

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO PLANNING COMMISSION MEETING
MARCH 1, 2018**

A meeting of the Louisville Metro Planning Commission was held on March 1, 2018 at 1:00 p.m. at the Old Jail Building, located at 514 W. Liberty Street, Louisville, KY 40202.

Commissioners present:

Vince Jarboe, Chair
Robert Peterson
Jeff Brown
Ramona Lindsey
Rich Carlson
Laura Ferguson

Commissioners absent:

Marilyn Lewis, Vice Chair
Emma Smith
Lula Howard
David Tomes

Staff members present:

Emily Liu, Director, Planning & Design Services
Joe Reverman, Assistant Director, Planning & Design Services
Laura Mattingly, Planner II
Joel Dock, Planner II
Beth Stuber, Transportation Planning
Tony Kelly, MSD
Paul Whitty, Legal Counsel
Travis Fiechter, Legal Counsel
Kristen Padron, Management Assistant

*Commissioner Peterson left at approximately 4:30 p.m.

The following matters were considered:

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APPROVAL OF MINUTES

FEBRUARY 15, 2018 PLANNING COMMISSION MEETING MINUTES

00:07:25 On a motion by Commissioner Carlson, seconded by Commissioner Lindsey, the following resolution was adopted:

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the minutes of its meeting conducted on February 15, 2018.

The vote was as follows:

YES: Brown, Lindsey, Carlson, and Ferguson

NOT PRESENT: Lewis, Smith, Howard, and Tomes

ABSTAINING: Peterson and Jarboe

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BUSINESS SESSION

PETITION REQUIREMENTS

00:08:25 Planning & Design Manager Brian Davis discussed the current format of the night hearing petition with the Commissioners. A petition was recently submitted with the necessary amount of signatures, but a specific time was not stated on the petition.

00:11:15 The Commissioners concur that the petition is valid despite a meeting time not being stated on the petition.

**PLANNING COMMISSION MINUTES
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BUSINESS SESSION

CASE NUMBER 18STREETS1002

Project Name: Sundrop Ln name change
Location: Sundrop Ln North of Bayport Rd
Owner(s): Jeffersontown
Applicant: Jeffersontown
Jurisdiction: Jeffersontown
Council District: 20 – Stuart Benson
Case Manager: Jay Lockett, Planner I

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

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

Agency Testimony:

00:12:42 Jay Lockett discussed the case summary from the Staff Report.

The following spoke in favor of this request:

No one spoke.

The following spoke in opposition to this request:

No one spoke.

Deliberation:

00:13:55 The Commissioners concur that the proposal is justified.

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.

00:14:00 On a motion by Commissioner Carlson, seconded by Commissioner Peterson, 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 City of Jeffersontown that the street name change for part of Sundrop Ln to Truman Way be **APPROVED**.

The vote was as follows:

YES: Brown, Lindsey, Carlson, Ferguson, Peterson, and Jarboe

NOT PRESENT: Lewis, Smith, Howard, and Tomes

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BUSINESS SESSION

CASE NUMBER 17STREETS1028

Project Name:	Kenzie Ridge Way name change
Location:	Kenzie Ridge Way
Owner(s):	Louisville Metro
Applicant:	Dove Point Estates, LLC.
Jurisdiction:	Louisville Metro
Council District:	20 – Stuart Benson
Case Manager:	Jay Lockett, Planner I

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

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

Agency Testimony:

00:15:15 Jay Lockett discussed the case summary from the Staff Report.

The following spoke in favor of this request:

No one spoke.

The following spoke in opposition to this request:

No one spoke.

Deliberation:

00:15:41 The Commissioners concur that the proposal is justified.

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.

00:15:58 On a motion by Commissioner Carlson, seconded by Commissioner Lindsey, 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 that the street name change from Kenzie Ridge Way to Mona Ridge Way be **APPROVED**.

The vote was as follows:

YES: Brown, Lindsey, Carlson, Ferguson, Peterson, and Jarboe

NOT PRESENT: Lewis, Smith, Howard, and Tomes

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PUBLIC HEARING

CASE NUMBER 16ZONE1049

Request:	To be continued to March 15, 2018
Project Name:	Team Automotive
Location:	2208 & 2210 Beargrass Avenue
Owner(s):	Bruce Mattingly
Applicant:	Bruce Mattingly
Representative:	Bruce Mattingly
Jurisdiction:	Louisville Metro
Council District:	10 – Pat Mulvihill
Case Manager:	Beth Jones, AICP, Planner II

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

Agency Testimony:

00:15:15 Planning & Design Manager Brian Davis explained that this case is being continued due to lack of proper notice for this hearing.

The following spoke in favor of this request:

No one spoke.

The following spoke in opposition to this request:

No one spoke.

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.

00:17:30 On a motion by Commissioner Carlson, seconded by Commissioner Peterson, the following resolution was adopted:

RESOLVED, that the Louisville Metro Planning Commission does hereby **CONTINUE** case number 16ZONE1049 to the March 15, 2018 Planning Commission public hearing.

The vote was as follows:

YES: Brown, Lindsey, Carlson, Ferguson, Peterson, and Jarboe
NOT PRESENT: Lewis, Smith, Howard, and Tomes

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PUBLIC HEARING

CASE NUMBER 17ZONE1053

Request:	C-2 & R-5 to M-2
Project Name:	AHP Haulers, LLC
Location:	12909 Dixie Hwy
Owner:	Ariel Hernandez
Applicant:	Same
Representative:	Ashley Bartley, QK4
Jurisdiction:	Louisville Metro
Council District:	14 – Cindi Fowler
Case Manager:	Laura Mattingly, AICP, Planner II

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

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

Agency Testimony:

00:18:19 Laura Mattingly discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Ashley Bartley, 1046 E. Chestnut Street, Louisville, KY 40204

Summary of testimony of those in favor:

00:24:12 Ashley Bartley summarized the applicant's proposal and showed a presentation. She responded to questions from the Commissioners.

The following spoke neither for nor against the request:

Councilwoman Cindi Fowler, Council District 14

Summary of testimony of those neither for nor against:

00:27:07 Councilwoman Fowler stated that she is glad to see this parcel is being developed. She stated that a binding element is being proposed to limit use of the site, and a change in use would require additional approval by Louisville Metro Council. She asked Ms. Mattingly about landscaping.

The following spoke in opposition to this request:

No one spoke.

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Deliberation:

00:29:08 The Commissioners concur that the proposal is justified.

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 C-2 & R-5 to M-2

00:32:36 On a motion by Commissioner Carlson, seconded by Commissioner Lindsey, the following resolution, based on the Cornerstone 2020 Checklist and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Community Form guideline because the proposal includes public sidewalks in an area where pedestrian connectivity is needed. There is a transit line that runs along Dixie Hwy. The proposal includes removing a curb cut which will increase traffic safety and is adding buffering along the frontage. The proposal is located within the Suburban Marketplace Form District and within an existing site, therefore it is not expanding the existing corridor, and

WHEREAS, the Commission further finds that the proposal meets the Centers guideline because the reuse of the existing buildings is compact, efficient use and is cost-effective. The proposed use is not compatible with shared entrances and parking is appropriately located. As the site is existing, the proposal is using existing infrastructure. The proposal is located along a major transit corridor and is proposing the addition of sidewalks, and

WHEREAS, the Commission further finds that the proposal meets the Compatibility guideline because no changes will be made to the building materials. This proposal is not a non-residential expansion into a residential area. A binding element will be added to restrict idling of trucks during the evening and within 200 feet of single family residential. Landscape buffering will also aide in odor and emission mitigation. The site is accessed by a major arterial and trucks will not travel through lower-intensity areas to access the site. Lighting will comply with Land Development Code standards. Dixie Hwy is a major arterial with nearby access to a freeway. Buffers are provided throughout and adequate transitions are proposed. All building heights, setbacks and lot dimensions exist and landscaping should improve the site's aesthetic from Dixie Hwy. The truck parking area is located as far as possible from the abutting residential property. The required vehicle use area buffer is proposed. Signs will be permitted in accordance with Land Development Code standards, and

WHEREAS, the Commission further finds that the proposal meets the Open Space guideline because all existing trees on site will be preserved and additional trees will be planted as required by Chapter 10, and

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WHEREAS, the Commission further finds that the proposal meets the Natural Areas and Scenic and Historic Resources guideline because the proposal is preserving all the existing greenspace on site, including the tree canopy on the east side of the site. LOJIC has not identified any hydric soils or steep slopes on site, and

WHEREAS, the Commission further finds that the proposal meets the Economic Growth and Sustainability guideline because this proposal is industrial and located near other industrial developments to the south. This proposal is located on a major arterial, and

WHEREAS, the Commission further finds that the proposal meets the Circulation guideline because the proposal includes access improvements along Dixie Hwy, as well as right of way dedication. This proposal includes pedestrian facilities. This use does not constitute connections to adjacent properties. Right of way dedication is proposed along Dixie Hwy as requested by KYTC and Transportation staff. Parking on site meets the standards for industrial use, based on the number of employees. Connections to adjacent properties is not appropriate for this use, and

WHEREAS, the Commission further finds that the proposal meets the Transportation Facility Design guideline because access is being achieved from the abutting public right of way. This proposal is located on an existing roadway network that is sufficient, and

WHEREAS, the Commission further finds that the proposal meets the Bicycle, Pedestrian and Transit guideline because this proposal includes public sidewalks on a major transit corridor, and

WHEREAS, the Commission further finds that the proposal meets the Flooding and Stormwater guideline because MSD has provided preliminary approvals, and

WHEREAS, the Commission further finds that the proposal meets the Air Quality guideline because APCD has no issues with the proposal, and

WHEREAS, the Commission further finds that the proposal meets the Infrastructure guideline because this area is fully developed and has adequate existing infrastructure for the proposal. There is existing infrastructure in place for potable water and the nearest fire hydrant is located just north of the proposed access. MSD will ensure adequate means of sewage treatment and disposal on site; now, therefore be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the change in zoning from C-2, Commercial & R-5, Single Family Residential to M-2, Industrial on 2.62 acres of property described in the attached legal description be **APPROVED**.

The vote was as follows:

YES: Brown, Lindsey, Carlson, Ferguson, Peterson, and Jarboe

NOT PRESENT: Lewis, Smith, Howard, and Tomes

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00:33:35 On a motion by Commissioner Carlson, seconded by Commissioner Lindsey, the following resolution, based on the Standard of Review and Staff Analysis and testimony heard today, was adopted:

Waiver

WHEREAS, the Louisville Metro Planning Commission finds that the waiver will not adversely affect adjacent property owners as there is existing vegetation and the applicant will comply with all planting and screening requirements, and

WHEREAS, the Commission further finds that the waiver will not violate guideline 3, Compatibility, of Cornerstone 2020, which calls for the protection of roadway corridors and public areas from visual intrusions, for mitigation of parking areas so as not to negatively impact nearby residents and pedestrians, and for parking areas adjacent to streets to be screened and buffered. The waiver will not violate guideline 13, Landscape Character, which calls for the protection of roadways through standards for buffers, landscape treatment, lighting and signs. These guidelines are not violated as the applicant has provided all required buffers with the exception of this small area of encroachment. All planting requirements will be met; therefore the plan meets the intent of the Comprehensive Plan, and

WHEREAS, the Commission further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the encroachment is an existing structure and all other buffer requirements will be met, and

WHEREAS, the Commission further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land and would create an unnecessary hardship on the applicant as it would require the demolition of the existing structure on site, and

Detailed District Development Plan

WHEREAS, the Louisville Metro Planning Commission finds that LOJIC has not identified any natural resources on site. The site has been developed previously and the proposal expands the impervious surface in the area that does not contain vegetation. All existing vegetation on site will be preserved, and

WHEREAS, the Commission further finds that provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community have been provided through the proposed improved vehicular access and right of way dedication. Transportation has given their preliminary approvals, and

WHEREAS, the Commission further finds that this development does not require open space, as it does not meet the threshold for open space or outdoor amenity requirements, and

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WHEREAS, the Commission further finds that the Metropolitan Sewer District has approved the preliminary development plan and will ensure the provisions of adequate drainage facilities on the subject site in order to prevent drainage problems from occurring on the subject site or within the community, and

WHEREAS, the Commission further finds that this use is proposed along a commercially zoned corridor that is comprised of a mix of commercial and residential uses and is not necessarily compatible with the existing uses in the area. The applicant has provided the required landscaping along Dixie Highway to improve site aesthetics from the roadway and 15' to 35' property perimeter buffers to aide with transition between incompatible uses, and

WHEREAS, the Commission further finds that this development generally conforms to the Comprehensive Plan and Land Development Code due to the site's existing conditions and the proposed site improvements; now, therefore be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE (1)** the waiver of 10.2.4 to allow the existing structure to encroach into the required property perimeter buffer along the northern property line shared with a residentially zoned property and **(2)** the detailed district development plan, **SUBJECT** to the following binding elements:

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
3. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
4. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested:
 - a. The development plan must receive full construction approval from Develop Louisville, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.

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- c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
- d. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
- 5. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
- 6. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system permitted on the site.
- 7. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
- 8. The gate to access the property shall be open from 6am to 6pm (or open and close of business) to eliminate any queue of Semi trucks on Dixie Hwy.
- 9. No overnight idling of trucks shall be permitted on-site.
- 10. Each individual trailer may not be stored on the property for longer than 7 consecutive days.
- 11. Use shall be limited to empty tractor trailer parking and storage as proposed at the March 1, 2018 Planning Commission meeting. Any change of use on the property shall require approval by Metro Council.

The vote was as follows:

YES: Brown, Lindsey, Carlson, Ferguson, Peterson, and Jarboe
NOT PRESENT: Lewis, Smith, Howard, and Tomes

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PUBLIC HEARING

CASE NUMBER 17SUBDIV1025

Project Name:	Aiken II
Location:	Aiken Rd at Johnson Rd
Owner(s):	Gilbert K Curry
Applicant:	Perfection Builders
Jurisdiction:	Louisville Metro
Council District:	19 – Julie Denton
Case Manager:	Jay Lockett, Planner I

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

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

Agency Testimony:

00:35:46 Jay Lockett discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Bill Bardenwerper, 1000 N. Hurstbourne Pkwy., Louisville, KY 40223
Kathy Linares, 5151 Jefferson Blvd., Louisville, KY 40219
Diane Zimmerman, 12803 High Meadows Pike, Prospect, KY 40059
David Mindel, 5151 Jefferson Blvd., Louisville, KY 40219
Rich Hearath, 2211 Arnold Palmer Blvd., Louisville, KY 40245

Summary of testimony of those in favor:

00:44:42 Bill Bardenwerper summarized the applicant's proposal and showed a presentation. He responded to questions from the Commissioners.

00:54:04 Kathy Linares reviewed environmental resources map and spoke about the technical aspects of the subdivision plan.

01:00:26 Diane Zimmerman reviewed the traffic impact study.

01:06:31 Ms. Linares responded to questions from Commissioner Carlson regarding driveway length and road width. He expressed concern with medians causing a nuisance for residents trying to turn left into their driveways and for medians hindering access for firetrucks.

01:15:15 David Mindel stated that the pavement on either side of the median measures 18', and there are an additional 2' with the curb and gutter. There was further discussion with the Commissioners regarding driveway length.

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01:19:15 Rich Heareth explained the reasoning for the house spacing.

01:23:50 In response to Commissioner Brown, Mr. Bardenwerper stated they can remove lot 177 because of the awkwardness of its location within the entrance of the subdivision.

The following spoke neither for nor against the request:

Debra Delor, 902 Flat Rock Road, Louisville, KY 40245
John Darling, 205 Maple Valley Road, Louisville, KY 40245

Summary of testimony of those neither for nor against:

01:26:19 Debra Delor spoke on behalf of the Eastwood Village Council. The Council is in favor of growth in Eastwood, but is concerned about the lack of infrastructure in the area. She showed a diagram of past, present, and future development in the area.

01:32:14 John Darling is also on the Eastwood Village Council. He expressed concern for growing traffic issues and showed a presentation.

The following spoke in opposition to this request:

Brenda Lampley, 16510 Aiken Road, Louisville, KY 40245
Carrie Regnier, 1801 Cross Timbers Drive, Louisville, KY 40245
Jimmy Litsey, 17554 Aikin Road, Louisville, KY 40245
Steve Thompson, 16812 Aiken Road, Louisville, KY 40245

Summary of testimony of those in opposition:

01:44:15 Brenda Lampley resides in a property adjacent to the subject site. She is concerned about the back of the new homes abutting her fence and wanted to know if any landscape buffering would be provided. Mr. Heareth stated there isn't a landscape buffer planned at this time because there are no windows in the back of the homes. If he feels it necessary once construction begins, he can provide landscaping along the back.

01:49:05 Carrie Regnier also owns property adjacent to the subject site and stated that approximately five homes will back up to her property. She asked questions about flooding, street parking, and noise complaints against her family. She discussed these issues with Mr. Mindel and Mr. Heareth.

02:01:43 Chris Carson owns property adjacent to the subject site. He doesn't understand why this is considered a conservation subdivision when the applicant plans to remove most of the vegetation other than a small piece in the corner of the property. He would also like to see an increase in landscaping buffering.

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02:03:42 Jimmy Litsey expressed concern for growing traffic issues and drivers cutting through Polo Fields to access the subdivision.

02:04:55 Steve Thompson also expressed concern for drainage issues and clubhouse parking. He discussed these with Mr. Mindel and Ms. Linares.

Rebuttal:

02:09:16 Mr. Bardenwerper spoke in rebuttal and responded to questions from the Commissioners. Mr. Bardenwerper and Mr. Hearth stated they will have to wait until construction begins to determine if they can add more landscape buffering to the plan, and they will review this for each neighbor. There was additional discussion with the Commissioners about landscape buffering.

Deliberation:

02:46:37 The Commissioners discussed the issues of this case brought up during the public hearing.

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

Variance from Land Development Code section 7.11.10.C to allow minimum side yards to be 0' rather than the required 3' along one side of each lot, a variance of 3'

03:12:07 On a motion by Commissioner Brown, seconded by Commissioner Lindsey, the following resolution, based on the Standard of Review and Staff Analysis and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the requested variance will not adversely affect the public health, safety or welfare since homes in the subdivision will still maintain adequate space around structures. All provisions for safe circulation of traffic and access to utility infrastructure will be maintained, and

WHEREAS, the Commission further finds that 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 Commission further finds that 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 Commission further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations, as the home layouts allowed by the

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request will create a unique neighborhood that is in keeping with the spirit of the Conservation Subdivision regulations which encourage flexibility of housing design, and

WHEREAS, the Commission further finds that the requested variance does not arise from special circumstances, but is rather a design choice, and

WHEREAS, the Commission further finds that the strict application of the provisions of the regulation would not deprive the applicant of the reasonable use of the land or create an unnecessary hardship, as the subdivision could still be developed as proposed with standard setbacks, and

WHEREAS, the Commission further finds that the circumstances are not the result of actions taken subsequent to the adoption of the zoning regulations; now, therefore be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the variance from Land Development Code section 7.11.10.C to allow minimum side yards to be 0' rather than the required 3' along one side of each lot, a variance of 3', **ON CONDITION** that a 6' setback will be provided on the opposing property line.

The vote was as follows:

YES: Brown, Lindsey, Carlson, Ferguson, Peterson, and Jarboe
NOT PRESENT: Lewis, Smith, Howard, and Tomes

Major Preliminary Subdivision (Conservation Subdivision)

03:12:52 On a motion by Commissioner Brown, seconded by Commissioner Lindsey, the following resolution, based on the Staff Report and testimony heard today, was adopted:

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the major preliminary subdivision (conservation subdivision), **ON CONDITION** that lot 177 be removed, that access from Street A to lot 178 be removed, that a note is added to the plan stating that the minimum driveway length shall be 25' from the garage face to the right of way, that a sidewalk and handicap ramp are added at the intersection of Aiken Road and Johnson Road, and that the plan is updated to show the turn lanes required by KTC at Aiken Road and the subdivision entrance and on the intersection of Aiken Road and Johnson Road, **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

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by the applicant may be approved by Planning Commission staff if the revisions are in keeping with the intent of the approved tree preservation plan. The plan shall exhibit the following information:

- a. Proposed site plan (showing buildings, edges of pavement, property/lot lines, easements, existing topography, and other significant site features (LOJIC topographic information is acceptable).
 - b. Preliminary drainage considerations (retention/detention, ditches/large swales, etc.).
 - c. Location of all existing trees/tree masses existing on the site as shown by aerial photo or LOJIC maps.
 - d. Location of construction fencing for each tree/tree mass designated to be preserved.
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 with the Manual on Uniform Traffic Control Devices (MUTCD) requirements. Street signs shall be installed prior to the recording of the subdivision record plat or occupancy of the first residence on the street, and shall be in place at the time of any required bond release. The address number shall be displayed on a structure prior to requesting a certificate of occupancy for that structure.
 6. The applicant shall install signs, approved by the Metro Public Works Dept., which indicate the future extension of the public right of way for all stub streets. Such signs shall be installed prior to release of bonds for the installation of the street infrastructure.
 7. Open space lots shall not be further subdivided or developed for any other use and shall remain as open space in perpetuity. A note to this effect shall be placed on the record plat.
 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.
 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

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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.
 1. Articles of Incorporation in a form approved by Counsel for the Planning Commission and the Certificate of Incorporation of the Homeowners Association.
 2. A deed of restriction in a form approved by counsel of the Commission outlining responsibilities for the maintenance of open space.
 3. Bylaws of the Homeowners' Association in a form approved by 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.
14. The 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."

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CASE NUMBER 17SUBDIV1025

16. A deed restriction in a form approved by Counsel to the Planning Commission shall permanently prohibit further subdivision or development of conservations areas.
17. The applicant shall submit a Conservation Area Management Plan detailing the entities responsible for maintaining various elements of the property, and describing management objectives and techniques for each part of the property.
18. In the event the party responsible for maintenance of the Conservation Areas fails to maintain all or any portion in reasonable order and condition according to the Management Plan, Louisville Metro Government may assume responsibility for its maintenance and may enter the premises and take corrective action, including provision of extended maintenance. The cost of maintenance may be charged to the Management Entity, or the individual property owners according to the pro-rata share based on the Management Plan. Costs may include administrative costs in taking such actions as well as penalties as provided under these regulations. Such costs shall become a lien on all subdivision properties.
19. Prior to ground disturbance the developer/applicant shall hire a qualified professional archaeologist to examine the project area, evaluate the site for National Register status, determine boundaries, and make recommendations regarding the need for any additional investigations before the project proceeds. A copy of the report shall be submitted to the Kentucky Heritage Council and Planning and Design Services.
20. Prior to the recording of the Record Plat for this development, the applicant shall provide to Planning and Design Services Historic Preservation Staff a completed Kentucky Historic Resources Survey to document the existing structures on site.
21. The developer shall construct a left turn lane from westbound Aiken Road to Johnson Road prior to the recording of the 91st lot.
22. The developer shall construct a right turn lane from Aiken Road to the proposed entrance prior to release of the subdivision bond.

The vote was as follows:

YES: Brown, Lindsey, Ferguson, Peterson, and Jarboe
NOT PRESENT: Lewis, Smith, Howard, and Tomes
ABSTAINING: Carlson

Variance from Land Development Code section 7.11.10.C to allow maximum front yard setbacks of up to 40', a variance of up to 15' beyond the allowed 25'

03:15:00 On a motion by Commissioner Brown, seconded by Commissioner Smith, the following resolution was adopted:

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CASE NUMBER 17SUBDIV1025

RESOLVED, that the Louisville Metro Planning Commission does hereby **DEFER** the variance from Land Development Code section 7.11.10.C to allow maximum front yard setbacks of up to 40', a variance of up to 15' beyond the allowed 25' to the March 15, 2018 Planning Commission public hearing.

The vote was as follows:

YES: Brown, Lindsey, Carlson, Ferguson, Peterson, and Jarboe

NOT PRESENT: Lewis, Smith, Howard, and Tomes

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PUBLIC HEARING

CASE NUMBER 17SUBDIV1026

Project Name:	The Courtyards
Location:	11706 Hillside View Drive
Owner(s):	Red Bud Hill Development Inc
Applicant:	Red Bud Hill Development Inc
Representative(s):	Mindel Scott & Associates
Project Area/Size:	39.93 acres
Jurisdiction:	Louisville Metro
Council District:	20 – Stuart Benson
Case Manager:	Laura Mattingly, AICP, Planner II

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

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

Agency Testimony:

04:18:17 Laura Mattingly discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Kathy Linares, 5151 Jefferson Blvd., Louisville, KY 40219
David Mindel, 5151 Jefferson Blvd., Louisville, KY 40219

Summary of testimony of those in favor:

04:23:01 Kathy Linares summarized the applicant's proposal and showed a presentation. She responded to questions from the Commissioners.

04:30:50 David Mindel stated that they met with residents of adjacent neighborhood Oakland Hills and they are in favor of the project. He responded to questions from the Commissioners.

The following spoke in opposition to this request:

Connie Higdon, 362 Waterford Ridge Court, Mt. Washington, KY 40047
Mr. Higdon, 362 Waterford Ridge Court, Mt. Washington, KY 40047
Anthony Crouch, 322 Waterford Ridge Court, Mt. Washington, KY 40047

Summary of testimony of those in opposition:

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04:37:36 Connie Higdon is a neighbor in opposition to the project. She stated that the proposal today is different from what she had seen in past meetings. She raised concern for construction traffic along Waterford Ridge Court and Hillside View Drive.

04:40:30 Mr. Mindel explained the difference between the original plan and the current plan and advised where construction would begin. He discussed Bullitt Co. and Jefferson Co. fire service with Commissioner Carlson who confirmed that either fire department can service the area.

04:46:45 Mrs. Higdon's Husband stated that it doesn't make sense that a Jefferson Co. subdivision does not have access to Jefferson Co. Mr. Mindel explained that construction will begin off of the Oakland Hills subdivision, so there will be a connection to Jefferson Co. He stated he would speak to the owner about having a condition of approval stating that no construction traffic will travel on Waterford Ridge Court.

04:51:43 Anthony Crouch asked about landscape buffering. Mr. Mindel stated there is no plan for trees along that property line, but they have not submitted a landscape plan at this time. They discussed lot layout and Mr. Crouch's concerns about water pressure.

Deliberation:

05:01:58 The Commissioners concur that the proposal is justified.

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.

Variances

05:05:18 On a motion by Commissioner Brown, seconded by Commissioner Lindsey, the following resolution, based on the Standard of Review and Staff Analysis and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the requested variance will not adversely affect the public health, safety or welfare as homes in the subdivision will consistently 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 Commission further finds that the requested variance will not alter the essential character of the general vicinity as the site design will be consistent throughout the subdivision. The surrounding area is Neighborhood Form which has no maximum setback for residential structures, and

WHEREAS, the Commission further finds that the requested variance will not cause a hazard or nuisance to the public as all appropriate access and utilities will be provided within the subdivision and will not be affected by the requested setbacks, and

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WHEREAS, the Commission further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations, as the mixed setbacks allowed by the request will create a varied streetscape that meets the intent of the Conservation Subdivision regulations which encourage flexibility of housing design, and

WHEREAS, the Commission further finds that the requested variance does not arise from special circumstances, but is rather a preferred design for the builder, and

WHEREAS, the Commission further finds that the strict application of the provisions of the regulation would not deprive the applicant of the reasonable use of the land or create an unnecessary hardship, as the subdivision could still be developed with standard setbacks, and

WHEREAS, the Commission further finds that the circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought. The regulation was in place prior to the proposed conservation subdivision with non-compliant setbacks; now, therefore be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE (1)** the variance from Land Development Code section 7.11.10.C to allow maximum front yard setbacks of up to 40', a variance of up to 15' beyond the allowed 25' and **(2)** the variance from Land Development Code section 7.11.10.C to allow minimum side yards to be 0' rather than the required 3' along one side of each lot, a variance of 3', **ON CONDITION** that a 6' setback will be provided on the opposing property line.

The vote was as follows:

YES: Brown, Lindsey, Carlson, Ferguson, and Jarboe

NOT PRESENT: Lewis, Smith, Howard, Tomes, and Peterson

Major Preliminary Subdivision (Conservation Subdivision)

05:06:11 On a motion by Commissioner Brown, seconded by Commissioner Lindsey, the following resolution, based on the Staff Report and testimony heard today, was adopted:

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the Major Preliminary Subdivision (Conservation Subdivision) to create 107 buildable lots on approximately 39.93 acres **ON CONDITION** that the plan is revised to show the open space calculations, the 20' open space between lot 60 and the lot to the south, and a mountable curb along the proposed medians, **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.

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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 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. All street signs shall be installed by the Developer, and shall conform with the Manual on Uniform Traffic Control Devices (MUTCD) requirements. Street signs shall be installed prior to the recording of the subdivision record plat or occupancy of the first residence on the street, and shall be in place at the time of any required bond release. The address number shall be displayed on a structure prior to requesting a certificate of occupancy for that structure.
5. The applicant shall install signs, approved by the Metro Public Works Dept., which indicate the future extension of the public right of way for A and B Streets, as shown on the preliminary subdivision plan. Such signs shall be installed prior to release of bonds for the installation of the street infrastructure.
6. Open space lots shall not be further subdivided or developed for any other use and shall remain as open space in perpetuity. A note to this effect shall be placed on the record plat.
7. The 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.
8. After release of the drainage bond, mosquito abatement on open space lots shall be the responsibility of the Homeowners Association. Accumulations of water in which mosquito larvae breed or have the potential to breed are required to be treated with a mosquito larvicide approved by the Louisville Metro Health Department. Larvicides shall be

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administered in accordance with the product's labeling. This language shall appear in the deed of restrictions for the subdivision.

9. 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.
10. 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.
11. 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. A deed restriction in a form approved by Counsel to the Planning Commission shall permanently prohibit further subdivision or development of conservations areas.
 - d. Bylaws of the Homeowner's Association in a form approved by the Counsel for the Planning Commission.
 - e. The applicant shall submit a Conservation Area Management Plan detailing the entities responsible for maintaining various elements of the property, and describing management objectives and techniques for each part of the property.
12. 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.
13. The signature entrance shall be submitted to the Planning Commission staff for review and approval prior to recording the record plat.

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14. 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."
15. In the event the party responsible for maintenance of the Conservation Areas fails to maintain all or any portion in reasonable order and condition according to the Management Plan, Louisville Metro Government may assume responsibility for its maintenance and may enter the premises and take corrective action, including provision of extended maintenance. The cost of maintenance may be charged to the Management Entity, or the individual property owners according to the pro-rata share based on the Management Plan. Costs may include administrative costs in taking such actions as well as penalties as provided under these regulations. Such costs shall become a lien on all subdivision properties.
16. The location of sinkholes as shown on the preliminary plan shall be identified on the record plat.
17. If sinkholes are found on the property or if ponds are to be filled on the site, a geotechnical report shall be conducted for the site and the results shall be submitted to Public Works and MSD for review prior to construction plan approval and the recommendations of the report shall be carried out during construction on the site.

The vote was as follows:

YES: Brown, Lindsey, Carlson, Ferguson, and Jarboe

NOT PRESENT: Lewis, Smith, Howard, Tomes, and Peterson

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PUBLIC HEARING

CASE NUMBER 17SUBDIV1021

Project Name:	Manor Creek Subdivision
Location:	1312 Flat Rock Road
Owner(s):	Vertical Bridge Landco, LLC
Applicant:	Brookstone Homes
Representative(s):	Bardenwerper, Talbott & Roberts, PLLC
Project Area/Size:	100.8 acres
Jurisdiction:	Louisville Metro
Council District:	19 – Julie Denton
Case Manager:	Joel P. Dock, Planner II

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

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

Agency Testimony:

03:21:27 Joel Dock discussed the case summary from the staff report.

The following spoke in favor of this request:

Bill Bardenwerper, 1000 N. Hurstbourne Pkwy., Louisville, KY 40223
Kevin Young, 503 Washburn Avenue, Suite 101, Louisville, KY 40222
Diane Zimmerman, 12803 High Meadows Pike, Prospect, KY 40059

Summary of testimony of those in favor:

03:25:58 Bill Bardenwerper summarized the applicant's proposal and showed a presentation.

03:29:59 Kevin Young of Land Design & Development reviewed environmental resources map and spoke about the technical aspects of the subdivision plan. He responded to questions from the Commissioners.

03:34:42 Diane Zimmerman reviewed the traffic impact study.

The following spoke neither for nor against the request:

Dan Fischer, 1505 Flat Rock Road, Louisville, KY 40245
Debra Delor, 902 Flat Rock Road, Louisville, KY 40245

Summary of testimony of those neither for nor against:

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03:39:16 Dan Fischer asked the developers if the former WHAS building would be improved and what would be done with the other house nearby that is currently boarded.

03:39:51 Kevin Young stated that those properties are not a part of the property the applicant purchased.

03:40:13 Mr. Fischer commented that these proposed homes will negatively impact traffic.

03:40:58 Debra Delor spoke on behalf of the Eastwood Village Council. She stated concern for the Eastwood Neighborhood Plan, transportation, schools, sewers, watershed, tree canopy, and buffering and connectivity of subdivision to existing homes and roads.

The following spoke in opposition to this request:

William Marshall, 16914 Ascender Pass, Louisville, KY 40245

Summary of testimony of those in opposition:

03:49:54 William Marshall owns a property that abuts the subject property. He spoke about concerns with the tree protection and noted that there appears to be a smaller conservation area now than on a previous version of the plan.

03:55:55 Mr. Young responded to Mr. Marshall's questions and spoke about the temporary tree protection area.

04:00:07 Mr. Bardenwerper stated that they are not sure at this time where the ditch will be located relative to the trees. They cannot commit to anything more than a good faith effort to preserve the trees in question. He and Mr. Young further discussed site drainage with Mr. Marshall.

04:06:37 Tony Kelly with MSD stated that he would speak to Mr. Marshall before the plan is fully stamped and remove the ditch if possible.

Deliberation:

04:12:15 The Commissioners concur that the proposal is justified.

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.

04:16:32 On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution, based on the Staff Report and testimony heard today, was adopted:

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RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the conservation subdivision plan **ON CONDITION** that the TCPA area along the northern property boundary is revised and placed in a TTPA and related tree canopy calculations are updated accordingly, that the plan is updated to show the handicap ramps and sidewalk crossings at each intersection, and that the developer works with MSD to minimize the disturbance of the existing vegetation along the northern property line and determine the necessity of the drainage swale as indicated on the plan presented, **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 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 with the Manual on Uniform Traffic Control Devices (MUTCD) requirements. Street signs shall be installed prior to the recording of the subdivision record plat or occupancy of the first residence on the street, and shall be in place at the time of any required bond release. The address number

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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 right of way for A and B Streets, 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.
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,

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maintenance of noise barriers, maintenance of WPAs, TPAs and other issues required by these binding elements / conditions of approval.

- c. A deed restriction in a form approved by Counsel to the Planning Commission shall permanently prohibit further subdivision or development of conservations areas.
 - d. Bylaws of the Homeowner's Association in a form approved by the Counsel for the Planning Commission.
 - e. The applicant shall submit a Conservation Area Management Plan detailing the entities responsible for maintaining various elements of the property, and describing management objectives and techniques for each part of the property.
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.
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. In the event the party responsible for maintenance of the Conservation Areas fails to maintain all or any portion in reasonable order and condition according to the Management Plan, Louisville Metro Government may assume responsibility for its maintenance and may enter the premises and take corrective action, including provision of extended maintenance. The cost of maintenance may be charged to the Management Entity, or the individual property owners according to the pro-rata share based on the Management Plan. Costs may include administrative costs in taking such actions as well as penalties as provided under these regulations. Such costs shall become a lien on all subdivision properties.

The vote was as follows:

YES: Brown, Lindsey, Carlson, Ferguson, and Jarboe

NOT PRESENT: Lewis, Smith, Howard, Tomes, and Peterson

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PUBLIC HEARING

CASE NUMBER 17ZONE1056

Project Name:	115 Fairfax Avenue
Location:	Belle Monde Boutique
Owner(s):	Cheryl Murrow
Applicant:	Geoff Knight
Representative(s):	Bardenwerper, Talbott, & Roberts, PLLC
Jurisdiction:	City of St. Matthews
Council District:	9 – Bill Hollander
Case Manager:	Joel P. Dock, Planner II

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

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

Agency Testimony:

05:07:36 Joel Dock discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Nick Pregliasco, 1000 N. Hurstbourne Pkwy., Louisville, KY 40223

Summary of testimony of those in favor:

05:11:49 Nick Pregliasco summarized the applicant's proposal and showed a presentation. He responded to questions from the Commissioners.

The following spoke in opposition to this request:

No one spoke.

Deliberation:

05:17:28 The Commissioners concur that the proposal is justified.

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-3 to C-1

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PUBLIC HEARING

CASE NUMBER 17ZONE1056

05:18:47 On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution, based on the Cornerstone 2020 Checklist and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Community Form guideline because the proposal supports a compact mixture of moderately intense uses such as shopping, restaurants and offices, and may include civic uses such as libraries, government offices, police or fire stations and religious facilities. The C-1, commercial zoning district adds to the diversity of uses within the area in a manner that is appropriate in scale to the surrounding center. It is immediately adjacent and abutting similar zones. No changes to the existing building are proposed at this time. The form district attempts to require future uses to be pedestrian oriented. The neighborhood maintains a relatively high level of pedestrian and transit connectivity. The proposed zoning district does not allow for high intensity uses such as taverns or auto dealerships, and is located within close proximity to a major thoroughfare, and

WHEREAS, the Commission further finds that the proposal meets the Centers guideline because the proposal does not create a new center, but rather adds to the diversity of uses within the center. The existing structure will be reused to support the proposed use. The population in the immediate area is medium density. The area also includes employees and customers of adjacent uses and the nearby commercial corridor. The existing facilities on site will be reused. The existing center contains a mix of compatible land uses that will reduce trips, support the use of alternative forms of transportation and encourage vitality and sense of place. The proposed district adds to the diversity uses within the center. Space is limited within the existing structure. The incorporation of a residence or office space is not hindered by the requested district. The proposal is small and contains less than one-quarter acre. No new access points will be created. Access to parking areas is available from the primary street and alley. It would not appear that any new utilities would be required to service the proposal. The surrounding neighborhood has a relatively high level of pedestrian and transit connectivity, and

WHEREAS, the Commission further finds that the proposal meets the Compatibility guideline because no changes to the existing structure have been proposed and no design standards are in effect in the City of St. Matthews with respect to building materials. The proposal is located within an existing mixed-use activity center. No odors or emissions would be typical of the use proposed. The scale of the use and district proposed would not appear to have any adverse impact of traffic in the area. Lighting would not be a concern given the impact of Shelbyville Road light and higher intensity uses nearby that project larger amounts on lights onto the neighborhood. The subject site is located within close proximity to a major arterial roadway and is within an existing mixed-use activity center. Uses are appropriate in scale as the area is built-out for non-residential or multi-family use. Setbacks, lot dimensions and building heights are compatible with those of nearby developments as no expansion to the existing infrastructure is being made. Parking areas are not being expanded beyond what currently exists on-site. The existing facilities on-site are not being expanded beyond what is currently present; thus, no change is increasing or necessitating the need for increased buffering from the rear alley or adjacent properties, and

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WHEREAS, the Commission further finds that the proposal meets the Open Space guideline because open space is not needed on the subject site to meet the needs of the community. Nearby parks provide adequate open space to serve the community. Trees will remain along the frontage, and

WHEREAS, the Commission further finds that the proposal meets the Natural Areas and Scenic and Historic Resources guideline because no changes to the site are being made which impact natural features. Existing structure will be reused for commercial purposes. There is no new construction, and

WHEREAS, the Commission further finds that the proposal meets the Economic Growth and Sustainability guideline because the proposed retail commercial development is located in an existing activity center and within close proximity to a major arterial provided for vehicular, pedestrian, and transit connectivity, and

WHEREAS, the Commission further finds that the proposal meets the Circulation guideline because no roadway improvements have been requested by the City of St. Matthews. The proposal's transportation facilities are compatible with and support access to surrounding land uses, and contribute to the appropriate development of adjacent lands. No new access points are being created and there is no current need for access improvements on site. No right-of-way dedication has been requested. Parking, as well as transit and pedestrian corridors are sufficient to support a commercial zoning district, and

WHEREAS, the Commission further finds that the proposal meets the Transportation Facility Design guideline because access to the subject site is from areas of similar or higher intensity. The site is appropriately linked to the alley and primary streets, as well as transit corridors via public sidewalk, and

WHEREAS, the Commission further finds that the proposal meets the Flooding and Stormwater guideline because the proposal's drainage plans have been approved by MSD, and

WHEREAS, the Commission further finds that the proposal meets the Air Quality guideline because the proposal has been reviewed by APCD and found to not have a negative impact on air quality, and

WHEREAS, the Commission further finds that the proposal meets the Infrastructure guideline because the proposal has access to an adequate supply of potable water and water for fire-fighting purposes. The proposal has adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams; now, therefore be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the City of St. Matthews that the change in zoning from OR-3, Office-Residential to C-1, Commercial on property described in the attached legal description for **APPROVAL**.

The vote was as follows:

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YES: Brown, Lindsey, Carlson, Ferguson, and Jarboe

NOT PRESENT: Lewis, Smith, Howard, Tomes, and Peterson

05:19:14 On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution, based on the Standard of Review and Staff Analysis and testimony heard today, was adopted:

Variances

WHEREAS, the Louisville Metro Planning Commission finds that the requested variance will not adversely affect public health safety or welfare as the proposed development does not impact the safe movement of vehicles or pedestrians or impact significant natural features, and

WHEREAS, the Commission further finds that the requested variance will not alter the essential character of the general vicinity as the requested variances are the result of the change in use requiring additional setback and no improvements are being made that alter the existing character of the site or area, and

WHEREAS, the Commission further finds that the requested variance will not cause a hazard or nuisance to the public as conditions are existing, and

WHEREAS, the Commission further finds that the requested variance will not allow an unreasonable circumvention of zoning regulations as the setbacks are in keeping with the character of the area and similar C-1 properties in the area, and

WHEREAS, the Commission further finds that the requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone as the abutting zoning district triggers requirements for additional setbacks to be that of office districts, and

WHEREAS, the Commission further finds that the strict application of the provisions of the regulation would deprive the applicant of reasonable use of the land as the conditions requiring the requested variance are present at this time, and

WHEREAS, the Commission further finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as the conditions requiring the requested variance are present at this time, and

WHEREAS, the Commission further finds that the requested variance will not adversely affect public health safety or welfare as signs will not be located or project into the right-of-way or later the safe movement of pedestrians on-site, and

WHEREAS, the Commission further finds that the requested variance will not alter the essential character of the general vicinity as signs are present within the front setback along Fairfax Avenue, and

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WHEREAS, the Commission further finds that the requested variance will not cause a hazard or nuisance to the public as signs will not be located or project into the right-of-way or later the safe movement of pedestrians on-site, and

WHEREAS, the Commission further finds that the requested variance will not allow an unreasonable circumvention of zoning regulations as signage must be visible to the general public and the primary structure on-site limits the area in which signage can be placed outside of the front setback, and

WHEREAS, the Commission further finds that the requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone as the abutting zoning district triggers requirements for additional setbacks to be that of office districts, and

WHEREAS, the Commission further finds that the strict application of the provisions of the regulation would deprive the applicant of reasonable use of the land as signage must be visible to promote the business and signage is provided for adjacent uses within the front setback, and no hazard or nuisances will be created by such signage, and

WHEREAS, the Commission further finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as no improvements have been made on the site that create conflict with the current regulations, and

Waiver

WHEREAS, the Commission further finds that the waiver will not adversely affect adjacent property owners as adjacent property owners are accustomed to the existing buffering along this section of the property that has existed with the current conditions.

WHEREAS, the Commission further finds that Guideline 3, Policy 9 of Cornerstone 2020 calls for the protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigate when appropriate. Guideline 13, Policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. The waiver will not violate these specific guidelines as the proposed encroachment is in keeping with the established existing conditions. No intrusions upon public spaces or streets are created and the proposed encroachment allows the use to provide the minimum parking required for the proposed use.

WHEREAS, the Commission further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the conditions of the vehicle use area are present at this time.

WHEREAS, the Commission further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an

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unnecessary hardship on the applicant as the refusal of the waiver would not allow the proposed use to provide the minimum off-street parking required; now, therefore be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE (1)** the variance of Land Development Code, section 6.3.2.C.2.e to allow parking and existing vehicle use areas to encroach upon the required 5' side yards as described on the development plan, **(2)** the variance of Land Development Code, section 11.D.3.a (City of St. Matthews Ord. 14-04) to allow a freestanding sign to be located in the front yard setback as described on the development plan, and **(3)** the waiver of Land Development Code, section 12.D.1.b to omit the 4' landscape buffer area (LBA) adjacent to the rear alley.

The vote was as follows:

YES: Brown, Lindsey, Carlson, Ferguson, and Jarboe

NOT PRESENT: Lewis, Smith, Howard, Tomes, and Peterson

Detailed District Development Plan

05:20:33 On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution, based on the Standard of Review and Staff Analysis and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the site does not contain significant natural features. The existing structure will be repurposed for retail sales, and

WHEREAS, the Commission further finds that provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community has been provided as the neighborhood maintains a relatively high level of pedestrian and transit connectivity. No changes to vehicular access are being made, and

WHEREAS, the Commission further finds that open space is not required for this application and the development is compact, and

WHEREAS, the Commission further finds that Metropolitan Sewer District has approved the preliminary development plan and will ensure the provisions of adequate drainage facilities on the subject site in order to prevent drainage problems from occurring on the subject site or within the community, and

WHEREAS, the Commission further finds that the proposed development maintains compatibility with the surrounding area as no changes are being made to the site that alters the existing character, and

WHEREAS, the Commission further finds that the development plan conforms to applicable guidelines and policies of the Comprehensive Plan as demonstrated in the Cornerstone 2020

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Staff Review Checklist for the change in zoning request contained in Attachment 3 of the staff report; now, therefore be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the detailed district development plan **ON CONDITION** that two short-term bicycle parking spaces are provided, **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 and to the City of St. Matthews 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. 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 Louisville Metro Department of Inspections, Permits and Licenses, Louisville Metro Public Works and the Metropolitan Sewer District.
4. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission and the City of St. Matthews.
5. Freestanding sign(s) shall be monument or columnar style.
6. The above binding elements may be amended as provided for in the Zoning District Regulations upon approval of the City of St. Matthews.

The vote was as follows:

YES: Brown, Lindsey, Carlson, Ferguson, and Jarboe

NOT PRESENT: Lewis, Smith, Howard, Tomes, and Peterson

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PUBLIC HEARING

CASE NUMBER 16ZONE1086

Request:	R-5 to O-R
Project Name:	KY Hospitality Bookkeeping Office
Location:	4511 South 3rd Street
Owner:	Georgetta Duncan, G.P.D.
Applicant:	Georgetta Duncan, G.P.D.
Representative:	Georgetta Duncan, G.P.D.
Jurisdiction:	Louisville Metro
Council District:	21 – Vitalis Lanshima
Case Manager:	Laura Mattingly, AICP, Planner II

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

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

Agency Testimony:

05:21:35 Laura Mattingly discussed the case summary, standard of review and staff analysis from the staff report, noting that the site has a history of complaints and citations. The applicant is seeking to bring the site into compliance.

The following spoke in favor of this request:

Dragomir Dimitrov, 1420 Riverside Drive, Prospect, KY 40059

Summary of testimony of those in favor:

05:31:05 Dragomir Dimitrov spoke on behalf of the applicant because she is out of town. He responded to questions from the Commissioners and stated that the site is being used for his mother's bookkeeping service, KY Hospitality Bookkeeping, which he said provides housekeeping and banking services to hotels. He stated that the structure is for employees only, which include a bookkeeper, a secretary, and a general manager. Customers do not visit this site.

The following spoke in opposition to this request:

Nicole George, 4517 Southern Pkwy., Louisville, KY 40214
Stefanie Buzan, 230 Kenwood Hill Road, Louisville, KY 40214
Voncile Ellison, 4510 S. 2nd Street, Louisville, KY 40214
Robin Amsbary, 308 Kenwood Hill Road, Louisville, KY 40214

Summary of testimony of those in opposition:

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05:37:42 Neighbor Nicole George stated she is in opposition to the request and showed a presentation. She is concerned that that the business is currently operating on-site without proper zoning. She stated that the business has already created nuisance issues for surrounding properties—multiple passenger vans are regularly parked on-site, different cars are parked on-site on any given day, and visitors to the home regularly park at Thorntons and jay-walk across the street. She also noted the gravel parking installed over an existing sidewalk and existing parking on gravel with no buffer to the street.

05:42:59 Stefanie Buzan stated she is not opposed to change in the neighborhood, but doesn't think request this will have a positive impact on the neighborhood. There are plenty of commercial properties nearby that are for sale.

05:45:26 Voncile Ellison lives behind the subject property and stated that she noticed some time ago that two large spruce trees were removed from the property for parking. Then a building in the back was removed along with part of the main structure. A woman is working towards creating an orchard in the vacant lot next door.

05:49:50 Robin Amsbary stated that the Iroquois and Beechmont Neighborhood Associations are both opposed to this request. Traffic is a major concern. She does not believe this is just a bookkeeping business. The applicants say they have four to five employees, but there are routinely five to seven cars in the parking lot at any given time, and they are different each day and rotate throughout the day. There needs to be a buffer between the Beechmont neighborhood and the commercial zoning that is spreading along S. 3rd Street.

Rebuttal:

05:52:30 Mr. Dimitrov spoke in rebuttal. He stated that the opposition was speaking hypothetically. He finds it ironic that his business is targeted for having five to seven cars in the parking lot when they are across the street from a gas station that services several hundred cars a day. He stated the jay-walking they complained about does not have anything to do with his employees. In response to the Commissioners, Mr. Dimitrov stated the passenger vans do not come to his business regularly.

Deliberation:

05:59:45 The Commissioners would like the case to be continued to a date when the owner is back in the U.S. and can answer further questions.

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.

06:02:49 On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution was adopted:

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RESOLVED, that the Louisville Metro Planning Commission does hereby **CONTINUE** case number 16ZONE1086 to the March 29, 2018 Planning Commission public hearing.

The vote was as follows:

YES: Brown, Lindsey, Carlson, Ferguson, and Jarboe

NOT PRESENT: Lewis, Smith, Howard, Tomes, and Peterson

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STANDING COMMITTEE REPORTS

Land Development & Transportation Committee
No report given.

Site Inspection Committee
No report given.

Planning Committee
No report given.

Development Review Committee
No report given.

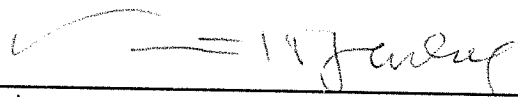
Policy & Procedures Committee
No report given.

CHAIRPERSON/DIRECTOR'S REPORT

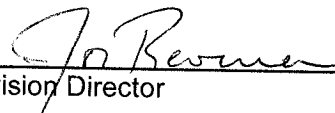
No report given

ADJOURNMENT

The meeting adjourned at approximately 7:00 p.m.



Chairman



Division Director