



# Louisville Metro Government

601 W. Jefferson Street  
Louisville, KY 40202

## Action Summary - Tentative Planning and Zoning Committee

*Chair Madonna Flood (D-24)*

*Vice Chair Scott Reed (R-16)*

*Committee Member Keisha Dorsey (D-3)*

*Committee Member Jecorey Arthur (D-4)*

*Committee Member Cassie Chambers Armstrong (D-8)*

*Committee Member Kevin Triplett (D-15)*

*Committee Member Robin Engel (R-22)*

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Tuesday, June 15, 2021

1:00 PM

Council Chambers/Virtual

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### Call to Order

Chair Flood called the meeting to order at 1:00 p.m.

### Roll Call

Chair Flood introduced the committee members and non-committee members present. A quorum was established.

**\*NOTE: All committee members and non-committee members present attended virtually, except Vice Chair Reed and Committee Member Engel, who attended in Chambers.**

**Present:** 7 - Committee Member Keisha Dorsey (D-3), Committee Member Jecorey Arthur (D-4), Committee Member Cassie Chambers Armstrong (D-8), Committee Member Kevin Triplett (D-15), Vice Chair Scott Reed (R-16), Committee Member Robin Engel (R-22), and Chair Madonna Flood (D-24)

### Non-Committee Member(s)

Council President David James (D-6), Council Member Paula McCraney (D-7), Council Member Cindi Fowler (D-14), Council Member Nicole George (D-21), and Council Member James Peden (R-23)

### Support Staff

Laura Ferguson, Jefferson County Attorney's Office  
Travis Fiechter, Jefferson County Attorney's Office

### Clerk(s)

Cheryl Woods, Assistant Clerk  
Lisa Franklin Gray, Assistant Clerk  
Sonya Harward, Clerk

## Pending Legislation

### 1. [O-244-21](#)

**AN ORDINANCE RELATING TO THE CLOSURE OF AN UNNAMED ALLEY RUNNING PARALLEL AND TO THE EAST OF SOUTH 20TH STREET AND NORTH OF MAGAZINE STREET CONTAINING APPROXIMATELY 2,000 SQUARE FEET AND BEING IN LOUISVILLE METRO (CASE NO. 21STRCLOSURE0001).**

**Sponsors:** Primary Madonna Flood (D-24)

**Attachments:** [O-244-21 V.1 061021 Unnamed Alley Running E. 20th St N Magazine St.pdf](#)  
[21-STRCLOSURE-0001.pdf](#)  
[21-STRCLOSURE-0001 PC min 005.06.21.pdf](#)  
[21-STRCLOSURE-0001\\_legal desc.pdf](#)  
[21-STRCLOSURE-0001\\_plat.pdf](#)  
[21-STRCLOSURE-0001\\_staff rpt.pdf](#)

This item was held in committee.

### 2. [O-256-21](#)

**AN ORDINANCE AMENDING ORDINANCE NO. 057, SERIES 2020 REGARDING THE PERIOD FOR TEMPORARY USE OF PARKING LOTS, OPEN AREAS AND SIDEWALKS FOR OUTDOOR DINING AND ALCOHOL SALES IN RESPONSE TO THE COVID-19 CRISIS.**

**Sponsors:** Primary Madonna Flood (D-24)

**Attachments:** [O-256-21 V.1 061021 Temp Parking Lots Open Areas and Sidewalk Outdoor Dining and Alcohol Sale Covid-19 crisis.pdf](#)

A motion was made by Committee Member Dorsey, seconded by Committee Member Triplett, that this Ordinance be recommended for approval.

The following spoke to this item:

- Chair Flood
- Laura Ferguson, Jefferson County Attorney's Office
- Committee Member Chambers Armstrong
- Committee Member Engel

The following was discussed:

- This Ordinance will give restaurants owners until December 30, 2021 to continue outdoor sales, unless further action is taken by Metro Council by December 2, 2021 to extend the date
- Restaurants are still struggling with getting staff to come work for them
- Council Members support giving restaurants the flexibility

The motion carried by the following vote and the Ordinance was sent to the Consent Calendar:

Yes: 7 - Dorsey, Arthur, Chambers Armstrong, Triplett, Reed, Engel, and Flood

3. [O-257-21](#)

**AN ORDINANCE RELATING TO THE ZONING OF PROPERTIES LOCATED AT 11800 AND 11908 EAST ORELL ROAD AND 11705 DIXIE HIGHWAY CONTAINING APPROXIMATELY 6.15 ACRES AND BEING IN LOUISVILLE METRO (CASE NO. 20ZONE0034).**

**Sponsors:** Primary Madonna Flood (D-24)

- Attachments:** [O-257-21 V.1 061021 Zoning at 11800 AND 11908 E ORELL ROAD AND 11705 DIXIE HIGHWAY.pdf](#)  
[20-ZONE-0034.pdf](#)  
[20-ZONE-0034 PC min 05.17.21.pdf](#)  
[20-ZONE-0034 other minutes multiple.pdf](#)  
[20-ZONE-0034 staff rpts.pdf](#)  
[20-ZONE-0034 legal desc.pdf](#)  
[20-ZONE-0034 appl justification stmt.pdf](#)  
[20-ZONE-0034 applicant presentation 5-14.pdf](#)  
[20-ZONE-0034 citizen comments.pdf](#)  
[20-ZONE-0034 Fischer presentation.pdf](#)  
[20-ZONE-0034 James Jones presentation.pdf](#)  
[20-ZONE-0034 Sally Smith presentation.pdf](#)

A motion was made by Committee Member Triplett, seconded by Vice Chair Reed, that this Ordinance be recommended for approval.

The following spoke to this item:

- Chair Flood
- Brian Davis, Planning and Design Services
- Committee Member Triplett
- Council Member Fowler
- Vice Chair Reed
- Committee Member Chambers Armstrong
- Council Member Peden
- Travis Fiechter, Jefferson County Attorney's Office
- Committee Member Dorsey

The following was discussed:

- Question about whether the area that is being called diesel is designed for semi tractor tailors
- Question about whether the RaceTrac name was the business name
- The neighborhood homeowners are in general opposition to how close it is to their homes
- The loud noise was also a concern of the homeowners
- Questions and concerns about whether the 10-foot wall that will be put up close to the diesel canopy will help with the noise on the site

- Questions and concerns about whether the development only being 250-feet away from the nearest home is environmentally safe for homeowners
- Questions and concerns about health challenges with gas pumps in a residential area
- Questions about whether there should be set backs for gas pumps in residential areas
- Concerns about the air quality with gasoline fumes in the area
- Question about whether it would require state action to increase the buffer for air quality
- Question about whether a yes vote will affirm a denial by the Planning Commission

The motion carried by the following vote and the Ordinance was sent to Old Business:

District 14 Council Member Fowler had a vote on this zoning case and voted YES.

Yes: 7 - Dorsey, Arthur, Chambers Armstrong, Triplett, Reed, Engel, and Flood

4. [O-258-21](#)

**AN ORDINANCE RELATING TO THE CLOSURE OF A PORTION OF CEDAR CREEK ROAD BETWEEN 7509 AND 7710 CEDAR CREEK ROAD CONTAINING APPROXIMATELY 6,015.84 SQUARE FEET AND BEING IN LOUISVILLE METRO (CASE NO. 21STRCLOSURE0008).**

Sponsors: Primary Madonna Flood (D-24)

- Attachments: [O-258-21 V.1 061021 Closure of a Portion of Cedar Creek Road Between 7509 and 7710 Cedar Creek Road.pdf](#)  
[21-STRCLOSURE-0008.pdf](#)  
[21-STRCLOSURE-0008 PC minutes\\_05.20.21.pdf](#)  
[21-STRCLOSURE-0008 LDT minutes\\_05.13.21.pdf](#)  
[21-STRCLOSURE-0008 PC Staff Report.pdf](#)  
[21-STRCLOSURE-0008 Closure Plat\\_05.20.21.pdf](#)

This item was held in committee.

5. [O-259-21](#)

**AN ORDINANCE RELATING TO THE CLOSURE OF A PORTION OF THE RIGHT-OF-WAY OF FEGENBUSH LANE ADJACENT TO 5905 FEGENBUSH LANE CONTAINING APPROXIMATELY 3.87 ACRES AND BEING IN LOUISVILLE METRO (CASE NO. 21STRCLOSURE0004).**

Sponsors: Primary Madonna Flood (D-24)

**Attachments:** [O-259-21 V.1 061021 Closure of a Portion of the Right-of-Way of Fegenbush Lane adjacent to 5905 Fegenbush Lane.pdf](#)  
[21-STRCLOSURE-0004.pdf](#)  
[21-STRCLOSURE-0004\\_Plan\\_032221.pdf](#)  
[21-STRCLOSURE-0004\\_PC minutes\\_05.20.21.pdf](#)  
[21-STRCLOSURE-0004\\_LDT minutes.pdf](#)  
[21-STRCLOSURE-0004\\_staff rpts.pdf](#)  
[21-STRCLOSURE-0004\\_legal desc and plat\\_05.20.21.pdf](#)

This item was held in committee.

6. [O-158-21](#)

**AN ORDINANCE RELATING TO THE ZONING OF PROPERTIES LOCATED AT 6600 AND 6702 COOPER CHAPEL ROAD CONTAINING APPROXIMATELY 18.56 ACRES AND BEING IN LOUISVILLE METRO (CASE NO. 20ZONE0066).**

**Sponsors:** Primary Madonna Flood (D-24)

**Attachments:** [O-158-21 V.1 042221 Zoning at 6600 and 6702 Cooper Chapel Rd.pdf](#)  
[20-ZONE-0066.pdf](#)  
[04.05.21 PC Minutes Night Hearing.pdf](#)  
[20-ZONE-0066 Other Minutes.pdf](#)  
[20-ZONE-0066 Staff Reports.pdf](#)  
[20-ZONE-0066 Applicant Booklet.pdf](#)  
[20-ZONE-0066 Applicant Justification.pdf](#)  
[20-ZONE-0066 Legal Description.pdf](#)  
[20-ZONE-0066 Letters of Opposition.pdf](#)  
[20-ZONE-0066 Plan.pdf](#)

This item remained held in committee.

7. [O-202-21](#)

**AN ORDINANCE AMENDING CHAPTER 5 OF THE METRO LAND DEVELOPMENT CODE RELATING TO FRONT AND STREET SIDE SETBACKS AS SUGGESTED IN PLAN 2040 COMPREHENSIVE PLAN (“PLAN 2040”).**

**Sponsors:** Primary Madonna Flood (D-24)

**Attachments:** [O-202-21 V.1 050621 Amending Chapter 5 Front and Streetside Setbacks.pdf](#)  
[LDC Reform Presentation Phase I June 1 PZ Committee CF.pdf](#)  
[LDCCChanges\\_Round1\\_Recommendations\\_FINAL.pdf](#)  
[21-LDC-0005 Planning Commission StaffReport\\_04202021.pdf](#)  
[04.20.21 PC Minutes Night Hearing.pdf](#)  
[21-LDC-0005 Resolution.docx.pdf](#)  
[21-LDC-0005\\_LDC\\_Reform\\_Report\\_ResidentialSetbacks01272021.pdf](#)  
[2021.02.08 Planning Committee Minutes.pdf](#)  
[2021.03.22 Planning Committee Minutes.pdf](#)  
[Flyers\\_Bundled.pdf](#)  
[LDC Reform All Comments Received.pdf](#)  
[LDC Reform MC Resolution\\_Signed.pdf](#)  
[LDC Reform PC Resolution\\_Signed.pdf](#)  
[LDC Reform Presentation Phase I Planning Commission 042021\\_CF \[Autosaved\].pdf](#)  
[PlanningCommissionPresentation\\_Intro\\_04202021.pdf](#)

This item remained held in committee.

8. [O-203-21](#)

**AN ORDINANCE AMENDING CHAPTERS 2 AND 7 OF THE METRO LAND DEVELOPMENT CODE RELATING TO TWO FAMILY RESIDENTIAL USE IN THE MULTI-FAMILY AND OFFICE/RESIDENTIAL ZONES AND THE FLOOR AREA RATIO REQUIREMENTS FOR RESIDENTIAL ZONING DISTRICTS AND THE CONSERVATION SUBDIVISION PROVISION AS SUGGESTED IN PLAN 2040 COMPREHENSIVE PLAN (“PLAN 2040”).**

**Sponsors:** Primary Madonna Flood (D-24)

**Attachments:** [O-203-21 050621 V.1 Amending Chp 2 and 7 Two Family Residential.pdf](#)  
[LDC Reform Presentation Phase I June 1 PZ Committee CF.pdf](#)  
[LDCChanges\\_Round1\\_Recommendations\\_FINAL.pdf](#)  
[21-LDC-0006 Planning Commission StaffReport\\_04202021.pdf](#)  
[04.20.21 PC Minutes Night Hearing.pdf](#)  
[21-LDC-0006 Resolution.docx.pdf](#)  
[21-LDC-0006 LDC Reform Report FARandTwoFamilyMFR\\_01272021.pdf](#)  
[2021.02.08 Planning Committee Minutes.pdf](#)  
[2021.03.22 Planning Committee Minutes.pdf](#)  
[Flyers\\_Bundled.pdf](#)  
[LDC Reform All Comments Received.pdf](#)  
[LDC Reform MC Resolution\\_Signed.pdf](#)  
[LDC Reform PC Resolution\\_Signed.pdf](#)  
[LDC Reform Presentation Phase I Planning Commission 042021\\_CF \[Autosaved\].pdf](#)  
[PlanningCommissionPresentation\\_Intro\\_04202021.pdf](#)

This item remained held in committee.

9. [O-157-21](#)

**AN ORDINANCE RELATING TO THE ZONING OF PROPERTIES LOCATED AT 9301-9309 SMYRNA PARKWAY AND PARCEL ID NOS. 066202630000 AND 066202760000 CONTAINING APPROXIMATELY 8.8 ACRES AND BEING IN LOUISVILLE METRO (CASE NO. 20ZONE0121). (AS AMENDED)**

**Sponsors:** Primary Madonna Flood (D-24)

**Attachments:** [O-157-21 V.1 042221 Zoning at 9301-9309 Smyrna Pkwy.pdf](#)  
[20-ZONE-0121.pdf](#)  
[20-ZONE-0121 PC Minutes.pdf](#)  
[20-ZONE-0121 Other Minutes.pdf](#)  
[20-ZONE-0121 Staff Reports.pdf](#)  
[20-ZONE-0121 Legal Description.pdf](#)  
[20-ZONE-0121 Justification Statement.pdf](#)  
[20-ZONE-0121 Water Wetland Delineation Report.pdf](#)  
[20-ZONE-0121 Plan.pdf](#)

A motion was made by Committee Member Triplett, seconded by Committee Member Engel, that this Ordinance be recommended for approval.

The following spoke to this item:

- Council Member Peden
- Chair Flood

- Committee Member Chambers Armstrong
- Travis Fiechter, Jefferson County Attorney's Office
- Jeff O'Brien, Develop Louisville
- Vice Chair Reed
- Committee Member Dorsey

The following was discussed:

- This is a 100% tree lot, therefore 20% has to be preserved for tree canopy
- Currently the most the Developer has committed to is 16% tree canopy
- Questions and concerns about the fee-in-lieu
- Questions and concerns about why the Developer will not go higher than 16%
- The Developer will plant an additional 16 trees above and beyond the required amount which would make a total of 23% tree canopy after the development is complete
- Metro Council has the ability to clarify the tree canopy language
- Questions and concerns about the Developer stating that Metro Government gave them the option of the fee-in-lieu
- Questions about whether to raise the cost and calculations with the fee-in-lieu
- Questions about whether eight parking spaces will be lost to add the 16 additional trees
- Questions and concerns about the additional procedures in process on the Tree Ordinance
- Questions and concerns about the fee-in-lieu option being used as a last resort
- Questions and concerns about the mistakes being made by Metro Government in order for the Developer to be able to use the fee-in-lieu as an option
- Question and concerns about changing the Tree Ordinance with the fee-in-lieu in order for no mistakes to be made in the future
- Questions and concerns about the way the Tree Ordinance is currently written for the preservation fee-in-lieu
- Questions about whether there is affordable housing or if it is all market rate housing with this development
- There are currently 144 multi-family units on this development
- Questions about whether there was a check point for enforcement on the Tree Ordinance

Jeff O'Brien stated that Planning and Design staff has been re-trained so that the same mistake will not be made in the future.

There was discussion about adding binding elements to modify this Ordinance for protection on the Development.

A motion was made by Chair Flood, seconded by Committee Member Dorsey, that this Ordinance be amended to add the following binding element:

"8. Prior to issuance of construction permits, the applicant/developer shall submit a revised development plan which shall include the preservation of at least 16% of the existing tree canopy on the site and the planting of sixteen (16) additional trees beyond what was shown to the Planning Commission at the April 1, 2021 public hearing. In addition, the applicant/developer shall dedicate (need address of other lot) as permanently protected canopy/open space."



The motion to amend carried by a voice vote.

There was discussion about an Ordinance being drafted as an amendment by substitution.

The motion to recommend for approval failed by the following vote and was sent to Old Business:

District 23 Council Member Peden had a vote on this zoning case and voted NO.

No: 7 - Dorsey, Arthur, Chambers Armstrong, Triplett, Reed, Engel, and Flood

10. [O-174-21](#)

**AN ORDINANCE AMENDING SEVERAL SECTIONS OF THE LOUISVILLE METRO LAND DEVELOPMENT CODE (“LDC”) REGARDING BOARDING AND GROUP HOUSING REGULATIONS (CASE NO. 21-LDC-0001).**

**Sponsors:** Primary Madonna Flood (D-24)

**Attachments:** [O-174-21 V.1 042221 Boarding and Group Housing Regulations.pdf](#)  
[21-LDC-0001 BoardingAndGroupHousing\\_CouncilPresentation\\_4-27-21\(002\).pdf](#)  
[O-174-21 ATTACH Text Amendments .pdf](#)  
[21-LDC-0001\\_PC Minutes\\_04.15.21.pdf](#)  
[21-LDC-0001 BoardingAndGroupHousing\\_PlanningCommissionPresentation\\_4-15-21.pdf](#)  
[21-LDC-0001\\_staff report BoardingAndGroupHousing\\_Planning Commission 04-15-21.pdf](#)  
[Attachment 1\\_21-LDC-0001 BoardingAndGroupHousingAmendments\\_DRAFT\\_4-15-2021.pdf](#)  
[Attachment 2 Metro Council Resolution 016 2019.pdf](#)  
[Attachment 3\\_Community Meeting Webex Chat Comments\\_10-2020.pdf](#)  
[Attachment 4 BoardingAndGroupHousing\\_CommunityMeetingsPresentation\\_10-2020.pdf](#)  
[Attachment 5 Public Comment Forms as of 4-8-2021.pdf](#)  
[Attachment 6 NARRStandards 11-2018.pdf](#)

This item remained held in committee.

11. [O-201-21](#)

**AN ORDINANCE AMENDING CHAPTERS 1 AND 4 OF THE METRO LAND DEVELOPMENT CODE RELATING TO ACCESSORY DWELLING UNITS AS SUGGESTED IN PLAN 2040 COMPREHENSIVE PLAN (“PLAN 2040”) (AS AMENDED).**

**Sponsors:** Primary Madonna Flood (D-24)

**Attachments:** [O-201-21 V.2 061521 CAM Amending Chp 1 and 4 Accessory Dwelling.pdf](#)  
[O-201-21 V.1 050621 Amending Chp 1 and 4 Accessory Dwelling.pdf](#)  
[O-201-21 PROPOSED CAM 061521 LDC Amendments Regarding Accessory Dwelling Units \(as amended\) \(lf\).pdf](#)  
[LDC Reform Presentation Phase I June 1 PZ Committee CF.pdf](#)  
[LDCChanges Round1 Recommendations FINAL.pdf](#)  
[21-LDC-0004\\_Planning Commission StaffReport\\_04202021.pdf](#)  
[04.20.21 PC Minutes Night Hearing.pdf](#)  
[21-LDC-0004 Resolution.docx.pdf](#)  
[21-LDC-0004\\_LDC\\_Reform\\_Report\\_ADU012721.pdf](#)  
[2021.02.08 Planning Committee Minutes.pdf](#)  
[2021.03.22 Planning Committee Minutes.pdf](#)  
[David Tomes Norton Commons ADU presentation.pdf](#)  
[Flyers\\_Bundled.pdf](#)  
[LDC Reform All Comments Received.pdf](#)  
[LDC Reform MC Resolution\\_Signed.pdf](#)  
[LDC Reform PC Resolution\\_Signed.pdf](#)  
[LDC Reform Presentation Phase I Planning Commission 042021\\_CF \[Autosaved\].pdf](#)  
[PlanningCommissionPresentation\\_Intro\\_04202021.pdf](#)

**A motion was made by Committee Member Triplett, seconded by Committee Member Engel, that this Ordinance be untabled.**

**The following spoke to this item:**

- Chair Flood
- Committee Member Chambers Armstrong
- Vice Chair Reed
- Laura Ferguson, Jefferson County Attorney's Office
- Committee Member Engel
- Committee Member Arthur
- Emily Liu, Planning and Design Services
- Council Member George
- Lisa Franklin Gray, Assistant Clerk

**The following was discussed:**

- Concerns about the rental property lots that are not being taken care of
- There are twelve other suburban cities that have their own zoning authority
- Questions and concerns about suburban cities that do not have zoning authorities and whether the Ordinance would supersede their Ordinance
- By law deed restriction and homeowner's association declarations have to be honored
- Cities without zoning authority still have authority
- Question about whether it is known about how much of the county is impacted by homeowner deed restrictions
- Questions about if there is no active homeowners association there would be

nothing to challenged

- A homeowner associations can return and become active if one of the former homeowners association members call for the by-laws and a meeting to re-establish the association
- Question and concerns about who would be impacted by zoning authority
- Questions and concerns about whether there is a map of homeowner's associations
- Minneapolis is the only state that has mapped homeowners association deed restriction
- Discussing about an amendment stating Metro Council is not trying to override by-laws that are already in effect

Council President James complemented the Planning and Design Department for their hard work and dedication in their work on the Land Development Code.

"J. The owner of the property shall reside within either the principal dwelling or the accessory dwelling unit."

Chair George request to be added as a co-sponsor on this Ordinance.

A motion was made by Chair Flood, seconded by Committee Member Engel, that this Ordinance be amended as follows:

The motion to amend carried by a voice vote.

A motion was made by Committee Member Engel, seconded by Committee Member Triplett, that this Ordinance be amended as follows:

"K. To avoid any confusion, since there is no language to the contrary, this section does not override any deed restrictions or homeowners' association declarations restricting accessory dwelling units."

The motion to amend carried by the following vote:

**Yes:** 4 - Triplett, Reed, Engel, and Flood

**No:** 3 - Dorsey, Arthur, and Chambers Armstrong

The motion to recommend for approval carried by the following vote and the Ordinance was sent to Old Business:

**Yes:** 6 - Dorsey, Arthur, Chambers Armstrong, Triplett, Engel, and Flood

**No:** 1 - Reed

## Adjournment

Note: Items sent to the Consent Calendar or Old Business will be heard before the full Council at the Metro Council meeting on June 24, 2021.