

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO PLANNING COMMISSION
April 7, 2022**

A meeting of the Louisville Metro Planning Commission was held on Thursday, April 7, 2022 at 1:00 p.m. via Cisco Webex Video Teleconferencing.

Commission members present:

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

Commission members absent:

Te'Andre Sistrunk

Staff Members present:

Joe Reverman, Planning and Design Assistant Director
Brian Davis, Planning and Design Manager
Joe Haberman, Planning and Design Manager
Joel Dock, Planning Coordinator
Dante St. Germain, Planner II
Beth Jones, Planner II
Laura Ferguson, Legal Counsel
Travis Fiechter, Legal Counsel
Pamela M. Brashear, Management Assistant

Others Present:

Beth Stuber, Transportation Planning Supervisor

The following matters were considered:

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APPROVAL OF MINUTES

NOTE: THE MINUTES WERE VOTED ON AT THE END OF THE HEARING

MARCH 17, 2022 PLANNING COMMISSION REGULAR MEETING MINUTES

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

RESOLVED, that the Planning Commission does hereby **APPROVE** the minutes of its meeting conducted on March 17, 2022 with a correction – Commissioner Seitz did not vote on the last 2 cases.

The vote was as follows:

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

NOT PRESENT FOR THIS CASE: Commissioner Sistrunk

MARCH 21, 2022 PLANNING COMMISSION NIGHT HEARING MEETING MINUTES

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

RESOLVED, that the Planning Commission does hereby **APPROVE** the minutes of its meeting conducted on March 21, 2022 with a correction – Rob Peterson needs to be removed as participant.

The vote was as follows:

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

NOT PRESENT FOR THIS CASE: Commissioner Sistrunk

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CONSENT AGENDA

CASE NO. 22-STRCLOSURE-0007

Request:	A proposed closure of public right-of-way
Project Name:	Dixie Highway Warehouse
Location:	Unimproved portion of alleys adjacent to 1391 Dixie Hwy
Owner:	DH QOZB LLC
Applicant:	Tiffany Nolot, DH QOZB LLC
Representative:	Land Design and Development; Dinsmore and Shohl PLLC
Jurisdiction:	Louisville Metro
Council District:	6 – David James
Case Manager:	Jay Lockett, AICP, Planner II

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

On a motion by Commissioner Carlson, seconded by Commissioner Brown, the following resolution based on the LD&T vote was adopted.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the proposed closure of public right-of-way.

The vote was as follows:

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

NOT PRESENT AND NOT VOTING: Commissioners Daniels and Sistrunk

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BUSINESS SESSION

18-CI-001482

10:16 Travis Fiechter explained the request which is based on an appeal for case no. 16ZONE1037. It's been in litigation for several years. (see recording for detailed information).

Travis Fiechter has prepared the following statement:

With respect to Circuit Court Case 18-CI-001482, styled David Fink vs. Louisville/Jefferson County Metro Government et. al., based on Planning Commission case number 16ZONE1037 and subsequent action by the Louisville Metro Council, the Louisville Metro Planning Commission does hereby grant a waiver of conflict of interest pursuant to Rule 3.13 (1.11) of the Kentucky Rules of Professional Conduct for former Assistant County Attorney Paul Whitty and the law firm Bardenwerper, Talbott & Roberts (where Mr. Whitty is currently employed) to proceed with their current representation in that matter, except that neither Mr. Whitty nor the Bardenwerper firm are authorized to share or utilize any confidential, attorney-client privileged information which Mr. Whitty may have encountered during his time representing the Planning Commission without further express permission.

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

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

RESOLVED, that the Louisville Metro Planning Commission does hereby **ADOPT** and **APPROVE** the waiver as drafted and presented by legal counsel.

The vote was as follows:

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

NOT PRESENT AND NOT VOTING: Commissioners Daniels and Sistrunk

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PUBLIC HEARING

21-ZONE-0105

Request: **THIS CASE WILL BE CONTINUED INDEFINITELY -**
Change in zoning from C-1 to C-2, with Detailed District
Development Plan with Binding Elements, Conditional Use
Permit, Variance and Waiver

Project Name: Second Nature Lawn Care

Location: 7411 St. Andrews Church Road

Owner: LNB Properties LLC

Applicant: LNB Properties LLC

Representative: Frost Brown Todd LLC

Jurisdiction: Louisville Metro

Council District: 25 – Amy Holton Stewart

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

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

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

Agency Testimony:

00:27:56 Dante St. Germain said the applicant has requested this case be continued to a date uncertain.

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

On a motion by Commissioner Carlson, seconded by Commissioner Howard, the following resolution based on the applicant's request was adopted.

RESOLVED, that the Louisville Metro Planning Commission does hereby **CONTINUE** this case to a date uncertain.

The vote was as follows:

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

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PUBLIC HEARING

21-ZONE-0105

NOT PRESENT AND NOT VOTING: Commissioners Daniels and Sistrunk

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CASE NO. PUBLIC HEARING

CASE NO. 21-MSUB-0024

Request:	Major Preliminary Subdivision (Mixed Residential Development Incentive) with a Waiver – CONTINUED TO THE 4/21 PC MEETING
Project Name:	8300 Cooper Chapel Road
Location:	8300 Cooper Chapel Road
Owner/Applicant:	GVPT Cooper, LLC/LDG Development
Jurisdiction:	Louisville Metro
Council District:	23 – James Peden
Case Manager:	Jay Lockett, AICP, Planner II
Presented By:	Brian Davis, Planning Manager

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:

00:29:51 Brian Davis said this case needs to be continued to the April 21, 2022 Planning Commission due to a waiver issue (see recording for detailed presentation).

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

RESOLVED, that the Louisville Metro Planning Commission does hereby **CONTINUE** this case to the April 21, 2022 Planning Commission meeting.

The vote was as follows:

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

NOT PRESENT AND NOT VOTING: Commissioners Daniels and Sistrunk

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CASE NO. PUBLIC HEARING

CASE NO. 21-ZONE-0068

Request: Change in zoning from R-6 to C-1, commercial with conditional use permit for outdoor alcohol sales, revised development plan, variance, and waivers

Project Name: Ciao's Restaurant

Location: 1203 Payne Street

Owner: Alfred Pizzonia, Jr. & Angelica Webster

Applicant: Craig Priddy

Representative: Dinsmore & Shohl, LLP – Cliff Ashburner

Jurisdiction: Louisville Metro

Council District: 9 – Bill Hollander

Case Manager: Joel Dock, AICP, Planning Coordinator

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:

00:32:10 Joel Dock discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Cliff Ashburner, Dinsmore and Shohl, 101 South 5th Street, Louisville, Ky 40202
Lindsey Stoughton, 816 Franklin Street, Louisville, Ky. 40206

Summary of testimony of those in favor:

00:40:08 Cliff Ashburner gave a power point presentation. It's a mixed-use area and the buildings are narrow and close together in this community. The existing addition will be removed. The existing home is being reused and it will be part home and part restaurant (see recording for detailed presentation).

00:44:58 Lindsey Stoughton discussed the Code Summary – firewalls, egress pass and distances, design, noise pollution and metal roof structures (see recording for detailed presentation).

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The following spoke neither for nor against the request:

Lisa Santos, 1318 Hull Street, Louisville, Ky. 40204

Summary of testimony of those neither for nor against:

00:53:06 Lisa Santos said an agreement was made at the neighborhood meeting that the front of the property would remain residential. Will that be placed in a binding element? Joel Dock said binding element 12 ensures that the property at 1203 Payne St. maintains 1 dwelling unit (see recording for detailed presentation).

Deliberation

Planning Commission deliberation.

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

Zoning Change from R-6 to C-1

On a motion by Commissioner Howard, seconded by Commissioner Mims, the following resolution based on the Plan 2040 Staff Analysis, the Applicant's Testimony and the Applicant's Justification was adopted.

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Community Form because, the proposal results in the expansion of an adjacent commercial zone into a residential zone. However, this expansion is not the result of a new use that is not contiguous with other uses. The expansion provides additional zoning for a corner commercial use. These types of uses are featured throughout traditional neighborhoods and serve the neighborhood. The proposal will not result in displacement of residents as the zone allows for mixed-use development like that proposed and the district allows for services near customers and transit in a walkable neighborhood. Building containing residential and commercial uses near one another are common in traditional neighborhoods; the proposed use and zoning allow for the expansion of an existing restaurant near major transportation and commercial corridors where demand and adequate infrastructure are present; the site is in a walkable and well-connected neighborhood where multi-modal transportation is encouraged and supported; buildings containing residential and commercial uses near

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one another are common in traditional neighborhoods. A conditional use permit for outdoor alcohol sales is requested in conjunction with this review and has been evaluated for appropriateness of site design and the ability to mitigate noise, if any, and other factors related to the standard of review; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Form because, the proposal does not create a new activity center. It allows for the expansion of an appropriately located existing neighborhood serving zoning district at the corner. As demonstrated in the standard of review for the detailed plan associated with this case, it is compatible with the area; the subject property is in the Traditional Neighborhood form district and in a walkable and well-connected neighborhood near major transit and commercial corridors; a population is present to support a wide variety of neighborhood goods and services; the proposal will result in compact development as the proposed zoning allows for the existing restaurant to be expanded to serve the neighborhood instead of relocating to a suburban location; the site is in a walkable and well-connected neighborhood where multi-modal transportation is encouraged and supported. Generally, corner commercial uses and restaurants are staples of viable neighborhoods with a strong sense of place and reduces congestion by promoting walkable neighborhood services; the proposal will expand an existing commercial establishment in an area that supports redevelopment and will continue to provide residential uses on the expanded property; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Community Form because, the subject site does not have any recognizable natural features; the subject site does not have any recognizable wet soils, steep slopes or issues that may result in erosion; the subject site does not have any recognizable natural features such as sinkholes or landslides; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 4: Community Form because, the site does not possess significant cultural or natural features. The existing structure will be reused. Corner commercial uses corner commercial uses and restaurants are staples of viable neighborhoods with a strong sense of place; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Mobility because, the proposed zone allows for mixed-use development near major transit and commercial corridors, which is also near downtown to support transit-oriented development and an efficient public transportation system. The site is in a walkable and well-connected neighborhood; and

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WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Mobility because, access to corner lots through residential neighborhoods or mixed-use areas encourages viable neighborhoods with a strong sense of place. Access is not through areas of lower intensity which would create a nuisance; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Mobility because, the proposed district encourages neighborhood serving uses within proximity to residents in a walkable and well-connected neighborhood; the site is in a walkable and well-connected neighborhood where multi-modal transportation is encouraged and supported from nearby residents; the proposal will have a limited impact on transportation network. Pedestrian access is not impacted; improvements necessitated by the proposed district will be made, including bike racks or sidewalk repair; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Facilities because, the proposed district is in an area served by existing utilities; an adequate supply of potable water and water for fire-fighting purposes is available; preliminary approval has been received by MSD to ensure that all development has adequate means of sewage treatment and disposal to protect public health and to protect water quality; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Economic Development because, the proposed intensity district expands upon an existing commercial establishment within a walkable and well-connected neighborhood near major transit and commercial corridors.

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council the change in zoning from R-6, Multi-family to C-1, Commercial on property described in the attached legal description be **APPROVED**.

The vote was as follows:

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

NOT PRESENT AND NOT VOTING: Commissioner Sistrunk

Conditional Use Permit for outdoor alcohol sales and consumption (LDC 4.2.41)

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

WHEREAS, the proposal meets applicable policies of the Comprehensive Plan. Plan 2040 calls for proposals to mitigate adverse impacts of noise from proposed development on existing communities. It also calls for compatibility of uses with the area and the form, compact development, and rehabilitation. The outdoor area for alcohol consumption will be partially enclosed where it is immediately abutting the shared property line with the adjacent residential use and zone. Buildings containing commercial uses near one another or along property lines are common in traditional neighborhoods and might often share or be close to property lines. The outdoor dining space will be separated through a solid wall with roof where it shares the property line; thus, reducing adverse impacts of noise and activity upon the residential property. The applicant has also committed to through binding elements which run with the land to shut off music no later than 10 P.M. The open-air portion of the outdoor dining space will be located between the partially enclosed dining area and the existing restaurant. Materials are consistent with the existing restaurant and all structures will comply with applicable building and fire codes; and

WHEREAS, the proposed improvements are compatible with development of the area and the pattern of the form district. Materials and design are consistent with the existing restaurant and the development is compact; and

WHEREAS, the Louisville Metro Planning Commission finds, the subject property is served by existing public utilities and facilities. Transportation Planning and MSD have reviewed the proposal and provided their preliminary approval; and

WHEREAS, the Louisville Metro Planning Commission further finds A. All outdoor areas for the sale and consumption of alcohol must have designated boundaries. B. Outdoor dining areas within the public right-of-way must receive approval from the agency responsible for transportation engineering and shall be designed in accordance with agency standards. C. Outdoor dining areas adjacent to the public right-of-way shall contain a physical barrier that is at least three feet in height. The barrier should be designed to permit existing legal access from building to the adjacent public right-of-way. D. Outdoor dining areas that include the sale and consumption of alcohol within 50 feet of a residentially zoned or used property shall provide a six-foot continuous screen as part of the designated boundary for the areas of the outdoor area within 50 feet of residentially used or zoned property. The continuous screen shall be in conformance with the Chapter 10, Part 4 (Implementation Standards). E. This conditional use permit shall be limited to restaurant uses in the C-1 that hold the following types of ABC

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licenses: 1. Restaurant liquor and wine license by the drink for 100 plus seats 2. Restaurant wine license by the drink for restaurants with seating for 100 and receives at least 70 percent gross receipts from food sales F. The use of outdoor dining areas for the sale and consumption of alcohol shall cease by 1 A.M. G. The entertainment activity shall be in compliance with the Metro Noise Ordinance (LMCO Chapter 99). H. The Board may require additional and more restrictive requirements than those listed above based on the conditions of the specific location and the characteristics of the specific restaurant. The conditional use permit for outdoor alcohol sales will comply with each of these required standards.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the Conditional Use Permit for outdoor alcohol sales and consumption (LDC 4.2.41), subject to the following Conditions of Approval:

1. The site shall be developed in strict compliance with the approved development plan (including all notes thereon). No further development shall occur on the site without prior review and approval by the Board.
2. The Conditional Use Permit shall be "exercised" as described in KRS 100.237 within two years of the Board's vote on this case. If the Conditional Use Permit is not so exercised, the site shall not be used for outdoor alcohol sales and consumption use until further review and approval by the Board.
3. Outdoor music shall not be audible beyond the property line and shall be turned off at 10 P.M.

The vote was as follows:

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

NOT PRESENT AND NOT VOTING: Commissioner Sistrunk

Variance of LDC, section 5.2 to encroach upon required side yard setback

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

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WHEREAS, the requested variance will not adversely affect the public health, safety or welfare as the setback does not impede the safe movement of pedestrians or vehicles or the use of yards or open spaces; and

WHEREAS, the requested variance will not alter the essential character of the general vicinity as buildings near one another or along or near property lines are common in traditional neighborhoods. The encroachment is not noticeable from the public realm due to existing setback, which the proposed structure will follow; and

WHEREAS, the requested variance will not cause a hazard or nuisance to the public as the setback does not impede the safe movement of pedestrians or vehicles or the use of yards or open spaces; and

WHEREAS, the requested variance will not allow an unreasonable circumvention of the zoning regulations as the requested setback does adversely impact public health, safety, or welfare and no hazards or nuisances are created. Further, it is consistent with the character of the area; and

WHEREAS, the requested variance does not arise from special circumstances which do not generally apply to land in the general vicinity or the same zone as land in the general vicinity display similar setbacks to what is proposed, including the existing structure; and

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

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

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the Variance of LDC, section 5.2 to encroach upon required side yard setback.

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

NOT PRESENT AND NOT VOTING: Commissioner Sistrunk

Waivers:

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

1. Waiver of Land Development Code (LDC), section 10.2 to encroach upon landscape buffer area (northeast property line)

WHEREAS, the waiver will not adversely affect adjacent property owners as the encroachment does not impede the safe movement of pedestrians or vehicles or the use of yards or open spaces on adjacent property. It also maintains the existing setback of the current residence; and

WHEREAS, the waiver will not violate specific guidelines of Plan 2040. Community form Goal 1, Policy seeks to ensure an appropriate transition between uses that are substantially different in scale and intensity or density of development. The transition may be achieved through methods such as landscaped buffer yards, vegetative berms, compatible building design and materials, height restrictions and setback requirements. Policy 12 calls for the parking, loading and delivery areas located adjacent to residential areas to minimize adverse impacts from noise, lights, and other potential impacts. The encroachment allows for compact development consistent with the development of corner commercial uses in traditional neighborhoods. The LBA of the LBA on a narrow lot would create incompatibility with surrounding development and render much of the space unusable; and

WHEREAS, the Louisville Metro Planning Commission finds, the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the development site is narrow and the LBA would render much of the space unusable. Additionally, the application of the LBA would create incompatibility with development in the area and the form district; and

WHEREAS, the Louisville Metro Planning Commission further finds the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as the proposal is designed to maintain compatibility with existing development on the site and within the area.

2. Waiver of LDC, section 10.2 to encroach upon vehicle use area landscape buffer area (alley)

WHEREAS, the waiver will not adversely affect adjacent property owners as the parking spaces are located in the alley and necessary for the proposal; and

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WHEREAS, the waiver will not violate specific guidelines of Plan 2040. Community form Goal 1, Policy seeks to ensure an appropriate transition between uses that are substantially different in scale and intensity or density of development. The transition may be achieved through methods such as landscaped buffer yards, vegetative berms, compatible building design and materials, height restrictions and setback requirements. Policy 12 calls for the parking, loading and delivery areas located adjacent to residential areas to minimize adverse impacts from noise, lights, and other potential impacts. The VUA LBA is required along an alley which is the appropriate location for parking in traditional neighborhoods and no buffer is needed for an alley; and

WHEREAS, the Louisville Metro Planning Commission finds, the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the parking spaces will back out into the alley and the VUA LBA is unnecessary; and

WHEREAS, the Louisville Metro Planning Commission further finds the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as parking would not be able to maneuver.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the 1. Waiver of Land Development Code (LDC), section 10.2 to encroach upon landscape buffer area (northeast property line) and 2. Waiver of LDC, section 10.2 to encroach upon vehicle use area landscape buffer area (alley).

The vote was as follows:

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

NOT PRESENT AND NOT VOTING: Commissioner Sistrunk

Revised Detailed District Development Plan

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

WHEREAS, the conservation of natural resources on the property proposed for development, including: trees and other living vegetation, steep slopes, water courses, flood plains, soils, air quality, scenic views, and historic sites will be provided. The site does not contain natural resources and the existing structures will be reused; and

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WHEREAS, provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community will be provided. The site is in a walkable and well-connected neighborhood that is major transit and commercial corridors; and

WHEREAS, no open space is necessary for the development; and

WHEREAS, 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 Louisville Metro Planning Commission finds, the proposal is compatible with the overall character of the area and pattern of the form district. The proposed rendering demonstrates a high level of design and consideration to the character of the area, as well as the existing structure; and

WHEREAS, the Louisville Metro Planning Commission further finds the proposed development plan conforms to the Comprehensive Plan. The site is in a walkable and well-connected neighborhood. The development is consistent with the compact nature of development in the area. The proposal allows for the expansion of a neighborhood serving use. All relief requested from the Land Development Code appears to be adequately justified.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the Revised 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. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested:
 - a. The development plan must receive full construction approval from Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District

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b. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.

3. 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.

4. 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.

5. The materials and design of proposed structures at 1201 Payne Street shall be substantially the same as depicted in the rendering as presented at the February 4th, 2016 Planning Commission public hearing. Materials and design of structures at 1203 Payne Street shall be substantially the same as presented at the April 7, 2022 Public Hearing.

6. Use of the property shall be limited to the following: Antique Shops, Art Galleries, Bakeries, Barber shop, Beauty Shop, Catering kitchen, Clothing store, Clubs, (private, non-profit or proprietary), Computer sales, Confectionery store, Dwelling units (single, two-family, multifamily), Florist shop, Hardware store, Home occupations, Interior Decorating Shops, Music Store, Office (business, professional and governmental) uses, Photocopying, Photography shops, Photography studios, Picture framing, Restaurants with outdoor dining, including alcohol sales and consumption, Shoe repair shops, Shoe Stores, Tailor, Toy and Hobby Stores, Veterinary hospital, and wearing apparel shops.

7. The Restaurant shall have service hours not to exceed the following times: Sunday through Thursday 10:00 a.m. to 10:00 p.m. and Friday and Saturday 10:00 a.m. to 12:00 a.m.

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8. No outdoor advertising signs, pennants, balloons or banners except the ones identifying the business name.

9. The operator of the site will inform all vendors in writing that the idling of trucks is not permitted on Payne and Cooper Streets.

10. All outside lighting shall be directed towards the business and away from adjacent residential properties. No exterior neon lighting is permitted.

11. The applicant will maintain a private parking agreement for employee parking and inform the Irish Hill Neighborhood Association of any changes in the status of the agreement within 30 days of those changes. A copy of the agreement will be provided to Planning and Design Services staff for the case on file.

12. The property at 1203 Payne Street shall maintain 1 dwelling unit.

13. Outdoor music shall not be audible beyond the property line and shall be turned off at 10 P.M.

14. Outdoor dining on the lot known as 1203 Payne Street, including alcohol sales and consumption shall not occur until a certificate of occupancy is received and the improvements proposed on the development plan and shown in the rendering to the Planning Commission on April 7, 2022 are made.

The vote was as follows:

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

NOT PRESENT AND NOT VOTING: Commissioner Sistrunk

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CASE NO. 22-STRCLOSURE-0004

Request: Closure of Public Right-of-Way
Project Name: Fegenbush ROW Closure
Location: Portion of Fegenbush Ln ROW adjacent to 5905 Fegenbush Ln
Owner(s): Louisville Metro
Applicant: Hull Street Condominium Developers.
Jurisdiction: Louisville Metro
Council District: 2 – Barbara Shanklin
Case Manager: Jay Lockett, AICP, Planner I
Presented By: Brian Davis, Planning Supervisor

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

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

Agency Testimony:

01:09:04 Brian Davis discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Nick Pregliasco, Bardenwerper, Talbott and Roberts, 1000 North Hurstbourne Parkway, Louisville, Ky. 40223
Matthew Elder, 800 Stone Creek Parkway, Suite 5A, Louisville, Ky. 40223

Summary of testimony of those in favor:

01:13:24 Nick Pregliasco gave a power point presentation. This case was recommended for approval by the Planning Commission and denied by Metro Council (May 2021). The road is discontinued and legally abandoned (see recording for detailed presentation).

01:26:34 Matthew Elder said they will file a development plan but wanted the street closure first. The Metro Council Members Flood, Shanklin and Peden were concerned about the land use (see recording for detailed presentation).

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01:29:17 Laura Ferguson said a plan isn't required, but if providing a conceptual plan would help, it would not be setting a precedent and could relieve some concerns (see recording for detailed presentation).

Deliberation

Planning Commission deliberation.

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

Closure of Public Right-of-Way

On a motion by Commissioner Carlson, seconded by Commissioner Daniels, the following resolution based on the Plan 2040 Staff Analysis and testimony heard today was adopted.

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

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

WHEREAS, the Louisville Metro Planning Commission finds, the request to close multiple rights-of-way is in compliance the Goals, Objectives and Plan Elements of the Comprehensive Plan as Mobility Goal 2, Policy 2 states to coordinate use of rights-of-way with community design policies. Ensure accessible rights-of-way to accommodate mobility needs of all transportation network users; Mobility Goal 2, Policy 7 states that the design of all new and improved transportation facilities should be accessible and; Mobility Goal 3, Policy 1 states to provide transportation services and facilities to

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promote and accommodate growth and change in activity centers through improved access management. Provide walking and bicycling opportunities to enable activity centers to minimize single occupant vehicle travel. Encourage a mix of complementary neighborhood serving businesses and services in neighborhood and village centers to encourage short trips easily made by walking or bicycling; Mobility Goal 3, Policy 2 seeks to improve mobility, and reduce vehicle miles traveled and congestion, encourage a mixture of compatible land uses that are easily accessible by bicycle, car, transit, pedestrians and people with disabilities. Housing should be encouraged near employment centers; Mobility Goal 3, Policy 3 to evaluate developments for their ability to promote public transit and pedestrian use. Encourage higher density mixed-use developments that reduce the need for multiple automobile trips as a means of achieving air quality standards and providing transportation and housing choices; Mobility Goal 3, Policy 5 to evaluate developments for their impact on the transportation network (including the street, pedestrian, transit, freight movement and bike facilities and services) and air quality; and Mobility Goal 3, Policy 12 states to ensure that transportation facilities of new developments are compatible with and support access to surrounding land uses, and contribute to the appropriate development of adjacent lands. Where appropriate, provide at least one continuous roadway through the development to tie all local access roads or parking areas to the arterial street system. Adequate stub streets and pedestrian connections should be provided by developments. Any cost associated with the rights-of-way to be closed will be the responsibility of the applicant or developer. Adequate public facilities are available to serve existing and future needs of the community. Any facility required to be placed in an easement or relocated will be done so by the developer. Transportation facilities have been provided to accommodate future access and to not dispossess property owners of public access. All adjacent lands maintain access to public infrastructure and utility services will continue to be provided to these lands; and

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

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the portion of Fegenbush Ln. right-of-way adjacent to 5905 Fegenbush Ln. on property described in the attached legal description be approved.

The vote was as follows:

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

NO: Commissioner Brown

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NOT PRESENT AND NOT VOTING: Commissioner Sistrunk

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CASE NO. PUBLIC HEARING

CASE NO. 21-ZONE-0104

Request:	Change in zoning from R-4 to R-7, with Detailed District Development Plan with Binding Elements and Variance
Project Name:	Old Preston Highway Apartments
Location:	10410 and 10414 Old Preston Highway
Owner:	Skaggs Family Trust
Applicant:	Highgates Development
Representative:	Bardenwerper, Talbott & Roberts
Jurisdiction:	Louisville Metro
Council District:	24 – Madonna Flood
Case Manager:	Dante St. Germain, AICP, Planner II

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

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

Agency Testimony:

01:37:25 Dante St. Germain discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

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

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

Brent Hackworth, Highgates Development, 7301 Monsie Circle, Louisville, Ky. 40219

Summary of testimony of those in favor:

01:48:18 Nick Pregliasco gave a power point presentation. The proposal is for multi-family housing development in close proximity to an area of Louisville that's growing very quickly (see recording for detailed presentation).

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01:57:38 David Mindel discussed the entrance, parking at the clubhouse, setbacks in rear, MSD approval, landscape buffering, karst survey, drainage, street trees, sewers and access easement (see recording for detailed presentation).

Nick Pregliasco showed renderings and elevations of the style and design of the buildings. The proposal will provide a variety of housing choices in the area. A traffic impact study has been conducted (see recording for detailed presentation).

Brent Hackworth said they can eliminate the parallel parking – it can be redesigned (see recording for detailed presentation).

The following spoke in opposition to this request:

Pat Miller, 4600 Waldon Drive, Louisville, Ky. 40229

Joseph Cslank, 4606 Waldon Drive, Louisville, Ky. 40229

Melinda Cslank, 4606 Waldon Drive, Louisville, Ky. 40229

Summary of testimony of those in opposition:

02:20:13 Pat Miller stated she has the following concerns: construction; need and traffic (see recording for detailed presentation).

02:29:55 Joseph Cslank is concerned about the sinkholes. If filled in, where will the water go? Melinda Cslank said there are snakes, mice and rats there now.

Joseph Cslank said the fire dept. may have trouble gaining access (see recording for detailed presentation).

Melinda Cslank is concerned about safety and heavy traffic (see recording for detailed presentation).

Rebuttal

02:35:50 Nick Pregliasco said there are four binding elements that address blasting, karst topography issues and sinkholes. There will be tree preservation to help with buffering (see recording for detailed presentation).

Davis Mindel discussed runoff and the reduction of drainage currently running off the site. There will be extensive geo-technical work performed on the foundations of every building (see recording for detailed presentation).

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02:41:53 Beth Stuber said the traffic impact study didn't find significant impact. No mitigation is warranted (see recording for detailed presentation).

Deliberation

00:00:00 Planning Commission deliberation.

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

Zoning Change from R-4 to R-7

On a motion by Commissioner Howard, seconded by Commissioner Mims, the following resolution based on the Plan 2040 and Staff Analysis, testimony and evidence provided today was adopted.

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Community Form because, the site is located across from Preston Highway, a major arterial at this location, and in proximity to a major employment center at Commerce Crossings; appropriate transitions between uses substantially different in scale and intensity will be provided; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Form because, the proposal would provide new residential uses; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Community Form because, no wet or highly permeable soils are evident on the site. Severe, steep or unstable slopes are being preserved; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 4: Community Form because, no distinctive cultural features are evident on the site; no historic assets are evident on the site; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Mobility because, the proposed zoning district, along with the developing commercial corridor at Preston Highway, would reasonably attract transit in the future; and

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WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Mobility because, access to the site is via Old Preston Highway, a local road at this location, in proximity to Preston Highway, a major arterial; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Mobility because, the site is easily accessible by bicycle and car. Transit may be located nearby along Preston Highway in the future as the commercial corridor develops and density increases. Access by pedestrians and people with disabilities will be improved as the sidewalk network along Old Preston Highway develops; Transportation Planning has approved the proposal; no direct residential access to high-speed roadways is proposed; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Facilities because, the relevant utilities have approved the proposal; Louisville Water Company has approved the proposal; MSD has approved the proposal; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Livability because, tree canopy will be preserved along the slopes and around the creek to the west. Required tree canopy will be provided on site; karst features are located on the site and will be mitigated by the applicant during construction; the floodplain is being avoided by the development on the site; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Housing because, the proposal would increase the variety of housing types in the neighborhood; the proposal would support aging in place by providing an increased variety of ownership options and price points in the neighborhood; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Housing because, the proposal would encourage intergenerational mixed-income development by increasing the variety of housing options and price points in the neighborhood; the site is in proximity to employment opportunities and to neighborhood goods and services. The proposal is for higher density residential zoning. The site is located near existing activity centers; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Housing because, the proposal would encourage the

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provision of fair and affordable housing in Louisville Metro by increasing the variety of ownership options and unit costs in the neighborhood; no existing residents will be displaced by the proposal; the proposed zoning district would permit innovative methods of housing.

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council the change in zoning from R-4, Single Family Residential to R-7, Multi-Family Residential on property described in the attached legal description be **APPROVED**.

The vote was as follows:

YES: Commissioners Clare, Howard, Mims, Price, Seitz and Lewis

NO: Commissioners Brown, Carlson and Daniels

NOT PRESENT AND NOT VOTING: Commissioner Sistrunk

Variance from Table 5.3.1 to allow a structure to encroach into the required street side yard setback along a private road (required: 15', requested: 7.5', variance: 7.5') (22-VARIANCE0036)

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

WHEREAS, the requested variance will not adversely affect public health, safety or welfare as the decreased setback will not create a visual obstruction or impact sight lines; and

WHEREAS, the requested variance will not alter the essential character of the general vicinity as the buildings are not yet constructed and will only be visible to persons on the private road; and

WHEREAS, the requested variance will not cause a hazard or nuisance to the public as the affected structure will be constructed according to building code, including all fire codes; and

WHEREAS, the requested variance will not allow an unreasonable circumvention of zoning regulations as the requested variance is needed because a private road, in the form of a defined access easement, is being provided to a developed parcel that has no

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public road frontage. The private road would not be necessary if the affected parcel had public road frontage; and

WHEREAS, the requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone because of the developed parcel in the rear of the site which has no public road frontage; and

WHEREAS, the Louisville Metro Planning Commission finds, the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant by requiring the reduction of the size of the affected structure so as to not encroach into the setback; and

WHEREAS, the Louisville Metro Planning Commission further finds the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as no construction has yet taken place and the variance is being sought at this time.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the Variance from Table 5.3.1 to allow a structure to encroach into the required street side yard setback along a private road (required: 15', requested: 7.5', variance: 7.5') (22-VARIANCE0036).

The vote was as follows:

YES: Commissioners Clare, Howard, Mims, Price, Seitz and Lewis

NO: Commissioners Brown, Carlson and Daniels

NOT PRESENT AND NOT VOTING: Commissioner Sistrunk

Detailed District Development Plan and Binding Elements

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

WHEREAS, Fishpool Creek runs through the site to the west. Required stream buffers are being provided. A small amount of steep slope is present on the site, which is being preserved. Tree canopy is being preserved around the creek and slopes. The site is on karst terrain, and karst features on the site will be mitigated during development; and

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

WHEREAS, open space is being provided in compliance with the requirements of the Land Development Code; and

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

WHEREAS, the Louisville Metro Planning Commission finds, the overall site design is in compliance with existing and planned future development in the area. The proposal would provide an increase in the variety of housing in the neighborhood by permitting higher-density multi-family housing near a developing commercial corridor and major arterial street; and

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

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

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

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until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.

4. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested:

a. The development plan must receive full construction approval from Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.

b. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a certificate of occupancy. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.

c. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.

d. An access easement in a form acceptable to the Planning Commission legal counsel shall be created granting access to the property located at 10412 Old Preston Highway as shown on the approved development plan and recorded. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.

e. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the April 7, 2022 Planning Commission meeting. A copy of the approved rendering is available in the case file on record in the offices of the Louisville Metro Planning Commission.

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

6. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.

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

8. A qualified geotechnical consultant shall perform a full Karst reconnaissance and report to locate as many Karst features as possible prior to construction. A record of this survey shall be filed with Planning and Design Services within 30 days of completion of the survey.

9. A qualified geotechnical consultant's services be retained during construction to call if/when sinkholes are encountered. Care shall be taken during earthwork to investigate and properly remediate potential sinkholes, per the geotechnical engineer's recommendations.

10. The surface shall be thoroughly proof rolled after cutting and before placing fill.

Condition of Approval:

1. The applicant shall remove the parallel parking and submit a new site plan depicting no parking along the 30' access easement.

The vote was as follows:

YES: Commissioners Clare, Howard, Mims, Price, Seitz and Lewis

NO: Commissioners Brown, Carlson and Daniels

NOT PRESENT AND NOT VOTING: Commissioner Sistrunk

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CASE NO. 21-WAIVER-0113

Request:	Changing Image Sign Waivers
Project Name:	Changing Image Sign Waivers
Location:	3938 Poplar Level Road
Owner:	Holy Family
Applicant:	Golden Rule Signs
Representative:	Heather Mullin
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.

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:

03:01:26 Beth Jones discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Mary Beth Porter, 3802 Fox Lair Way, Louisville, Ky. 40220
Heather Mullin, 2420 Holloway Road, Louisville, Ky. 40299

Summary of testimony of those in favor:

03:12:03 Mary Beth Porter said she is here to answer questions and to ensure this committee that the sign will not be an intrusion to the neighborhood (see recording for detailed presentation).

Heather Mullin discussed the sign, which has an ambient light sensor already built-in and it will dim from dusk until dawn. It's also fully programmable (see recording for detailed presentation).

Deliberation

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03:18:50 Planning Commission deliberation.

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

WAIVER 1 to permit a changing image sign to be located within 300ft of a residential zone or residential use (LDC 8.2.1.D.6)

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

WHEREAS, the waiver may adversely affect adjacent property owners in that the sign will operate around the clock on a daily basis; and

WHEREAS, the waiver may violate guidelines of Plan 2040, which requires that: appropriateness must be evaluated in the context of the compatibility of the proposed use or uses with surrounding uses (Community Form 1.2.4); impacts on quality of life must be considered (Community Form 16); and adverse visual intrusions must be considered when there are impacts to residential areas (Community Form 20); and

WHEREAS, the Louisville Metro Planning Commission finds, the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant in that the applicant is requesting a sign area and height that are less than would be permitted; and

WHEREAS, the Louisville Metro Planning Commission further finds the proposed sign has incorporated other design measures that exceed the minimums of the district and compensate in that the sign is significantly smaller in area and shorter in overall height than would otherwise be permitted.

WAIVER 2 to permit a changing image sign to exceed the maximum size allowed in a Neighborhood form district (LDC 8.2.1.D.4.a.)

WHEREAS, the waiver may adversely affect adjacent property owners in that the changing image portion as proposed is a larger percentage of the total area than permitted; and

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WHEREAS, the waiver may violate guidelines of Plan 2040, which requires that: appropriateness must be evaluated in the context of the compatibility of the proposed use or uses with surrounding uses (Community Form 1.2.4); impacts on quality of life must be considered (Community Form 16); and adverse visual intrusions must be considered when there are impacts to residential areas (Community Form 20); and

WHEREAS, the Louisville Metro Planning Commission finds, the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant in that the proposed sign is smaller in area and height than would be permitted; and

WHEREAS, the Louisville Metro Planning Commission further finds the proposed sign has incorporated other design measures that exceed the minimums of the district and compensate in that the sign is significantly smaller in area and shorter in overall height than would otherwise be permitted.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** Waiver 1 to permit a changing image sign to be located within 300ft of a residential zone or residential use (LDC 8.2.1.D.6) and Waiver 2 to permit a changing image sign to exceed the maximum size allowed in a Neighborhood form district (LDC 8.2.1.D.4.a.) 40% of total area **ON CONDITION** that the changing image portion of the sign shall be turned off between the hours of 9:00 p.m. and 6:00 a.m.

The vote was as follows:

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

NO: Commissioner Carlson

NOT PRESENT AND NOT VOTING: Commissioner Sistrunk

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STANDING COMMITTEE REPORTS

Land Development and Transportation Committee
No report given.

Site Inspection Committee
No report given.

Planning Committee
No report given.

Development Review Committee
No report given.

Policy and Procedures Committee
No report given.

CHAIRPERSON/DIRECTOR'S REPORT

No report given.

ADJOURNMENT

The meeting adjourned at approximately 4:52 p.m.

DocuSigned by:

Marilyn Lewis

Chair

CFM4432DD5B4DB...

DocuSigned by:

[Signature]

Planning Director