

**MINUTES OF THE MEETING  
OF THE  
LOUISVILLE METRO PLANNING COMMISSION MEETING  
September 15, 2022**

A meeting of the Louisville Metro Planning Commission was held on Thursday, September 15, 2022 at the Old Jail Building, located at 514 West Liberty Street, Louisville KY 40202, and via Webex.

**Commissioners present:**

Marilyn Lewis, Chair  
Jeff Brown  
Patricia Clare  
Jim Mims  
Glen Price (left at 5:45 p.m.)  
Rich Carlson  
Lula Howard  
Ruth Daniels  
Suzanne Cheek

**Commissioners absent:**

Te'Andre Sistrunk

**Staff members present:**

Emily Liu, Director, Planning & Design Services  
Joe Reverman, Assistant Director, Planning & Design Services  
Brian Davis, Planning & Design Manager  
Julia Williams, Planning Supervisor  
Dante St. Germain, Planner II  
Jay Lockett, Planner II  
Molly Clark, Planner II  
Joel Dock, Planning Coordinator  
Laura Ferguson Assistant County Attorney  
Beth Stuber, Metro Transportation Planning  
Chris Cestaro, Management Assistant (minutes)

**Others Present:**

Tony Kelly, MSD

The following matters were considered:

**PLANNING COMMISSION MINUTES**  
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**PUBLIC HEARING**

**September 1, 2022 Planning Commission minutes**

00:06:25 On a motion by Commissioner Carlson, seconded by Commissioner Howard, the following resolution was adopted:

**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE** the minutes from the September 1, 2022 Planning Commission public hearing.

**The vote was as follows:**

**YES: Commissioners Cheek, Price, Clare, Daniels, Carlson, Howard, Brown, and Lewis.**

**ABSENT: Commissioner Sistrunk.**

**ABSTAIN: Commissioner Mims.**

**PLANNING COMMISSION MINUTES**

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**PUBLIC HEARING**

**Case No. 22-ZONE-0068**

**NOTE: This case was taken out of order. The case was WITHDRAWN. No action was taken.**

Project Name:	Southside Drive Rezoning
Location:	7332 Southside Drive, 5437 & 5439 New Cut Road
Owner(s):	Golden Wash LLC
Applicant:	Golden Wash LLC
Jurisdiction:	Louisville Metro
Council District:	25 – Amy Holton Stewart
<b>Case Manager:</b>	<b>Dante St. Germain, AICP, Planner II</b>

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. (The staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

**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.**

**No action was taken.**

**PLANNING COMMISSION MINUTES**  
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**BUSINESS SESSION**

**Case No. 22-ZONE-0002**

Request: Change Night Hearing Start Time  
Project Name: Prospect Cove  
Location: 6500 Forest Cove Lane, 7301 River Road, and Tax Block  
206 Lot #48  
Owner: Prospect Development LLC  
Applicant: Prospect Development LLC  
Representative: Sabak Wilson; Dinsmore & Shohl  
Jurisdiction: Louisville Metro  
Council District: 16 – Scott Reed  
**Case Manager: Julia Williams, AICP, Planning Supervisor**

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. (The staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

**Agency Testimony:**

00:70:46 Julia Williams said the night hearing is set for October 18, 2022. The original time was for 6:00 p.m.; it has been requested that the time be changed to **6:30 p.m.** **The date and location remain the same.**

**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.**

00:08:35 On a motion by Commissioner Howard, seconded by Commissioner Carlson, the following resolution was adopted:

**RESOLVED**, the Louisville Metro Planning Commission does hereby change the start time of the October 18, 2022 Planning Commission night hearing regarding this case, **from 6:00 p.m. to 6:30 p.m.**

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**BUSINESS SESSION**

**Case No. 22-ZONE-0002**

**The vote was as follows:**

**YES: Commissioners Clare, Daniels, Carlson, Brown, Mims, Howard, Price, Cheek, and Lewis.**

**ABSENT: Commissioner Sistrunk.**

**PLANNING COMMISSION MINUTES**  
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**BUSINESS SESSION**

**Case No. LDC Reform Update 09.15.22**

**Project Name:** LDC Reform Update  
**Case Manager:** Joel P. Dock, AICP, Planning Coordinator

**Agency Testimony:**

00:09:08 Joel Dock presented the updates to the Commissioners and showed a Power Point presentation (see recording for detailed presentation.)

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

**NOTE: This was an informational update ONLY. No action was taken.**

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**BUSINESS SESSION**

**CASE NO. BE Final Order 11905 Dixie**

Request: Binding Element Citation Final Order – 11905 Dixie Highway  
Case Manager: Laura Ferguson, Jefferson County Attorney’s Office

**Agency Testimony:**

00:20:33 Laura Ferguson presented the case, showed a Power Point presentation, and responded to questions from the Commissioners (see recording for detailed presentation).

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

00:22:49 On a motion by Commissioner Carlson, seconded by Commissioner Clare, the following resolution was adopted:

**RESOLVED**, The Louisville Metro Planning Commission does hereby **UPHOLD** the binding element citation violation and does hereby enter the final order.

**The vote was as follows:**

**YES: Commissioners Brown, Mims, Howard, Price, Cheek, Clare Daniels, Carlson, and Lewis.**

**ABSENT: Commissioner Sistrunk.**

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**PUBLIC HEARING**

**CASE NO. 22-MSUB-0001**

Case No: 22-MSUB-0001/22-FFO-0002/22-WAIVER 0059/22-WAIVER-0103  
Project Name: 8000 Broad Run Rd  
Location: 8000 Broad Run Rd  
Owner(s): Walton Investments, LLC  
Applicant: Highgates Management  
Jurisdiction: Louisville Metro  
Council District: 22 – Robin Engel  
**Case Manager: Jay Luckett, 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. (The staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

**Agency Testimony:**

00:23:43 Julia Williams presented the case on behalf of Jay Luckett, showed a Power Point presentation, and responded to questions from the Commissioners (see staff report and recording for detailed presentation).

**The following spoke in support of the request:**

John Talbott (applicant’s representative), Bardenwerper Talbott & Roberts PLLC, 1000 North Hurstbourne Parkway, Louisville, KY 40223

David Mindel and Mason Glin, 5151 Jefferson Blvd, Louisville, KY 40219

Cathy Hinko, 1941 Payne Street #1, Louisville, KY 40206

Brent , Virginia Kim, and Joseph Waldman, 9500 Golders Green Circle, Louisville, KY 40229

William Grant Hess, 1762 Watterson Trail, Louisville, KY 40299

Ron Thomas, 2307 Greene Way Suite B, Louisville, KY 40220



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**PUBLIC HEARING**

**CASE NO. 22-MSUB-0001**

Adam Kirk, 137 McClelland Springs, Georgetown, KY 40324

Diane Zimmerman, 12803 High Meadows Pike, Louisville, KY 40059

**Summary of testimony of those in support:**

00:40:47 Before John Talbott began his presentation, he handed out color copies of the karst survey and the slope stability survey (submitted prior to today's hearing.)

00:41:51 John Talbott presented the applicant's case, showed a Power Point presentation, and answered questions from the Commissioners (see recording for detailed presentation and discussion.)

00:48:29 Cathy Hinko, who was involved in the creation of MRDI, spoke in support (see recording for detailed presentation.) She emphasized the need for affordable housing, diversity housing, rental housing, and neighborhood schools, and submitted an exhibit into the record.

00:51:45 Mr. Talbott resumed his presentation.

00:54:53 David Mindel explained landscaping and buffering on the plan, particularly related to the Waiver requests (see recording for detailed presentation.)

00:56:58 Mr. Talbott resumed his presentation.

00:59:00 Mr. Mindel presented the applicant's proposed road improvements (see recording.)

00:59:38 Mr. Talbott resumed his presentation.

01:01:45 Mr. Talbott concluded his presentation and answered questions from the Commissioners (see recording for detailed discussion.)

01:06:00 In response to questions from Commissioner Price, it was agreed to accept a document from the Metropolitan Housing Coalition, submitted by Cathy Hinko, into the record. Ms. Hinko discussed what the document is and how it relates to this case. It is the 2020-2021 State of Metropolitan Housing report (see recording for detailed discussion.)

01:09:26 Joseph Waldman answered questions from the Commissioners regarding estimated market-rate prices of the units (see recording.)

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01:10:39 Mr. Mindel discussed sidewalks and the RR portion of the site in response to Commissioners' questions.

**11:11:52 NOTE: Due to technical difficulties, the meeting was paused to address sound issues.**

**01:21:11 The meeting resumed.**

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

Randy Strobo (representing Friends of Floyds Fork), 730 West Main Street Suite 206, Louisville, KY 40202

Jeff Franck, Friends of Floyds Fork, 16509 Bradbe Road, Louisville, KY 40023

Jared Townes, Legislative Assistant to Councilman Robin Engel, 601 West Jefferson Street, Louisville, KY 40202

Lee Richardson, 8315 Broad Run Road, Louisville, KY 40291

Lucas Frazier, 15700 Piercy Mill Road, Louisville, KY 40245

Wilson Frazier, 8400 Broad Run Road, Louisville, KY 40291

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

01:21:38 Randy Strobo, representing Friends of Floyds Fork, spoke in opposition (see recording for detailed presentation.) He discussed the MRDI regulations, density, lot size, capacity from MSD, impact on the Floyds Fork creek.

01:28:22 Wilson Frazier spoke in opposition and showed a Power Point presentation (see recording for detailed presentation.) His focus was on traffic in the area, particularly on Broad Run Road.

01:38:16 Jared Townes, representing Councilman Robin Engel, spoke in opposition (see recording for detailed presentation.) Primary concern is that the infrastructure is not adequate to support this project; inadequate fire access; concern that the tree canopy would be double-counted; and lack of sidewalks.

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01:39:46 Lee Richardson spoke in opposition and showed a slideshow presentation (see recording for detailed presentation.) Primary concerns are that TARC buses do not serve this area, nor are the roads wide enough to allow the busses access; the neighborhood roads are not equipped to absorb the additional traffic; there is one proposed access and one exit, both placed at a blind curve in the road; and the Cedar Creek treatment plant has inadequate capacity per MSD.

01:44:12 – Lucas Frazier spoke in opposition (see recording for detailed presentation.) He said the proposal does not meet the Land Development Code, particularly regarding traffic and sewer and water capacity.

01:47:35 Jeff Franck spoke in opposition (see recording for detailed presentation.)

01:50:48 In response to a question from Commissioner Price, Mr. Wilson Frazier said Broad Run Road needs to be widened all the way to Seatonville Road. This is well beyond the site property line.

01:52:05 MSD representative was not present to answer questions from Commissioner Clare regarding the drainage capacity.

**Rebuttal:**

01:53:13 – Mr. Talbott cross examined Mr. Wilson Frazier (see recording for discussion.)

01:54:47 Mr. Talbott delivered rebuttal (see recording for detailed presentation.) David Mindel, an applicant's representative, further discussed the MSD capacity and the Cedar Creek wastewater treatment plant. Regarding the impairment of streams, Ron Thomas, an applicant's representative, discussed his report on the property and his survey of the streams. Adam Kirk, an applicant's representative, addressed some issues regarding traffic safety. Mr. Mindel gave closing comments about the MRDI regulations.

02:01:49 Mr. Strobo cross-examined Mr. Mindel regarding wastewater capacity (see recording.)

02:06:41 In response to questions from Commissioner Carlson, Dr. Kirk said he was not aware of any studies about whether an 18 foot roadway can handle larger fire apparatus. He said that the length of the fire apparatus vehicle does not have a dramatic effect on whether it can negotiate the road.

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02:08:19 In response to a question from Commissioner Brown, Ms. Williams said the apartments were calculated correctly when the applicant applied for MDRI.

02:08:34 In response to questions from Commissioners Brown and Carlson, Mr. Mindel discussed a topographical line on the site plan along Street A from Broad Run back to the subdivision (the east side of Street A on the plan), the length of the street leading to the subdivision, and sight distances.

**Deliberations:**

02:13:30 Commissioners' deliberation.

02:26:02 The Commission agreed to come out of Business Session to hear from Mr. Talbott, who offered comments about the road length. He said the applicant had assumed that the length met the Code; if not, the applicant is willing to address that via a Condition of Approval. Mr. Strobo also commented on the road length. Laura Ferguson, staff, and Mr. Mindel also discussed the issue (see recording for detailed discussion.)

The Commission agreed to come out of Business Session again to allow Mr Talbott and Mr. Mindel to comment about a binding element being proposed and also regarding the roadway measurements.

02:48:22 The Commission resumed deliberations.

**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.**

02:49:07 On a motion by Commissioner Carlson, seconded by Commissioner Daniels, the following resolution was adopted:

**RESOLVED**, the Louisville Metro Planning Commission does hereby CONTINUE this case to the **October 20, 2022 Planning Commission** public hearing in order to address the following issues **ONLY**:

- To address issues regarding speed control along the two main roads leading into the subdivision;
- To hear from MSD on capacity;

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- To hear from the Fire Department on their ability to serve that area in a timely manner;
- To hear from the applicant regarding Conditions of Approval.

**The vote was as follows:**

**YES: Commissioners Cheek, Price, Howard, Mims, Brown, Carlson, Daniels, Clare, and Lewis.**

**ABSENT: Commissioner Sistrunk.**

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**PUBLIC HEARING**

**CASE NO. 22-DDP-0021**

Project Name: SoBro Subarea Map Amendment  
Location: SoBro Planned Development District  
Owner(s): Brown Bros Cadillac, LLC  
Applicant: LDG Development  
Jurisdiction: Louisville Metro  
Council District: 4 – Jecorey Arthur  
**Case Manager: Jay Luckett, 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. (The staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

**Agency Testimony:**

02:53:17 Julia Williams presented the case on behalf of Jay Luckett, showed a Power Point presentation, and answered questions from the Commissioners (see staff report and recording for detailed presentation.)

**The following spoke in support of the request:**

Cliff Ashburner, Dinsmore & Shohl, 101 South 5<sup>th</sup> Street Suite 2500, Louisville, KY 40202

Scott Hannah and Emily Estes, 642 South 4<sup>th</sup> Street, Louisville, KY 40202 (signed in but did not speak)

Michael Gross, 1469 South 4<sup>th</sup> Street, Louisville, KY 40208 (signed in but did not speak)

**Summary of testimony of those in support:**

02:59:20 Cliff Ashburner, the applicant's representative, presented the applicant's case, showed a Power Point presentation, and answered questions from the Commissioners (see recording for detailed presentation.) Ms. Williams also answered questions from the Commissioners regarding the plan, which will be considered

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separately from today's subarea map amendment. The detailed plan is **NOT** being heard or voted on today.

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

No one spoke.

**Deliberations:**

03:16:13 Commissioners' 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.**

03:17:03 On a motion by Commissioner Carlson, seconded by Commissioner Clare, the following resolution, based on the evidence and testimony heard today, was adopted:

**RESOLVED**, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the proposed Revision to the SoBro Planned Development District subarea map be **APPROVED**.

**The vote was as follows:**

**YES: Commissioners Mims, Howard, Price, Cheek, Clare, Daniels, Carlson, and Lewis.**

**ABSTAIN: Commissioner Brown.**

**ABSENT: Commissioner Sistrunk.**

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**CASE NO. 22-DDP-0106**

**NOTE: Commissioner Price left the meeting at 5:45 p.m. and did not vote on this case.**

Project Name:	Proposed Grocery Store with 2 outlots
Location:	16411 Shelbyville Road & 100 Flat Rock Road
Owner(s):	Shoppes at Gardner Park, LLC
Applicant:	Gresham Smith and Dinsmore & Shohl, LLP
Jurisdiction:	Louisville Metro
Council District:	19 – Anthony Piagentini
<b>Case Manager:</b>	<b>Molly Clark, Planner II</b>

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. (The staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

**Agency Testimony:**

03:17:42 Molly Clark presented the case, showed a Power Point presentation, and answered questions from the Commissioners (see staff report and recording for detailed presentation.)

**The following spoke in support of the request:**

Cliff Ashburner, Dinsmore & Shohl, 101 South 5<sup>th</sup> Street Suite 2500, Louisville, KY 40202

Matt McLaren, 111 West Main Street, Louisville, KY 40202

Robert Federico, 17007 Ash Hill Drive, Louisville, KY 40245

**Summary of testimony of those in support:**

03:26:30 Cliff Ashburner, the applicant's representative, presented the applicant's case, showed a Power Point presentation, and answered questions from the Commissioners (see recording for detailed presentation.)



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03:42:01 Matt McLaren, an applicant's representative, discussed the proposed pedestrian and vehicular access and enhancements (see recording for detailed presentation.)

03:44:22 Mr. Ashburner resumed his presentation.

03:45:20 Robert Federico, Chairman of the Eastwood Village Council, spoke in support and listed the uses that would be prohibited per the proposed binding elements (see recording for detailed presentation.)

03:47:13 Commissioners Brown and Cheek, and the applicant's representatives, discussed pedestrian connections, the stub road, and what the fire department would require. Mr. McLaren said no comments were received from the Fire Department. Ms. Williams said Transportation Planning would look into that (see recording.)

03:49:02 In response to questions from Commissioner Carlson, Mr. Federico and Ms. Williams discussed the definitions of "Community Facilities" as defined by the Land Development Code.

**The following spoke neither for nor against the proposal ("Other):**

Neil Baine, 10200 Forest Green Boulevard Suite 602, Louisville, KY 40223

Paul Deines, 16601 Chestnut Glen Place, Louisville, KY 40245

Ralph Langdon, 16602 Chestnut Glen Place, Louisville, KY 40245

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

03:52:12 Neil Baine, representing Gardiner Park Homeowner's Association, said screening and the connected reservoir facility. The homeowners are in favor of the project as a whole but had some concerns about the binding elements (see recording for detailed presentation.)

03:55:07 Paul Deines, an adjoining property owner, said he was not objecting to the proposal but discussed his concerns with the plan (specifically traffic, safety, connectivity, roads, and the stub road) and some of the binding elements (see recording for detailed presentation.)

04:06:44 Ralph Langdon said his primary concern is traffic and spoke in favor of roundabouts (see recording for detailed presentation)

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

No one spoke.

**Rebuttal:**

04:11:26 Mr. Ashburner delivered rebuttal, specifically addressing the list of submitted of binding elements, and answered questions from the Commissioners (see recording for detailed presentation.)

04:17:55 In response to a question from Commissioner Carlson, Mr. Ashburner addressed a binding element that had been discussed at a previous DRC meeting that said something about public safety requirements for the operation of a gate. Mr Ashburner agreed that **binding element #8** will have the following addendum to the end of it, to read as follows:

***All gates shall comply with safety requirements for gated connections as determined by Louisville Metro Public Works and the relevant emergency authorities (police, fire, and EMS).***

04:20:38 In response to questions from Commissioner Mims, Mr. Ashburner confirmed that the gate will be located at Buckland and Cotswold Green and that Cotswold Green is a private street. An easement will be obtained. Mr. Ashburner and Mr. McLaren also discussed grade changes.

04:23:41 Commissioner Brown and the applicant's representatives discussed the Condition of Approval for sidewalk easements (see recording.) Mr. Ashburner said it was reflected on the plan, but he would be willing to add binding element #5 E regarding this.

04:25:02 In response to a request from the Commissioners, Mr. Ashburner and staff went through the binding elements (see recording for detailed discussion.)

**Deliberations:**

04:27:22 Commissioners' 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**

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the Customer Service staff to view the recording or to obtain a copy.

**Waivers:**

**Waiver #1 - Waiver from 5.6.1. to waive the building design requirements to have 50% clear windows and doors**

**Waiver #2 - Waiver from section 5.5.1.A.3.a. and 5.9.2.C.4. to allow the parking lot to be located in front of the building**

04:46:35 On a motion by Commissioner Mims, seconded by Commissioner Howard, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today **and** at the August 31, 2022 DRC meeting, was adopted:

**(Waiver #1) WHEREAS**, the Louisville Metro Planning Commission finds that the requested waiver will not adversely affect adjacent property owners because the façade along Shelbyville Road has enough variation in materials to mitigate not having 50% clear windows and doors; and

**WHEREAS**, the Commission further finds that Community Form Goal 1, Policy 4 calls for the proposal to ensure new development and redevelopment are compatible with the scale and site design of nearby existing development and with the desired pattern of development within the Form District. Quality design and building materials should be promoted to enhance compatibility of development and redevelopment projects. Community Form Goal 1, Policy 12 calls for the proposal to Design parking, loading and delivery areas located adjacent to residential areas to minimize adverse impacts from noise, lights, and other potential impacts. Ensure that parking, loading and delivery is adequate and convenient for motorists and does not negatively impact nearby residents or pedestrians. Parking and circulation areas adjacent to the street shall be screened or buffered. Use landscaping, trees, walls, colonnades or other design features to fill gaps along the street and sidewalk created by surface parking lots. Encourage the placement of parking lots and garage doors behind or beside the building rather than facing the street. The use of alleys for access to parking lots is encouraged, especially in Downtown Louisville, Urban Center Neighborhoods, Traditional Neighborhoods and Traditional Marketplace Corridors. Encourage elimination or reduction of parking minimums in areas readily accessible to transit routes.

Community Form Goal 2, Policy 11 calls for ensuring appropriate placement, design and scale of centers in Traditional Neighborhood, Neighborhood and Village Form

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Districts to ensure compatibility with nearby residences. Community Form Goal 2, Policy 15 calls for parking in activity centers should reflect the area's associated Form District standards to balance safety, traffic, transit, pedestrian, environmental and aesthetic considerations; and

**WHEREAS**, the Commission further finds that the extent of the waiver of the regulation is not the minimum necessary to afford relief to the applicant since the façade along Shelbyville Road has enough variation in materials to mitigate not having 50% clear windows and doors; and

**WHEREAS**, the Commission further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant since the façade along Shelbyville Road has enough variation in materials to mitigate not having 50% clear windows and doors; and

**(Waiver #2) WHEREAS**, the Commission further finds that the waiver will not adversely affect adjacent property owners since safe pedestrian access is provided from the public rights-of-way to the building entrance. The parking is not at grade and site up higher than Shelbyville Road. The screening and planting requirements will be met; and

**WHEREAS**, the Commission further finds that Community Form Goal 1, Policy 4 calls for the proposal to ensure new development and redevelopment are compatible with the scale and site design of nearby existing development and with the desired pattern of development within the Form District. Quality design and building materials should be promoted to enhance compatibility of development and redevelopment projects. Community Form Goal 1, Policy 12 calls for the proposal to Design parking, loading and delivery areas located adjacent to residential areas to minimize adverse impacts from noise, lights, and other potential impacts. Ensure that parking, loading and delivery is adequate and convenient for motorists and does not negatively impact nearby residents or pedestrians. Parking and circulation areas adjacent to the street shall be screened or buffered. Use landscaping, trees, walls, colonnades or other design features to fill gaps along the street and sidewalk created by surface parking lots. Encourage the placement of parking lots and garage doors behind or beside the building rather than facing the street. The use of alleys for access to parking lots is encouraged, especially in Downtown Louisville, Urban Center Neighborhoods, Traditional Neighborhoods and Traditional Marketplace Corridors. Encourage elimination or reduction of parking minimums in areas readily accessible to transit routes.

Community Form Goal 2, Policy 11 calls for ensuring appropriate placement, design and scale of centers in Traditional Neighborhood, Neighborhood and Village Form

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Districts to ensure compatibility with nearby residences. Community Form Goal 2, Policy 15 calls for parking in activity centers should reflect the area's associated Form District standards to balance safety, traffic, transit, pedestrian, environmental and aesthetic considerations; and

**WHEREAS**, the Commission further finds that the extent of waiver of the regulation is the minimum necessary to afford relief to the applicant since the parking is not at grade and site up higher than Shelbyville Road. The screening and planting 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 or create an unnecessary hardship on the applicant since he parking is not at grade and site up higher than Shelbyville Road. The screening and planting requirements will be met; now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby APPRIVE the requested Waiver from 5.6.1. to waive the building design requirements to have 50% clear windows and doors (Waiver #1) AND the requested Waiver from section 5.5.1.A.3.a. and 5.9.2.C.4. to allow the parking lot to be located in front of the building (Waiver #2.)

**The vote was as follows:**

**YES: Commissioners Carlson, Brown, Daniels, Cheek, Clare, Howard, Mims, and Lewis.**

**ABSENT: Commissioners Sistrunk and Price.**

**Revised Detailed District Development plan with amended binding elements**

04:48:29 On a motion by Commissioner Mims, seconded by Commissioner Howard, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today **and** at the August 31, 2022 DRC meeting, was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that there do not appear to be any environmental constraints but the existing cemetery will be preserved and the 30 ft buffer will be provided. Tree canopy requirements of the Land Development Code will be provided on the subject site; and

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**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, and Metro Public Works and the Kentucky Transportation Cabinet have approved the preliminary development plan; and

**WHEREAS**, the Commission further finds that there are no open space requirements pertinent to the current proposal. Future multi- family development proposed on the subject site will be required to meet Land Development Code requirements; and

**WHEREAS**, the Commission further finds that 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 Commission further finds that the overall site design and land uses are compatible with the existing and future development of the area. Appropriate landscape buffering and screening will be provided to screen adjacent properties and roadways; and

**WHEREAS**, the Commission further finds that the development plan conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code; now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE** the requested 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 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.

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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, or site disturbance 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.
  - 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 implanted prior to occupancy of the site and shall be maintained thereafter.
  - c. A minor plat or legal instrument shall be recorded **creating the lot lines as shown on the development plan**. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of the approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
  - d. **A reciprocal access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services.**
  - e. **A public easement must be dedicated for the proposed sidewalks along Shelbyville Road.**
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,

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

7. All street name signs shall be installed prior to requesting a certificate of occupancy for any structure. The address number shall be displayed on a structure prior to requesting a certificate of occupancy for that structure.
8. Residents of Gardiner Park shall be assured north property line perimeter screening and buffering and an entry wall along the north side of Cotswold Green Lane and an entry gate to their private street subdivision consistent with landscape plans and design themes for this buffer area, wall and entry gate as presented at the September 15, 2022 public hearing and as further reviewed for consistency therewith by the landscape architect and Urban Design Staff of DPDS.
9. The following uses shall not be allowed on Lots 1 and 2: Automobile Service Station, Automobile Rental Agency, Carwash, Hotels, Pawn Shops, and Community Service Facilities.
10. Residential Structures on Lots 1 and 2 shall be no more than two stories in height.
11. Lighting shall be directed down and away from adjacent properties and shall be fully shielded with 90 degree cutoffs. All lighting elements shall be completely concealed. Lighting shall otherwise comply with the requirements of the Land Development Code.
12. Trash enclosures for the grocery store building shall be substantially similar to the renderings shown to the Planning Commission at the September 15, 2022 public meeting.
13. Prior to Certificate of Occupancy (C.O) of the main grocery store building, a continuous curbed right turn lane shall be added on the north side of Shelbyville Road from Flat Rock Road to the main entrance to the development across from the entrance to Chestnut Glen.
14. No loudspeakers shall be audible past the overall site plan property lines.
15. All gates shall comply with safety requirements for gated connections as determined by Louisville Metro Public Works and the relevant emergency authorities such as police, fire, and EMS.



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16. The developer shall install “no outlet” signage on the corner of Wyndover Trace and Belden Trail.

**The vote was as follows:**

**YES: Commissioners Cheek, Clare, Howard, Mims, and Lewis.**

**NO: Commissioners Brown and Daniels.**

**ABSTAIN: Commissioner Carlson.**

**ABSENT: Commissioners Sistrunk and Price.**

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**CASE NO. 22-ZONE-0084**

Project Name: 1747 Frankfort Ave  
Location: 1747 Frankfort Ave  
Owner(s): Appel Real Estate LLC and Christopher Seckmann  
Applicant: Zach Fry and Christopher Seckmann  
Jurisdiction: Louisville Metro  
Council District: 9 – Bill Hollander  
**Case Manager: Jay Lockett, 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. (The staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

**Agency Testimony:**

04:53:43 Julia Williams presented the case on behalf of Jay Lockett, showed a Power Point presentation, and answered questions from the Commissioners (see staff report and recording for detailed presentation.)

**The following spoke in support of the request:**

Christopher Seckman, 1745 Frankfort Avenue, Louisville, KY 40206

**Summary of testimony of those in support:**

04:56:42 Christopher Seckman, the applicant, presented the applicant's case and answered questions from the Commissioners (see recording for detailed presentation.)

**The following spoke in opposition to the 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.**

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**CASE NO. 22-ZONE-0084**

**Change in zoning from R-5B to CR**

04:58:13 On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Community Form because the zoning change would not represent an expansion of nonresidential uses into residential areas. The Frankfort Avenue corridor is a Traditional Marketplace Corridor with a variety of commercial uses in the area; Frankfort Avenue is a major arterial roadway with transit service that provides ready access to employment opportunities, commercial services and amenities; the proposed zoning district would not permit industrial development; the proposed zoning would not permit industrial development or other hazardous uses. The site will be subject to all lighting and noise standards of the Land Development Code and the Louisville Metro Code of Ordinances; the proposed zoning would not permit industrial development or other hazardous uses; the proposed zoning or use would not create significant additional traffic on Frankfort Ave, which is a major arterial roadway capable of handling high volumes of traffic; and the proposal does not appear to add any significant additional noise-generating uses; and

**WHEREAS**, the Commission further finds that the proposal meets Land Use & Development Goal 2: Community Form because the subject site is within an existing Traditional Marketplace Corridor with a wide variety of commercial uses; the proposed zoning would permit a variety of neighborhood serving uses in an area with adequate population to support them; the proposed zoning district will result in a compact development pattern and efficient land use that utilizes existing infrastructure; The zoning district would allow for a wide variety of uses, including mixed residential and commercial uses; the proposed development includes a mix of residential uses and neighborhood serving commercial uses; and the development would allow a previously developed site to provide a mix of residential units and commercial uses; and the subject site is not an outlot on a larger commercial development; and

**WHEREAS**, the Commission further finds that the proposal meets Land Use & Development Goal 3: Community Form because the site is previously developed and does not contain distinctive natural features. The applicant indicates they will preserve existing trees on site; the site is previously developed and does not have potential hydric soils or erosion concerns.; the subject site is not along the Ohio River; and the subject site is not in the flood plain; and

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**WHEREAS**, the Commission further finds that the proposal meets Land Use & Development Goal 4: Community Form because the is within the Clifton historic preservation district and proposes to reuse existing structures. Any future changes to the site will need to be in accordance with the requirements of the Clifton Architectural Review guidelines; and external site changes will need to be reviewed for compliance with the Clifton historic preservation district standards; and

**WHEREAS**, the Commission further finds that the proposal meets Land Use & Development Goal 1: Mobility because the subject site is within and established Traditional Marketplace Corridor. The proposed zoning encourages transit-oriented development and an efficient transportation system; and

**WHEREAS**, the Commission further finds that the proposal meets Land Use & Development Goal 3: Mobility because the proposed zoning would allow a mix of neighborhood serving uses that encourage walking and biking; the proposed zoning would allow a mix of neighborhood serving uses that encourage walking and biking. The proposed development would include a mix of residential dwelling and neighborhood scale commercial uses that encourage a reduction in vehicle miles traveled; the proposed zoning would allow a mix of neighborhood serving uses that encourage walking and biking. The proposed development would include a mix of residential dwelling and neighborhood scale commercial uses that encourage a reduction in vehicle miles traveled; the proposed zoning would allow a mix of neighborhood serving uses that encourage walking and biking. The proposed development would include a mix of residential dwelling and neighborhood scale commercial uses that encourage a reduction in vehicle miles traveled; the subject site is well served by existing transportation networks; the applicant will repair or improve sidewalks adjacent to the site as needed; andtThe subject site is well served by existing transportation networks; and

**WHEREAS**, the Commission further finds that the proposal meets Land Use & Development Goal 2: Community Facilities because utility services are available; water service exists to serve the site.; and MSD has approved the preliminary development plan; and

**WHEREAS**, the Commission further finds that the proposal meets Land Use & Development Goal 1: Economic Development because the proposed zoning would not allow industrial development; and Frankfort Avenue is a Major Arterial roadway. The proposed zoning will not adversely impact traffic in the area; and

**WHEREAS**, the Commission further finds that the proposal meets Land Use & Development Goal 1: Livability because the site does not have potential for erosion or

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other environmental concerns; the subject site is not within the floodplain; and the subject site is not within the floodplain. The proposed zoning would not allow for hazardous materials to be stored onsite; and

**WHEREAS**, the Commission further finds that the proposal meets Land Use & Development Goal 1: Housing because the proposed zoning district would allow for a variety of housing types and densities. The site is near a variety of services that support aging in place. The site is served directly by transit; and

**WHEREAS**, the Commission further finds that the proposal meets Land Use & Development Goal 2: Housing because the proposed zoning district would allow for a variety of housing types and densities. The site is near a variety of services that support mixed income households; and the subject site is within an established neighborhood scale commercial center and is served by public transit on S Third St. The site is near a wide variety of services, amenities and employment opportunities; and

**WHEREAS**, the Commission further finds that the proposal meets Land Use & Development Goal 3: Housing because residents would not be displaced by the proposal; and the proposed zoning allows for mixed uses and a variety of housing options that promotes the provisioning of fair and affordable housing; now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the proposed change in zoning from R-5B to CR on property described in the attached legal description be **APPROVED**.

**The vote was as follows:**

**YES: Commissioners Howard, Mims, Clare, Daniels, Carlson, Cheek, Brown, and Lewis.**

**ABSENT: Commissioners Sistrunk and Price.**

**Detailed District Development plan**

04:59:10 On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

**WHEREAS** the Louisville Metro Planning Commission finds that there do not appear to be any environmental constraints or historic resources on the subject site; and

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**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, and Metro Public Works and the Kentucky Transportation Cabinet have approved the preliminary development plan; and

**WHEREAS**, the Commission further finds that there are no open space requirements pertinent to the current proposal; and

**WHEREAS**, the Commission further finds that 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 Commission further finds that the overall site design and land uses are compatible with the existing and future development of the area; and

**WHEREAS**, the Commission further finds that the development plan conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code; now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE** the requested 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. 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.

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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 Construction Review, 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.
5. 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.

**The vote was as follows:**

**YES: Commissioners Howard, Mims, Clare, Daniels, Carlson, Cheek, Brown, and Lewis.**

**ABSENT: Commissioners Sistrunk and Price.**

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**ADJOURNMENT**

**The meeting adjourned at approximately 6:25 p.m.**

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**Chairman**

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**Division Director**