commissioners Brown, Daniels, Howard, Smith and Carlson**

**NOT PRESENT AND NOT VOTING: Commissioners Peterson, Robinson, Smith, Lewis and Jarboe**

**PLANNING COMMISSION MINUTES**  
**February 7, 2019**

**PUBLIC HEARING**  
**CASE NO. 18SUBDIV1023**

Request: Floyds Fork Development Review Overlay and major preliminary subdivision plan with review of land disturbing activity on steep slopes and stream crossing

Project Name: Echo Trail

Location: 1651 and 2605 Echo Trail – Generally located between 1801 and 2704 Echo Trail and extending to Eastwood Fisherville Road

Owner: Long Run Creek Properties, LLC

Applicant: Long Run Creek Properties, LLC

Representative: Bardenwarper, Talbott and Roberts, PLLC

Jurisdiction: Louisville Metro

Council District: 19 – Anthony Piagentini  
20 – Stuart Benson

**Case Manager: Joel Dock, AICP, Planner II**

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

**Agency Testimony:**

04:39:13 Mr. Dock discussed the case summary, standard of review and staff analysis from the staff report.

**The following spoke in favor of this request:**

Bill Bardenwerper, Bardenwerper, Talbott and Roberts, PLLC, 1000 North Hurstbourne Parkway, 2<sup>nd</sup> floor, Louisville, Ky. 40223  
Jeremy Hudson, ECS Southeast  
Neil ?, Redwing Ecological, 1139 South 4<sup>th</sup> Street, Louisville, Ky. 40203  
Diane Zimmerman, 12803 High Meadows Pike, Prospect, Ky. 40059

**Summary of testimony of those in favor:**

04:47:16 Mr. Bardenwerper gave a power point presentation. This is a ministerial review.

Mr. Bardenwerper summarized calculations for determining the number of smaller lots by transferring development density out of steep slope areas.

05:00:26 Mr. Bardenwerper stated the effective date of the Comprehensive Plan 2040 was January 1, 2019 per Metro Council.



**PLANNING COMMISSION MINUTES**  
**February 7, 2019**

**PUBLIC HEARING**  
**CASE NO. 18SUBDIV1023**

05:02:05 Mr. Bardenwerper stated that ECS has prepared and submitted a Geotechnical Slope Evaluation report.

05:04:31 Mr. Hudson summarized his slope report. There is some erosion along the creek banks and some surface erosion due to the farming and agricultural use of the property (Area 8, lot 54). Another area of concern was Area 9, lot 68 - some mid-slope slumping (movement). As an engineer, we recommend keeping 3:1 or shallower (safe). The slopes appeared stable at this particular site.

05:11:18 Mr. Bardenwerper stated the wetlands will be handled by the Core of Engineers and MSD. It can be expensive to fill in a wetland, but it has been done.

05:15:21 Neil stated his firm was hired to delineate the wetland site according to the Core Wetland Manual. Neil summarized his report.

05:17:27 Mr. Bardenwerper stated the Floyds Fork DRO regulation needs to be fixed and made more tangible for staff to follow. The guidelines should have been written as standards. The only thing being done in the Floyds Fork DRO is the creation of 2 entrances for the subdivision.

05:20:42 Ms. Zimmerman prepared and submitted the Traffic Impact Study.

Ms. Zimmerman summarized the traffic report. The problematic intersection is at S. English Station Rd. and Taylorsville Rd. No turn lanes are needed at this time. The critical section is the southbound leg (after 400 lots) and will go from grade D to an E.

05:23:50 Commissioner Brown asked if there is a preliminary profile on what the road looks like where it's crossing over the identified steep slopes? Mr. Mindel said they have not done a road profile because it's crossing a stream so there will be 36 inch pipe with a few feet of cover. Once a profile is done, the road profile will be less than 3-4% and will be typical standard practice.

05:25:29 Commissioner Brown said there are notes saying reserved for future right-of-way (access). What is the intent for that? Mr. Mindel said there's potential for another property to be added at a future date.

05:26:51 Commissioner Brown asked Ms. Zimmerman, in the traffic study, when you evaluated Taylorsville and Taylorsville Lake Rd., you assumed Covington by the Park's required improvements had been completed? Ms. Zimmerman said yes. If Covington Park doesn't happen, the time of day that's critical is a heavy right turn, so a minimal delay. Commissioner Brown added, what about the traffic to the north? Ms. Zimmerman said the Eastwood cutoff is terrible and (assumption) with the

**PLANNING COMMISSION MINUTES**  
**February 7, 2019**

**PUBLIC HEARING**  
**CASE NO. 18SUBDIV1023**

improvements at Johnson Rd. and potential traffic signal going in at Johnson Rd. will change the pattern of how northbound traffic gets onto Shelbyville Rd.

05:29:34 Acting Chair Carlson asked who maintains and inspects the bridges? Mr. Mindel said there won't be bridges within the development, but culverts with a fill over it.

05:30:54 Acting Chair Carlson asked where the nearest fire station is located. Mr. Mindel said about 1.5 to 2 miles away.

**The following spoke in opposition to this request:**

Steve Porter, 2406 Tucker Station Road, Louisville, Ky. 40299  
Randy Strobo, 239 South 5<sup>th</sup> Street, Suite 907, Louisville, Ky. 40202  
Jeff Frank, P.O. Box 3, Fisherville, Ky. 40023  
Steve Henry, MD, 1357 Bardstown Road, Louisville, Ky. 40204  
Gary Cook, 1475 Echo Trail, Louisville, Ky. 40245  
Bob Federico, 17007 Ash Hill Drive, Louisville, Ky. 40245  
Mike Farmer, 15100 Old Taylorsville Road, Fisherville, Ky. 40023  
Lewis Sharber, 1520 Shakes Run Drive, Fisherville, Ky. 40023  
Shea Beckwith, 1112 Gilland Road, Louisville, Ky. 40245  
Roger Thompson, 1107 Gilliland Road, Louisville, Ky. 40245

**Summary of testimony of those in opposition:**

05:32:52 Mr. Porter asked, regarding the 100+ acres in the DRO, have your clients drawn up plans for development and if so, what are they? Mr. Bardenwerper said he hasn't seen any plans.

05:34:46 Mr. Porter asked where the pump stations for the sewers will be located. Mr. Mindel answered, the sanitary pumps will be at the south property line intersecting with Echo Trail.

Mr. Porter asked if the effluent from sewage would go to the Floyds Fork Treatment Plant. Mr. Mindel said yes.

05:36:45 Mr. Strobo represents Jeff Frank and Friends of Floyds Fork.

Mr. Strobo discussed water quality. The commission is obligated to follow and act in accordance with the Comprehensive Plan.

05:45:39 Mr. Frank gave a power point presentation. The Echo Trail Master Plan is being worked on and will be finished soon. The streams are impaired and there are already existing drainage issues.

**PLANNING COMMISSION MINUTES**  
**February 7, 2019**

**PUBLIC HEARING**  
**CASE NO. 18SUBDIV1023**

05:59:56 Dr. Henry is the founder of Future Fund and member of the Parklands. Other developments have given 100 acres when they did high density developments. Donations have paid for the DRO in other projects.

Dr. Henry requests that the commission not allow filling in wetlands.

06:04:25 Mr. Cook stated that the proposed 556 homes will negatively affect the traffic (2 lane road).

06:08:29 Mr. Federico is Chairman of the Eastwood Village Council and currently serves on the Executive Board of the Eastwood Fire District.

Mr. Federico stated he does not want to stop growth but the infrastructure needs to be in place to support that growth. The increased traffic will cause hazards, even fatalities.

06:17:13 Mr. Farmer stated the development needs to be done right and protect the natural resources of Floyds Fork. The proposal is too intense and there will be a loss of 74,000 trees. Traffic is a serious issue.

06:19:44 Mr. Porter represents the Fisherville Area Neighborhood Association. The DRO regulations are legal and the review of those regulations is discretionary. This application is incomplete – disturbing wetlands, slopes, streams, tree canopy, traffic, adding harmful nutrients to Floyds Fork. The Core of Engineer Project, Division of Water Study, S. Floyds Fork Area Study and Tree Canopy Regulations are all being worked on and coming to fruition in the near future. They will have an impact on the proposed property.

06:24:04 Mr. Sharber stated the entrance and exit shown today should not be allowed.

06:26:07 Ms. Beckwith stated the traffic and intersections need help.

06:27:29 Mr. Thompson stated if the applicant is allowed to build up, it will put his property under water.

06:29:00 Commissioner Brown asked Mr. Kelly, MSD, to explain the discrepancy of the maps showing the potential wetlands. Mr. Kelly explained. The development plan is more accurate. Mr. Kelly entered the testimony of Brian Bingham into the record from the September 27, 2018 Planning Commission meeting. His testimony is applicable today. The Floyds Fork Waste Water Quality Treatment Center has capacity and is meeting the permits with the Ky. Division of Water with respect to the effluent stream

**PLANNING COMMISSION MINUTES**  
**February 7, 2019**

**PUBLIC HEARING**  
**CASE NO. 18SUBDIV1023**

loading. With regard to water quality on the construction plans, once at the construction approval phase, the plans will have to meet or exceed MSDs quality regulations.

06:31:07 Mr. Fiechter, legal counsel, asked if other proposed developments are considered for capacity of the treatment plant. Mr. Kelly said yes.

**Rebuttal**

06:31:57 Mr. Bardenwerper stated the community can't just say they don't want the proposal, there has to be some standard or regulation not being met. The community will continue to grow. The regulations are too broad and there's nothing that says you can't build in the DRO.

06:49:27 Commissioner Brown stated, you are proposing excavation within the flood plain in the Floyds Fork Overlay area to create the compensation basins, is that correct? Mr. Bardenwerper said yes, they're allowed to create compensation.

06:56:28 Commissioner Brown stated the commission can consider if the infrastructure is adequate to serve the proposal. The traffic study demonstrates an impact, maybe not related to the subdivision, but it shows the network serving this subdivision is not adequate. There is nothing in the short or long term plan that would mitigate that impact. Mr. Bardenwerper read the laws regarding this issue and said this one development can't cure all the problems.

**Deliberation**

07:22:50 Commissioner Tomes said nothing in the suburbs is dense. At this density this plan could be approved.

07:29:04 Commissioner Daniels said this plan is very dense, but they have the space and should be able to do it. The ecosystem and wildlife may be destroyed but there will still be some left. Safety is an issue.

07:31:22 Commissioner Howard stated the plan meets the requirements.

Commissioner Howard stated she has a concern about the Core of Engineers, Ky. Division of Water and MSD and their requirements. Also there's a concern about the 30% slopes.

07:35:07 Commissioner Brown stated that he agrees the impact of the Floyds Fork Development Review Overlay is minimal; however, there is an issue with the roadway network and what it's capable of accommodating. It would be better to limit the

**PLANNING COMMISSION MINUTES**  
**February 7, 2019**

**PUBLIC HEARING**  
**CASE NO. 18SUBDIV1023**

conditions of how the lots are created and wait for certain thresholds to be met (phases). There's no room for growth based on the traffic impact study.

07:36:30 Chair Carlson agrees with Commissioner Brown. The Supreme Court has not said a subdivision has to be approved without regard to public safety, health and welfare.

07:47:56 Mr. Dock stated the Planning Commission could require another traffic impact study (and re-evaluate) after phasing and capping the number of lots to be built.

07:58:28 Mr. Porter requested, if there are meetings between staff, traffic engineering and the applicant, that the opposing lawyers be notified and allowed to take part in those meetings.

**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 Brown, seconded by Commissioner Howard, the following resolution was adopted.

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **CONTINUE** this case to the March 7, 2019 Planning Commission meeting in order to resolve the questions and comments from today's hearing.

**The vote was as follows:**

**YES: Commissioners Brown, Daniels, Howard, Smith and Carlson**

**NOT PRESENT AND NOT VOTING: Commissioners Peterson, Robinson, Smith, Lewis and Jarboe**

**PLANNING COMMISSION MINUTES**  
**February 7, 2019**

**PUBLIC HEARING**  
**CASE NO. 18ZONE1049**

**TO BE HEARD NO EARLIER THAN 5:00 PM**

Request: Change in zoning from R-4, R-7 and C-2 to PEC and change in form from SMC and N to SW with district development plan, landscape waiver, and protected waterway variance

Project Name: Logistics Airpark

Location: 5530-5540 Minor Lane

Owner: LaGrange LLC and Nicklies Exchange LLC

Applicant: Nicklies Development

Representative: Nicklies Development

Jurisdiction: Louisville Metro

Council District: 13 – Mark Fox

**Case Manager: Joel Dock, AICP, Planner II**

**Discussion:**

04:37:12 Chair Carlson stated there was an issue with the Courier Journal notification.

**Deliberation**

04:37:57 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.**

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

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **CONTINUE** this case to the February 21, 2019 Planning Commission meeting to start no earlier than 5:00 p.m.

**The vote was as follows:**

**YES: Commissioners Brown, Daniels, Howard, Smith and Carlson**  
**NOT PRESENT AND NOT VOTING: Commissioners Peterson, Robinson, Smith, Lewis and Jarboe**

**PLANNING COMMISSION MINUTES**  
**February 7, 2019**

**STANDING COMMITTEE REPORTS**

**Land Development and Transportation Committee**  
No report given.

**Site Inspection Committee**  
No report given.

**Planning Committee**  
No report given.

**Development Review Committee**  
No report given.

**Policy and Procedures Committee**  
No report given.

**CHAIRPERSON/DIRECTOR'S REPORT**

No report given.

**ADJOURNMENT**

The meeting adjourned at approximately 9:27 p.m.

  
\_\_\_\_\_  
**Chair**

  
\_\_\_\_\_  
**Planning Director**