

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO PLANNING COMMISSION
January 7, 2016**

A meeting of the Louisville Metro Planning Commission was held on January 7, 2016 at 1:00 p.m. at the Old Jail Building, located at 514 W. Liberty Street, Louisville, Kentucky.

Commission members present:

David Proffitt, Vice Chair
Jeff Brown
Vince Jarboe
Robert Kirchdorfer
Robert Peterson
Clifford Turner
David Tomes
Marilyn Lewis

Commission members absent:

Donnie Blake, Chair
Chip White

Staff Members present:

Emily Liu, Planning Director
Joe Reverman, Planning Assistant Director
Joseph Haberman, Planning Manager
Brian Davis, Planning Supervisor
Julia Williams, Planner II
Tammy Markert, Transportation Planning
Mark Dutrow, Transportation Planning
Tony Kelly, MSD
Mike Wilcher, Code Enforcement
John G. Carroll, Legal Counsel
Jonathan Baker, Legal Counsel
Pamela M. Brashear, Management Assistant

The following matters were considered:

PLANNING COMMISSION MINUTES
January 7, 2016

BUSINESS SESSION

2016_Enforce

Request: Binding Element Enforcement Authorization
Case Manager: **Joseph Haberman, AICP, 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.)

Discussion

00:10:07 Mr. Haberman stated that in the past the Planning Commission has authorized those in Code Enforcement that act on behalf of binding element enforcement. The following will be added to the list: John Ernst, [James Mullarkey](#) Mike Wilcher and Joseph Haberman, Louisville Metro; Jack Ruf – binding element enforcement for the city of St. Matthews; and Mark Hall, Christopher Raque, Steve Rusie and Kim Weber – city of Jeffersontown. This Binding Element Act is for binding element enforcement only.

00:11:52 Mr. Baker, Legal Counsel, remarked, “The Planning Commission is given authority, through the state, to enforce binding elements. You will be acknowledging certain individuals to have that authority to enforce binding elements.”

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 Kirchdorfer, seconded by Commissioner Tomes, the following resolution was adopted.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the names of the individuals submitted today for enforcement of binding elements.

The vote was as follows:

YES: Commissioners Brown, Jarboe, Kirchdorfer, Lewis, Peterson, Proffitt, Tomes and Turner

NOT PRESENT AND NOT VOTING: Commissioners Blake and White

PLANNING COMMISSION MINUTES
January 7, 2016

APPROVAL OF MINUTES

DECEMBER 17, 2015 PLANNING COMMISSION REGULAR MEETING MINUTES

On a motion by Commissioner Tomes, seconded by Commissioner Turner, the following resolution was adopted.

RESOLVED, that the Planning Commission does hereby **APPROVE** the minutes of its meeting conducted on December 17, 2015.

The vote was as follows:

YES: Commissioners Brown, Kirchdorfer, Lewis, Peterson, Proffitt, Tomes and Turner

NOT PRESENT FOR THIS CASE: Commissioners Blake and White

ABSTAINING: Commissioner Jarboe

PLANNING COMMISSION MINUTES
January 7, 2016

PUBLIC HEARING

CASE NO. 15ZONE1020

Request: Change in zoning from R-4 to C-2, a variance, and waivers
Project Name: Swope Auto Repair Facility
Location: 6780 Dixie Highway, 4532 and 4534 Kerrick Lane & TB 1032
Lot 200

Owners: Stephen and Jean Gillespie
3002 Crystal Waters Way
Louisville, Ky. 40299

Jackie Allen

John and Kathi Moreland

Applicant: Swope Development LLC
Richard Swope, Vice President
10 Swope Autocenter Drive
Louisville, Ky. 40299

Representative: BTM Engineering; Frost Brown Todd
John Addington, RLA
3001 Taylor Springs Drive
Louisville, Ky. 40220

Jurisdiction: Louisville Metro
Council District: 12-Rick Blackwell
Case Manager: **Julia Williams, RLA, AICP, Planner II**

THIS CASE WAS CONTINUED FROM THE DECEMBER 17, 2015 PLANNING COMMISSION MEETING.

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:

PLANNING COMMISSION MINUTES
January 7, 2016

PUBLIC HEARING

CASE NO. 15ZONE1020

00:15:08 Mrs. Williams discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Glenn Price, Frost Brown Todd, 400 West Market Street, 32nd floor, Louisville, Ky. 40202

Richard Swope, 11601 Plantside Drive, Louisville, Ky. 40299

Summary of testimony of those in favor:

00:27:25 Mr. Price provided a power point presentation. The applicant will provide heavy landscaping and a fence. Also, the drive lane will be in the setback area and will have no negative impact on anyone.

00:38:39 Mr. Swope stated there will be a manager on site. The auto/body shop doors will remain shut mainly because of the climate control of the building.

Deliberation

00:41:12 Commissioner Brown stated, "Since they removed the access to Kerrick Ln., I don't think it's gone through a thorough review on circulation. Another issue is pedestrian connectivity and the state is asking them to provide better pedestrian facilities north of the Dixie Hwy. access."

Commissioner Brown requests a note be placed on the plan saying they'll reconstruct the sidewalk with the reconstruction of the entrance to mitigate the pedestrian connection waiver.

00:43:52 Vice Chair Proffitt requests a binding element be added to state: The landscaping will be substantially similar to or greater than what was shown in today's presentation.

00:44:36 Mrs. Williams said a binding element needs to be added regarding the applicant putting an 8 foot wooden fence on the Moreland property.

Mrs. Williams also suggests, regarding circulation, approving the development plan on condition that the applicant work with Transportation staff – not as a binding element because these issues are off site.

PLANNING COMMISSION MINUTES
January 7, 2016

PUBLIC HEARING

CASE NO. 15ZONE1020

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 C-2

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

WHEREAS, The Neighborhood Form is characterized by predominantly residential uses that vary from low to high density and that blend compatibly into the existing landscape and neighborhood areas. High-density uses will be limited in scope to minor or major arterials and to areas that have limited impact on the low to moderate density residential areas; and

WHEREAS, The Neighborhood Form will contain diverse housing types in order to provide housing choice for differing ages and incomes. New neighborhoods are encouraged to incorporate these different housing types within a neighborhood as long as the different types are designed to be compatible with nearby land uses. These types may include, but not be limited to large lot single family developments with cul-de-sacs, neo-traditional neighborhoods with short blocks or walkways in the middle of long blocks to connect with other streets, villages and zero lot line neighborhoods with open space, and high density multi-family condominium-style or rental housing; and

WHEREAS, The Neighborhood Form may contain open space and, at appropriate locations, civic uses and neighborhood centers with a mixture of uses such as offices, retail shops, restaurants and services. These neighborhood centers should be at a scale that is appropriate for nearby neighborhoods. The Neighborhood Form should provide for accessibility and connectivity between adjacent uses and neighborhoods by automobile, pedestrian, bicycles and transit; and

WHEREAS, Neighborhood streets may be either curvilinear, rectilinear or in a grid pattern and should be designed to invite human interaction. Streets are connected and easily accessible to each other, using design elements such as short blocks or bike/walkways in the middle of long blocks to connect with other streets. Examples of design elements that encourage this interaction include narrow street widths, street trees, sidewalks, shaded seating/gathering areas and bus stops. Placement of utilities should permit the planting of shade trees along both sides of the streets; and

WHEREAS, Buffer yards and setbacks are being provided on the site. There are some encroachments that are being mitigated by the landscape and screening requirements

PLANNING COMMISSION MINUTES
January 7, 2016

PUBLIC HEARING

CASE NO. 15ZONE1020

for those buffers. A 30' buffer is being provided along Kerrick to reduce the impact of the site along that roadway and adjacent neighborhood; and

WHEREAS, the Louisville Metro Planning Commission finds, the proposal is not a neighborhood center and is for one use. C-2 permits more regional oriented uses rather than neighborhood oriented uses. Residential is not part of the proposal. Entrance to the site will be from an access easement off of Dixie. Vehicular and pedestrian access is provided to the site. The proposal is a non-residential expansion into an existing residential area. The proposed zoning change includes the demolition of an existing 2-2 1/2 story frame structure. The demolition of the structure would have an adverse effect on a potentially eligible historic resource, the context is not fully known at this time. Historic Preservation staff recommends adaptive re-use of the structure instead of demolition. Staff is asking that site be documented at the State Level 1 documentation; and

WHEREAS, the Louisville Metro Planning Commission further finds the proposal is to allow for an expansion onto a site where single family residential has been in existence for a century or more. Dixie Highway is a major arterial and where the site will have its main access. Kerrick Lane is a local level road and will not be used for access to the site. The high intensity zoning is not directly located on an arterial but with vehicle access only coming from an access easement, impact to Kerrick Lane will be minimal. The proposal is not a neighborhood center. It includes new construction for high intensity commercial zoning. C-2 zoning, while permitting C-1 uses allows for more intense commercial users outside the general neighborhood population. Much of the area is already zoned C-2. There is sufficient population in the vicinity to support the zoning. Expanding the existing C-2 in the area results in an efficient land use pattern as the residential zones have commercial zoning interspersed for some time. C-2 zoning allows for a variety of compatible commercial land uses. Transit is available on Dixie and no access will be from Kerrick Lane.

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND**, to Metro Council, **APPROVAL** of Case No. 15ZONE1020, change in zoning from R-4 to C-2 based on the staff report and testimony heard today.

The vote was as follows:

YES: Commissioners Brown, Jarboe, Kirchdorfer, Lewis, Peterson, Proffitt, Tomes and Turner

NOT PRESENT AND NOT VOTING: Commissioners Blake and White

Variance

PLANNING COMMISSION MINUTES
January 7, 2016

PUBLIC HEARING

CASE NO. 15ZONE1020

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

WHEREAS, The requested variance will not adversely affect public health safety or welfare since an 8' fence is proposed in the area of encroachment; and

WHEREAS, The requested variance will not alter the essential character of the general vicinity since the drive lane is internal to the site and being screened from adjacent owners; and

WHEREAS, The requested variance will not cause a hazard or nuisance to the public since the drive lane is internal to the site and being screened from adjacent owners; and

WHEREAS, The requested variance will not allow an unreasonable circumvention of the zoning regulations since the drive lane is internal to the site and being screened from adjacent owners; 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 because encroachments into setbacks are not permitted in the neighborhood form district. The NFD applies to this site and other sites to the west of this site; and

WHEREAS, the Louisville Metro Planning Commission finds, the strict application of the provisions of the regulation would not deprive the applicant of reasonable use of the land since the applicant chose the size of the structure and layout of the site. There are other site designs that would have prevented the variance; 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. The applicant was aware of the regulations when submitting the application.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the variance to permit the encroachment of a drive lane into the required 25 foot setback along the north property line as indicated on the development plan based on the staff report, testimony heard today and the vinyl fence being proposed by the applicant to mitigate the impact of the abutting property.

The vote was as follows:

PLANNING COMMISSION MINUTES
January 7, 2016

PUBLIC HEARING

CASE NO. 15ZONE1020

YES: Commissioners Brown, Jarboe, Kirchdorfer, Lewis, Peterson, Proffitt, Tomes and Turner

NOT PRESENT AND NOT VOTING: Commissioners Blake and White

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

Waiver of section 10.2.4. to permit the encroachment of a drive lane into the required 25' LBA along the north property line as indicated on the development plan.

WHEREAS, The waiver will not adversely affect adjacent property owners since the drive lane is internal to the site and being screened from adjacent owners; and

WHEREAS, Guideline 3, policy 9 of Cornerstone 2020 calls for the protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigate when appropriate.

Guideline 3, policies 21 and 22 calls for appropriate transitions between uses that are substantially different in scale and intensity or density, and to mitigate the impact caused when incompatible developments occur adjacent to one another through the use of landscaped buffer yards, vegetative berms and setback requirements to address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances. Guideline 3, policy 24 states that parking, loading and delivery areas located adjacent to residential areas should be designed to minimize the impacts from noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered. Guideline 13, policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. Guideline 13, Policy 6 calls for screening and buffering to mitigate adjacent incompatible uses. The intent of landscape buffer areas is to create suitable transitions where varying forms of development adjoin, to minimize the negative impacts resulting from adjoining incompatible land uses, to decrease storm water runoff volumes and velocities associated with impervious surfaces, and to filter air borne and water borne pollutants. Since the drive lane is internal to the site and being screened from adjacent owners Cornerstone 2020 is not being violated; 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 since the

PLANNING COMMISSION MINUTES
January 7, 2016

PUBLIC HEARING

CASE NO. 15ZONE1020

landscape requirements and buffering will still be met in the area of the encroachment; and

WHEREAS, the Louisville Metro Planning Commission further finds the strict application of the provisions of the regulation would not deprive the applicant of reasonable use of the land since the applicant chose the size of the structure and layout of the site. There are other site designs that would have prevented the waiver.

Waiver of section 10.2.4. to allow a utility easement to encroach more than 50% into the landscape buffer area

WHEREAS, The waiver will not adversely affect adjacent property owners since the landscape and buffering requirements will still be met; and

WHEREAS, Guideline 3, policy 9 calls for the protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigate when appropriate. Guideline 3, policies 21 and 22 calls for appropriate transitions between uses that are substantially different in scale and intensity or density, and to mitigate the impact caused when incompatible developments occur adjacent to one another through the use of landscaped buffer yards, vegetative berms and setback requirements to address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances. Guideline 3, policy 24 states that parking, loading and delivery areas located adjacent to residential areas should be designed to minimize the impacts from noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered. Guideline 13, policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. The intent of landscape buffer areas is to create suitable transitions where varying forms of development adjoin, to minimize the negative impacts resulting from adjoining incompatible land uses, to decrease storm water runoff volumes and velocities associated with impervious surfaces, and to filter air borne and water borne pollutants. Since the landscape and buffering requirements will still be met, Cornerstone 2020 is not being violated; 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 since the landscape and buffering requirements will still be met; and

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

PLANNING COMMISSION MINUTES
January 7, 2016

PUBLIC HEARING

CASE NO. 15ZONE1020

the land or would create an unnecessary hardship on the applicant since the landscape and buffering requirements will still be met.

Waiver of section 5.9.2.A.1.b.i. to not provide a pedestrian connection from Kerrick Lane to the building entrance.

WHEREAS, The waiver will not adversely affect adjacent property owners since a pedestrian connection is provided from Dixie Highway; and

WHEREAS, Guideline 9, Policy 1 states that new development should provide, where appropriate, for the movement of pedestrians, bicyclists and transit users with walkways for access to public transportation stops. Safe and appropriate access is being provided to the auto repair facility. Transit is available along Dixie Highway and there is pedestrian access from the main Dixie lot to the repair facility; 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 since pedestrian access is being provided from Dixie to the building; and

WHEREAS, the Louisville Metro Planning Commission further finds the applicant has incorporated other design measures that compensate for non-compliance with the requirements to be waived since pedestrian access is being provided from Dixie to the repair facility.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** Case No. 15ZONE1020, the three waivers listed in the staff report as waivers 1, 2 and 3 based on the staff report and testimony heard today.

The vote was as follows:

YES: Commissioners Brown, Jarboe, Kirchdorfer, Lewis, Peterson, Proffitt, Tomes and Turner

NOT PRESENT AND NOT VOTING: Commissioners Blake and White

RDDP and Binding Elements

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

WHEREAS, The development plan includes the demolition of an existing 2-2 1/2 story frame structure. The demolition of the structure would have an adverse effect on a potentially eligible historic resource, the context is not fully known at this time. Tree

PLANNING COMMISSION MINUTES
January 7, 2016

PUBLIC HEARING

CASE NO. 15ZONE1020

canopy requirements of the Land Development Code will be provided on the subject site; and

WHEREAS, Provisions for safe and efficient vehicular 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. Safe pedestrian connectivity has not been provided on site from either Kerrick Lane or Dixie Highway; and

WHEREAS, There are no open space requirements with the current proposal. Open space is provided in the form of buffers and setbacks; and

WHEREAS, the Louisville Metro Planning Commission finds, 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 further finds 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 Louisville Metro Planning Commission further finds the development plan conforms to applicable guidelines and policies of the Comprehensive Plan but not the requirements of the Land Development Code. A safe pedestrian connection needs to be made from the main Swope lot along Dixie to the proposed collision center structure.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** Case No. 15ZONE1020, the Detailed District Development Plan and the binding elements shown on pages 17 and 18 of the staff report with the following 2 additional binding elements: 1) The landscaping shall comply substantially with what has been presented at today's Planning Commission meeting and 2) The 8 foot tall fence abutting the Moreland property will be a solid white pvc fence as outlined in the applicant's statement dated December 14, 2015. Also, a condition of approval to be added as follows: The applicant shall work with Transportation Planning to provide any necessary signs and markings that deal with circulation around the parking lot, and that the encroachment permit required for the improvements at Dixie Highway include the improvements along the off-site frontage to the north of the sandfill property to improve the sidewalk connectivity based on the staff report, testimony heard today and **SUBJECT** to the following binding elements:

PLANNING COMMISSION MINUTES
January 7, 2016

PUBLIC HEARING

CASE NO. 15ZONE1020

Proposed 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. The development shall not exceed 12,000 square feet of gross floor area.
3. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
4. 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.
5. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested:
 - a. The development plan must receive full construction approval from Develop Louisville, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. 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.
 - c. A minor plat or legal instrument shall be recorded consolidating the property into one lot. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of the approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
 - d. A Tree Preservation Plan in accordance with Chapter 10 of the

PLANNING COMMISSION MINUTES
January 7, 2016

PUBLIC HEARING

CASE NO. 15ZONE1020

LDC shall be reviewed and approved prior to obtaining approval for site disturbance.

- e. The developer shall provide Planning and Design staff Kentucky State level 1 documentation for the historic home at 6780 Dixie Highway before demolition of the home. Documentation must be received and approved by Planning and Design staff prior to demolition.
6. 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.
7. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
8. 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.
9. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the December 17, 2015 Planning Commission meeting.
10. No idling of trucks shall take place within 200 feet of single-family residences. No overnight idling of trucks shall be permitted on-site.
11. There shall be no direct access from Kerrick Lane to the proposed site.
12. No junked or inoperable vehicles are to remain on the site for more than 24 hours.
13. The landscaping shall comply substantially with what has been presented at today's Planning Commission meeting.

PLANNING COMMISSION MINUTES
January 7, 2016

PUBLIC HEARING

CASE NO. 15ZONE1020

14. The 8 foot tall fence abutting the Moreland property will be a solid white pvc fence as outlined in the applicant's statement dated December 14, 2015.

CONDITION OF APPROVAL

1. The applicant shall work with Transportation Planning to provide any necessary signs and markings that deal with circulation around the parking lot, and that the encroachment permit required for the improvements at Dixie Highway include the improvements along the off –site frontage to the north of the sandfill property to improve the sidewalk connectivity.

The vote was as follows:

YES: Commissioners Brown, Jarboe, Kirchdorfer, Lewis, Peterson, Proffitt, Tomes and Turner

NOT PRESENT AND NOT VOTING: Commissioners Blake and White

PLANNING COMMISSION MINUTES
January 7, 2016

PUBLIC HEARING

CASE NO. 15ZONE1021

Request: Change in zoning from R-4 to PEC and C-1
Project Name: Hurstbourne Station
Location: 7300 South Hurstbourne Parkway and TB 636 Lot 155

Owner/Applicant: Hurstbourne Corporate Group, LLC
David A. Dries, Manager
15510 Champion Lakes Place
Louisville, Ky. 40245

Robert and Nancy Williamson

Representative: BTM Engineering Inc.
John Addington, RLA
3001 Taylor Springs Drive
Louisville, Ky. 40220

Frost Brown Todd LLC
Glenn A. Price, Jr.
400 West Market Street, 32nd floor
Louisville, Ky. 40202

Jurisdiction: Louisville Metro
Council District: 2 – Barbara Shanklin
Case Manager: Julia Williams, RLA, 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:

00:50:45 Mrs. Williams said the applicant is still working with the Councilwoman and legislative aids on this proposal. The applicant therefore, requests this case be continued to the January 21, 2016 Planning Commission meeting.

Deliberation

PLANNING COMMISSION MINUTES
January 7, 2016

PUBLIC HEARING

CASE NO. 15ZONE1021

00:51:56 Planning Commission deliberation.

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

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

RESOLVED, that the Louisville Metro Planning Commission does hereby **CONTINUE** Case No. 15ZONE1021 to the January 21, 2016 Planning Commission hearing.

The vote was as follows:

YES: Commissioners Brown, Jarboe, Kirchdorfer, Lewis, Peterson, Proffitt, Tomes and Turner

NOT PRESENT AND NOT VOTING: Commissioners Blake and White

PLANNING COMMISSION MINUTES
January 7, 2016

PUBLIC HEARING

CASE NO. 15ZONE1018

Request: Change in zoning from R-4 to C-2 and a waiver
Project Name: Roe's Outdoor Services, LLC
Location: 9801 Whipps Mill
Louisville, Ky. 40223

Owner: The Whipps Mill Road Land Trust

Applicant: The Land Trust
9801 Whipps Mill Road
Louisville, Ky. 40223

Representative: Land Design & Development, Inc.
Ann Richard, RLA
503 Washburn Avenue
Louisville, Ky. 40222

Frost Brown Todd
Glenn Price
400 West Market Street, 32nd floor
Louisville, Ky. 40202

Jurisdiction: Louisville Metro
Council District: 7-Angela Leet
Case Manager: Julia Williams, RLA, 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:

00:52:58 Mrs. Williams discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

PLANNING COMMISSION MINUTES
January 7, 2016

PUBLIC HEARING

CASE NO. 15ZONE1018

Glenn Price, Frost Brown Todd, 400 West Market Street, Suite 3200, Louisville, Ky. 40202

Kevin Young, Principle Land Design Development, 503 Washburn Avenue, Suite 101, Louisville, Ky. 40222

Evan Roe, 9801 Whipps Mill Road, Louisville, Ky. 40223

Summary of testimony of those in favor:

01:00:29 Mr. Price stated there's no CUP application because there is no category for this type of proposal. A binding element is being proposed – If one of the C-2 uses is wanted in the future, a fully noticed public hearing will first have to take place and be approved by the Planning Commission.

1:09:07 Mr. Young said the proposed site is one of the original farmhouses. The building and house are oriented away from the subdivision. There is a nursery on the property and it's very low impact. The front portion of the property will keep a residential look/feel. The applicant will add an 8 foot privacy fence (around perimeter of property), landscaping, 6 foot fence with gates, 4 foot fence in front of house.

01:15:29 Mr. Price stated the hours of operation - 7:00 a.m. until 9:00 p.m.

01:16:09 Mr. Carroll requests adding a binding element to state: No indoor/outdoor restaurants or consumption of alcoholic beverages. Mr. Price agrees.

01:17:40 Mr. Roe said he has 4 employees. The equipment is kept inside.

The following spoke neither for nor against the request:

Bill Hallerd, 1713 The Meadow Road, Louisville, Ky. 40223

Summary of testimony of those neither for nor against:

01:18:45 Mr. Hallerd wants to know how tall the building and fence will be. Mr. Young said the fence, in that particular area, will be 8 feet tall and the building will be one story, approximately 18 feet in height.

Mr. Hallerd said he lives next door and has never heard any noise from the applicant's business.

Deliberation

PLANNING COMMISSION MINUTES
January 7, 2016

PUBLIC HEARING

CASE NO. 15ZONE1018

01:20:50 Planning Commission deliberation. Commissioner Brown suggests an additional binding element stating that the owner, at his own expense, will dedicate right-of-way within request from Public Works to accommodate any future sidewalk construction along that frontage. Mr. Price said it could be worked out. Commissioner Kirchdorfer stated that the use is very low impact. There needs to be a better way to handle these types of cases with a conditional use. Also, take a look at the location for the proposed signage. Commissioner Tomes suggests being a little more liberal with the hours of operation.

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 C-2

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

WHEREAS, The Neighborhood Form is characterized by predominantly residential uses that vary from low to high density and that blend compatibly into the existing landscape and neighborhood areas. High-density uses will be limited in scope to minor or major arterials and to areas that have limited impact on the low to moderate density residential areas; and

WHEREAS, The Neighborhood Form will contain diverse housing types in order to provide housing choice for differing ages and incomes. New neighborhoods are encouraged to incorporate these different housing types within a neighborhood as long as the different types are designed to be compatible with nearby land uses. These types may include, but not be limited to large lot single family developments with cul-de-sacs, neo-traditional neighborhoods with short blocks or walkways in the middle of long blocks to connect with other streets, villages and zero lot line neighborhoods with open space, and high density multi-family condominium-style or rental housing; and

WHEREAS, The Neighborhood Form may contain open space and, at appropriate locations, civic uses and neighborhood centers with a mixture of uses such as offices, retail shops, restaurants and services. These neighborhood centers should be at a scale that is appropriate for nearby neighborhoods. The Neighborhood Form should provide for accessibility and connectivity between adjacent uses and neighborhoods by automobile, pedestrian, bicycles and transit; and

PLANNING COMMISSION MINUTES
January 7, 2016

PUBLIC HEARING

CASE NO. 15ZONE1018

WHEREAS, Neighborhood streets may be either curvilinear, rectilinear or in a grid pattern and should be designed to invite human interaction. Streets are connected and easily accessible to each other, using design elements such as short blocks or bike/walkways in the middle of long blocks to connect with other streets. Examples of design elements that encourage this interaction include narrow street widths, street trees, sidewalks, shaded seating/gathering areas and bus stops. Placement of utilities should permit the planting of shade trees along both sides of the streets; and

WHEREAS, the Louisville Metro Planning Commission finds, the change in zoning is not located in a center nor does it create a new center with a mix of uses. However there is similar zoning located in the area and the sites appearance will remain residential in character along Whipps Mill. The proposal is a high intensity zoning district that is not located on an arterial. The proposal is located along a local level road with impact on the low density single family residential uses located adjacent to the site. The proposal is compact. Commercial zoning is evident along the nearby LaGrange Road. The proposal is cost effective for infrastructure because it is in an area with mixed uses nearby. Mixed use is part of the proposal as there is a residential component. A sidewalk will be constructed along Whipps Mill as part of another agencies project in the area. The proposal is not for retail but does incorporate residential; and

WHEREAS, the Louisville Metro Planning Commission further finds the proposal does not create a new center in the NFD nor is it related to the existing commercial that is located along LaGrange Road. The proposal does include the reuse of existing structures for commercial use. The proposal is a non-residential expansion into a low density single family residential area. The proposal is a high intensity zoning district that is not located along a transit route. An activity center is located between La Grange Road and Whipps Mill.

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND**, to Metro Council, **APPROVAL** for Case No. 15ZONE1018, zoning change from R-4 to C-2 based on the applicant's presentation, the staff report and the testimony heard today.

The vote was as follows:

YES: Commissioners Brown, Jarboe, Kirchdorfer, Lewis, Peterson, Proffitt, Tomes and Turner

NOT PRESENT AND NOT VOTING: Commissioners Blake and White

Waiver

PLANNING COMMISSION MINUTES
January 7, 2016

PUBLIC HEARING

CASE NO. 15ZONE1018

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

WHEREAS, The waiver will not adversely affect adjacent property owners since the sidewalk will be constructed by others; and

WHEREAS, Guideline 7, Policy 1 states that developments should be evaluated for their impact on the street and roadway system and to ensure that those who propose new developments bear or reasonably share in the costs of the public facilities and services made necessary by development. Guideline 9, Policy 1 states that new development should provide, where appropriate, for the movement of pedestrians, bicyclists and transit users with sidewalks along the streets of all developments where appropriate. The sidewalk will be provided by others; and

WHEREAS, the Louisville Metro Planning Commission finds, the extent of waiver of the regulation is the minimum necessary to afford relief to the applicant since the sidewalk will be provided by others; and

WHEREAS, the Louisville Metro Planning Commission further finds the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant since the sidewalk will be provided by others.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** Case No. 15ZONE1018, waiver from chapter 5.8.1 to not build the required sidewalks along Whipps Mill Road **ON CONDITION** that the applicant work with Public Works to maintain further additional right-of-way to connect to the existing sidewalk along Whipps Mill Road.

The vote was as follows:

YES: Commissioners Brown, Jarboe, Kirchdorfer, Lewis, Peterson, Proffitt, Tomes and Turner

NOT PRESENT AND NOT VOTING: Commissioners Blake and White

Development Plan and Binding Elements

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

PLANNING COMMISSION MINUTES
January 7, 2016

PUBLIC HEARING

CASE NO. 15ZONE1018

WHEREAS, Tree canopy requirements of the Land Development Code will be provided on the subject site; and

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

WHEREAS, There are no open space requirements with the current proposal; 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 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. Buildings and parking lots will meet all required setbacks; and

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

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** Case No. 15ZONE1018, the Detailed District Development Plan, the binding elements on pages 14 and 15 of the staff report and the proposed binding elements submitted by the applicant based on the testimony heard today and the staff report; also, additional binding elements to include: Indoor and outdoor restaurant, alcohol sales and consumption of beverages to be restricted. The hours of operation will be from 7:00 a.m. to 10:00 p.m. **SUBJECT** to the following Binding Elements:

Proposed 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. The development shall not exceed 7,500 square feet of gross floor area.

PLANNING COMMISSION MINUTES
January 7, 2016

PUBLIC HEARING

CASE NO. 15ZONE1018

3. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
4. 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.
5. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested:
 - a. The development plan must receive full construction approval from Develop Louisville, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. 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.
 - 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.
6. 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.
7. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system permitted on the site.
8. 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.

PLANNING COMMISSION MINUTES
January 7, 2016

PUBLIC HEARING

CASE NO. 15ZONE1018

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.

9. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the January 7, 2016 Planning Commission meeting.
10. No idling of trucks shall take place within 200 feet of single-family residences. No overnight idling of trucks shall be permitted on-site.
11. When sidewalks are constructed along the portion of Whipps Mill Road adjacent to this property, a clearly defined, safe pedestrian access will be provided by the owner of the property from the public sidewalk through off street parking to building entrances.
12. No indoor/outdoor restaurants or consumption of alcoholic beverages.
13. The owner, at his own expense, will dedicate right-of-way as requested from Public Works to accommodate connection to the existing sidewalk along Whipps Mill Road.
14. The hours of operation will be from 7:00 a.m. to 10:00 p.m.

Applicant's Proposed Binding Element

15. The following uses shall not be permitted on site without a duly noticed public hearing and approval by the planning commission: auction sales, automobile rental agencies, automobile repair garages, automobile sales agencies, billiard parlors and game rooms, bingo halls and parlors, boat sales, book binding, cleaning, pressing and drying establishments, dance halls, fraternities and sororities, exposition building or center, flea market, indoor paint ball ranges, laser tag, tattoo, body art and piercing parlors, package liquor stores, restaurants where dancing or entertainment is allowed, rubber stamp manufacture, skating rinks, taverns, bars and saloons, theaters, used car sales areas, automobile service stations, car washes, boarding and lodging houses and tourist homes.

The vote was as follows:

PLANNING COMMISSION MINUTES
January 7, 2016

PUBLIC HEARING

CASE NO. 15ZONE1018

**YES: Commissioners Brown, Jarboe, Kirchdorfer, Lewis, Peterson, Proffitt,
Tomes and Turner**

NOT PRESENT AND NOT VOTING: Commissioners Blake and White

PLANNING COMMISSION MINUTES
January 7, 2016

PUBLIC HEARING

CASE NO. 15ZONE1046

Request: Change in zoning from M-2 to C-2 and a landscape waiver
Project Name: 7775 Dixie Highway
Location: 7775 Dixie Highway

Owner/Applicant: DTS Real Estate, LLC
Tom Kanaly
1414 Northwind Road
Louisville, Ky. 40207

Representative: BTM Engineering, Inc.
John M. Addington, RLA
3001 Taylor Springs Drive
Louisville, Ky. 40220

Jurisdiction: Louisville Metro
Council District: 25-David Yates

Case Manager: Julia Williams, RLA, 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:

01:34:10 Mrs. Williams discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

John Addington, BTM Engineering, 3001 Taylor Springs Drive, Louisville, Ky. 40220

Summary of testimony of those in favor:

01:38:24 Mr. Addington stated the applicant is just repairing trucks right now, but they want to sell too. ILAs will be provided to come into compliance. Also, there will be a sidewalk constructed to connect to the north.

PLANNING COMMISSION MINUTES
January 7, 2016

PUBLIC HEARING

CASE NO. 15ZONE1046

Deliberation

01:41:01 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 M-2 to C-2

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

WHEREAS, Suburban Marketplace Corridors: Suburban Marketplace Corridors are generally located along major roadways with well-defined beginning and ending points and established depths along the length of the corridor. The pattern of development is distinguished by a mixture of medium to high intensity uses.

Accommodations for transit users, bicyclists and pedestrians are encouraged in an effort to attract a variety of users as well as to minimize automobile dependency and traffic congestion. Connectivity to nearby uses should be encouraged. Developers should be encouraged to design new commercial development in compact groups of buildings, which use the same curb cut, share parking, have a common freestanding sign identifying the uses and have a common buffering or streetscape plan with respect to any abutting uses of lower density or intensity. This form may include medium to high-density residential uses that are designed to be compatible with both the non-residential uses along the corridor and the lower density residential uses in adjacent form districts. Medium density residential uses may serve as a transition area from lower to higher density residential uses and should be encouraged in this form; and

WHEREAS, the Louisville Metro Planning Commission finds, proposed new commercial uses are encouraged, to locate within the boundaries of existing corridors. Reuse of locations within existing corridors is preferred over expansion of a corridor. Proposals to expand defined corridors represent significant policy decisions. When considering proposals that result in an extension of suburban marketplace corridors, particular emphasis should be placed on: (a) use or reuse of land within existing corridors; (b) potential for disruption of established residential neighborhoods; and (c) compliance with the site and community design standards of the Land Development Code; and

WHEREAS, the Louisville Metro Planning Commission further finds the proposal is surrounded by mainly commercial zoning where the C-2 is proposed. A sidewalk is being provided along Dixie with a pedestrian connection to the building. Future cross

PLANNING COMMISSION MINUTES
January 7, 2016

PUBLIC HEARING

CASE NO. 15ZONE1046

access is being provided to the rear of the site. No new buildings are proposed. The maximum VUA LBA is being provided along the frontage. The proposal is located within the existing SMC boundary. The proposal is part of an existing commercial corridor that has been established along Dixie Highway. The proposal is to provide additional commercial use.

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND**, to Metro Council, **APPROVAL** of Case No. 15ZONE1046, change in zoning from M-2 to C-2 located at 7775 Dixie Highway based on the staff report and testimony heard today.

The vote was as follows:

YES: Commissioners Brown, Jarboe, Kirchdorfer, Lewis, Peterson, Proffitt, Tomes and Turner

NOT PRESENT AND NOT VOTING: Commissioners Blake and White

Waiver from 10.2.4 to eliminate the LBA between the site and the adjacent M-2 zoned property

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

WHEREAS, The waiver will not adversely affect adjacent property owners since both the site and adjacent property are non-residential; and

WHEREAS, Guideline 3, policy 9 of Cornerstone 2020 calls for the protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigate when appropriate.

Guideline 3, policies 21 and 22 calls for appropriate transitions between uses that are substantially different in scale and intensity or density, and to mitigate the impact caused when incompatible developments occur adjacent to one another through the use of landscaped buffer yards, vegetative berms and setback requirements to address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances. Guideline 3, policy 24 states that parking, loading and delivery areas located adjacent to residential areas should be designed to minimize the impacts from noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered. Guideline 13, policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. Guideline 13, Policy 6

PLANNING COMMISSION MINUTES
January 7, 2016

PUBLIC HEARING

CASE NO. 15ZONE1046

calls for screening and buffering to mitigate adjacent incompatible uses. The intent of landscape buffer areas is to create suitable transitions where varying forms of development adjoin, to minimize the negative impacts resulting from adjoining incompatible land uses, to decrease storm water runoff volumes and velocities associated with impervious surfaces, and to filter air borne and water borne pollutants. The adjacent use is compatible with the site use as they are both non-residential; 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 since both the site use and adjacent use are non-residential; and

WHEREAS, the Louisville Metro Planning Commission further finds the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant since both the site use and adjacent use are non-residential.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the waiver of 10.2.4 of the Land Development Code to eliminate the LBA between the site and the adjacent M-2 zoned property based on the staff report and testimony heard today.

The vote was as follows:

YES: Commissioners Brown, Jarboe, Kirchdorfer, Lewis, Peterson, Proffitt, Tomes and Turner

NOT PRESENT AND NOT VOTING: Commissioners Blake and White

District Development Plan and Binding Elements

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

WHEREAS, There does not appear to be any environmental constraints or historic resources on the subject site. Tree canopy requirements of the Land Development Code will be provided on the subject site; and

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

PLANNING COMMISSION MINUTES
January 7, 2016

PUBLIC HEARING

CASE NO. 15ZONE1046

WHEREAS, There are no open space requirements with the current proposal but the site preserves a large green space between the vehicle sales and the railroad; 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 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. Buildings and parking lots will meet all required setbacks; and

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

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** Case No. 15ZONE1046, the Detailed District Development Plan and the proposed binding elements on page 15 of the staff report based on the staff report and testimony heard today and **SUBJECT** to the following Binding Elements:

Proposed 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. The development shall not exceed 5,012 square feet of gross floor area.
3. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
4. 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

PLANNING COMMISSION MINUTES
January 7, 2016

PUBLIC HEARING

CASE NO. 15ZONE1046

canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.

5. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit) is requested:
 - a. The development plan must receive full construction approval from Develop Louisville, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
 - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - d. A reciprocal access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be created between the adjoining property owners and recorded upon redevelopment of adjacent properties. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services.
 - e. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
6. 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.
7. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
8. 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,

PLANNING COMMISSION MINUTES
January 7, 2016

PUBLIC HEARING

CASE NO. 15ZONE1046

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 Brown, Jarboe, Kirchdorfer, Lewis, Peterson, Proffitt, Tomes and Turner

NOT PRESENT AND NOT VOTING: Commissioners Blake and White

PLANNING COMMISSION MINUTES
January 7, 2016

PUBLIC HEARING

CASE NO. 15ZONE1050

Request: Change in zoning from R-6 to OR-3 and C-2 with waivers and a variance
Project Name: Bradford Mill Lofts
Location: 1124, 1130, 1132 Reutlinger Avenue and 1034 East Oak Street

Owner: Bradford Mills, LLC
10531 Timberwood Circle, Suite D
Louisville, Ky. 40223

Carl and Charles Boyd

William and Beverly Donan
P.O. Box 4395
Louisville, Ky. 40204-0395

John Gerstle
P.O. Box 43071
Middletown, Ky. 40253-0071

Applicant: Marian Development Group

Representative: Milestone Design Group
Dour Ernst
108 Daventry Lane, Suite 300
Louisville, Ky. 40223

Clifford H. Ashburner, Esq.
Wyatt, Tarrant & Combs, LLP
500 West Jefferston Street, Suite 2800
Louisville, Ky. 40202

Dinsmore and Shohl
101 South 5th Street, Suite 2500
Louisville, Ky. 40202

Jurisdiction: Louisville Metro
Council District: 10-Pat Mulvihill
Case Manager: Julia Williams, RLA, AICP, Planner II

PLANNING COMMISSION MINUTES
January 7, 2016

PUBLIC HEARING

CASE NO. 15ZONE1050

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:

01:44:54 Mrs. Williams discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Cliff Ashburner, Dinsmore and Shohl, 101 South 5th Street, Suite 2500, Louisville, Ky. 40202

Mark Madison, Milestone Design Group, 108 Daventry Lane, Louisville, Ky. 40223

Mike Morris, 947 Goss Avenue, Louisville, Ky. 40217

Steve Magre, 1122 Rammers Avenue, Louisville, Ky. 40204

Summary of testimony of those in favor:

01:57:28 Mr. Ashburner stated the building is a National Registry building and the applicant will use state and federal tax credits, which means the design of the building is approved by the National Park Service Historic Preservation Office. The project has Phase 2 approval. There is additional off-site parking and it will be striped. There will also be a fence and landscaping added to the site.

02:19:38 Vice Chairman Proffitt stated, regarding parking spaces, "The minimum required is what we're concerned about and that's 118." Commissioner Brown added, "The compact spaces being provided on site can't be counted toward meeting your minimum parking required."

02:24:05 Mr. Madison will figure out if the proposed parking is correct.

02:28:36 Mr. Morris said he will answer questions if needed. The property is the worst eyesore in the neighborhood. It's razor wire on top of the fence instead of barbed wire.

PLANNING COMMISSION MINUTES
January 7, 2016

PUBLIC HEARING

CASE NO. 15ZONE1050

02:31:58 Mr. Magre read a letter from his wife, who is president of the Neighborhood Association. This project is major, please don't hold it up.

02:44:47 Mr. Ashburner said they are short 7 parking spaces in terms of standard size spaces. "We can lose 1 compact parking space, turn the remainder into standard spaces and end up with 145 total and meet the requisite number of standard spaces. I would ask in making any motion concerning the development plan, that you acknowledge that change and direct that if the change is approved by Planning staff, then the plan is deemed approved."

02:46:20 Mr. Ashburner is also proposing a binding element regarding the C-2. A copy was given to the commissioners.

The following spoke in opposition to this request:

James Lynch, 1903 Hurstbourne Circle, Louisville, Ky. 40220

Summary of testimony of those in opposition:

02:54:47 Mr. Lynch stated he's concerned about parking, noise and property values. The operation of the tavern/restaurant is a main concern. Also, what are the hours of operation and will there be outdoor music?

Mr. Lynch wants protection for the neighbors and requests a 90 day continuance.

The following spoke neither for nor against the request:

Melvin Huber, 6801 West Highway 146, Crestwood, Ky. 40014

Summary of testimony of those neither for nor against:

02:49:20 Mr. Huber likes the proposed development but parking is an issue. Parking on E. Oak St. is very valuable. People who ride a bike or bus will probably still have a car and those spaces should be made available by the applicant and not count on off-site parking. The applicant should either reduce the number of units or acquire more space for parking lots.

Rebuttal:

03:04:25 Mr. Ashburner stated there are very few homes without alley access so there are opportunities for people to park. The mixed use amenity space won't be a

PLANNING COMMISSION MINUTES
January 7, 2016

PUBLIC HEARING

CASE NO. 15ZONE1050

bar, it will be a restaurant that will serve alcoholic beverages, but have a family atmosphere.

Also, the applicant will revise the ILAs in the central parking row to allow for 19 standard spaces. "We will work with staff."

Deliberation

03:14:23 The commissioners are in agreement that the proposal is appropriate and should benefit the entire neighborhood.

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 OR-3 and C-2

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

WHEREAS, The Traditional Neighborhood Form District is characterized by predominantly residential uses, by a grid pattern of streets with sidewalks and often including alleys. Residential lots are predominantly narrow and often deep, but the neighborhood may contain sections of larger estate lots, and also sections of lots on which appropriately integrated higher density residential uses may be located. The higher density uses are encouraged to be located in centers or near parks and open spaces having sufficient carrying capacity.

There is usually a significant range of housing opportunities, including multi-family dwellings; and

WHEREAS, the Louisville Metro Planning Commission finds, traditional neighborhoods often have and are encouraged to have a significant proportion of public open space such as parks or greenways, and may contain civic uses as well as appropriately located and integrated neighborhood centers with a mixture of mostly neighborhood-serving land uses such as offices, shops, restaurants and services. Although many existing traditional neighborhoods are fifty to one hundred twenty years old, it is hoped that the Traditional Neighborhood Form will be revitalized under the new Comprehensive Plan. Revitalization and reinforcement of the Traditional Neighborhood Form will require particular emphasis on (a) preservation and renovation of existing buildings in stable neighborhoods (if the building design is consistent with the predominant building design in those neighborhoods), (b) the preservation of the existing grid pattern of streets and alleys, (c) preservation of public open spaces; and

PLANNING COMMISSION MINUTES
January 7, 2016

PUBLIC HEARING

CASE NO. 15ZONE1050

WHEREAS, the Louisville Metro Planning Commission further finds the proposal does not affect the existing street pattern. Sidewalks are provided within all rights of way. The proposal is for a zoning district that permits neighborhood serving uses. The proposal preserves public open spaces and the public realm of the right of way. New open spaces are created with the proposal. The proposal is for the preservation and renovation of existing buildings for commercial or residential purposes. The existing structure is historic and represents the industrial past of the neighborhood. The proposal will not create a new center but is considered a repurposing of an existing center. The proposal is located in a higher density single family residential neighborhood. The proposal is compact and results in an effective land use pattern. The areas infrastructure is already set up to serve an industrial which indicates it will be able to serve residential as well, which is cost effective. The proposal is for mixed use which will reduce trips and will support alternate transportation with sidewalks around the site. Transit is located nearby along E Oak Street which will serve the site as well.

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND**, to Metro Council, **APPROVAL** of Case No. 15ZONE1050, change in zoning from R-6 to OR-3 and C-2 based on the staff report and testimony heard today.

The vote was as follows:

YES: Commissioners Brown, Jarboe, Kirchdorfer, Lewis, Peterson, Proffitt, Tomes and Turner

NOT PRESENT AND NOT VOTING: Commissioners Blake and White

VARIANCE

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

WHEREAS, The requested variance will not adversely affect the public health, safety or welfare since the encroachment is buffered between the site and the adjacent single family residential and roadway; and

WHEREAS, The requested variance will not alter the essential character of the general vicinity since the encroachments are being buffered and screened per Chapter 10; and

WHEREAS, The requested variance will not cause a hazard or nuisance to the public since the encroachments are being buffered and screened per Chapter 10; and

PLANNING COMMISSION MINUTES
January 7, 2016

PUBLIC HEARING

CASE NO. 15ZONE1050

WHEREAS, The requested variance will not allow an unreasonable circumvention of the zoning regulations since the proposed parking lot provides the minimum required parking module width and since the landscape buffer areas plantings are being provided; and

WHEREAS, The property is historically industrial with no original parking requirements for the original use. Parking is being provided where there was none historically and that parking is encroaching into the setbacks. Therefore, the requested variance arises from special circumstances which do not generally apply to land in the same zone; and

WHEREAS, the Louisville Metro Planning Commission finds, the strict application of the provision would deprive the applicant of reasonable use of the land since the setbacks are being encroached upon due to meeting the minimum parking requirements for the site.

WHEREAS, the Louisville Metro Planning Commission further finds the circumstances are the result of action of the applicant taken subsequent to the adoption of the zoning regulations from which relief is sought.

WAIVER of section 5.4.1.G.3 to permit parking in front of the principal structure along Reutlinger Ave.

WHEREAS, 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 via existing sidewalks. Parking is located to the side of the structure and will be screened per the LDC; and

WHEREAS, Guideline 2, policy 15 states to encourage the design, quantity and location of parking in activity centers to balance safety, traffic, transit, pedestrian, environmental and aesthetic considerations. Guideline 3, policy 1 states to ensure compatibility of all new development and redevelopment with the scale and site design of nearby existing development and with the pattern of development within the form district. Guideline 3, policy 23 states that setbacks, lot dimensions and building heights should be compatible with those of nearby developments that meet form district guidelines. Guideline 7, policy 3 states to evaluate developments for their ability to promote mass 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 choices. Guideline 9, policy 1 states that new development and redevelopment should provide, where appropriate, for the movement of pedestrians, bicyclists and transit users with location of retail and office uses, especially in the Traditional Neighborhood, Village, Marketplace Corridor, Traditional Workplace Form Districts close to the roadway to minimize the distance pedestrians and transit users

PLANNING COMMISSION MINUTES
January 7, 2016

PUBLIC HEARING

CASE NO. 15ZONE1050

have to travel. The purpose of the requirement is to promote mass transit and pedestrian use and reduce vehicle trips in and around the site, and to reduce the distance pedestrians and transit users have to travel. The waivers are compatible with the pattern of development within the form district, and there are physical restraints preventing compliance with the regulations to be waived. Therefore, the waiver will not violate specific guidelines and policies of Cornerstone 2020; and

WHEREAS, the Louisville Metro Planning Commission finds, the extent of waiver of the regulation is the minimum necessary to afford relief to the applicant since the applicant is not building a new structure and is creating parking for a site that currently has none other than on street parking; and

WHEREAS, the Louisville Metro Planning Commission further finds the applicant has incorporated other design measures that exceed the minimums of the district to compensate for non-compliance with the requirements to be waived. 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 the applicant is not building a new structure and is creating parking for a site that currently has none other than on street parking.

WAIVER of section 10.2.10 to reduce the required VUA LBA from 5' to 3' along both the unnamed alley and Reutlinger Ave.

WHEREAS, The waiver will not adversely affect adjacent property owners since the planting requirements will still be met; and

WHEREAS, The waiver will not violate guideline 3, Compatibility, of Cornerstone 2020, which calls for the protection of roadway corridors and public areas from visual intrusions, for mitigation of parking areas so as not to negatively impact nearby residents and pedestrians, and for parking areas adjacent to streets to be screened and buffered. The waiver will not violate guideline 13, Landscape Character, which calls for the protection of parkways through standards for buffers, landscape treatment, lighting and signs. The purpose of vehicle use area landscape buffer areas is to improve the appearance of vehicular use areas and property abutting public rights-of way; 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 since the applicant is creating parking on the site where there has not historically been parking for a mixed use development on the site; and

PLANNING COMMISSION MINUTES
January 7, 2016

PUBLIC HEARING

CASE NO. 15ZONE1050

WHEREAS, the Louisville Metro Planning Commission further finds the applicant has incorporated other design measures that exceed the minimums of the district to compensate for non-compliance with the requirements to be waived. 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 the planting requirements will still be met on the site.

WAIVER of Table 5.4.1.G.3 to permit the top of the garage door to be above the existing grade of the adjacent roadway (Reutlinger Ave.).

WHEREAS, The requested waiver will not adversely affect adjacent property owners since there is an existing loading dock in the location of the proposed garage door; and

WHEREAS, Guideline 3, policy 1 and 2 calls for the compatibility of all new development and redevelopment with the scale and site design of nearby existing development and with the pattern of development within the form district. The type of building materials may be considered as a mitigation measure and may also be considered in circumstances specified in the Land Development Code. When assessing compatibility, it is appropriate to consider the choice of building materials in the following circumstances: (1) projects involving residential infill (2) projects involving non-residential uses; and (3) when specified in the Land Development Code. The proposal is for a non-residential use. The Land Development Code provides building design standards for non-residential and mixed use buildings. The purpose of the regulation is to provide visual interest and a human scale that are representative of the form district. The removal of the loading dock to provide a garage door and underground parking access meets form district standards and adds a more residential appearance to the façade; 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 since the garage entrance is to gain access to an underground parking area; and

WHEREAS, the Louisville Metro Planning Commission further finds the applicant has incorporated other design measures that exceed the minimums of the district to compensate for non-compliance with the requirements to be waived. 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 the garage entrance is to gain access to an underground parking area.

WAIVER of section 10.2.4. to eliminate the required 10' LBA between the OR-3 and C-2 zoning.

PLANNING COMMISSION MINUTES
January 7, 2016

PUBLIC HEARING

CASE NO. 15ZONE1050

WHEREAS, The waiver will not adversely affect adjacent property owners since the adjacent property owners are part of the project itself; and

WHEREAS, Guideline 3, policy 9 of Cornerstone 2020 calls for the protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigate when appropriate.

Guideline 3, policies 21 and 22 calls for appropriate transitions between uses that are substantially different in scale and intensity or density, and to mitigate the impact caused when incompatible developments occur adjacent to one another through the use of landscaped buffer yards, vegetative berms and setback requirements to address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances. Guideline 3, policy 24 states that parking, loading and delivery areas located adjacent to residential areas should be designed to minimize the impacts from noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered. Guideline 13, policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. Guideline 13, Policy 6 calls for screening and buffering to mitigate adjacent incompatible uses. The intent of landscape buffer areas is to create suitable transitions where varying forms of development adjoin, to minimize the negative impacts resulting from adjoining incompatible land uses, to decrease storm water runoff volumes and velocities associated with impervious surfaces, and to filter air borne and water borne pollutants. Since the zoning is being created by the property owner and the property owner is the only adjacent and the building is existing there is no need for a buffer between different zoning districts in this scenario; 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 since the building is existing and would have to be removed to provide the buffer; and

WHEREAS, the Louisville Metro Planning Commission further finds the applicant has incorporated other design measures that exceed the minimums of the district to compensate for non-compliance with the requirements to be waived. 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 the building is existing and would have to be removed to provide the buffer.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the following: a variance from chapter 5.5.2 to permit parking to encroach into the 3 foot street side yard along Reutlinger Ave., the 15 foot rear yard setback adjacent to the

PLANNING COMMISSION MINUTES
January 7, 2016

PUBLIC HEARING

CASE NO. 15ZONE1050

Rudd property and the 10 foot side yard adjacent to the unnamed alley; Waiver 1) a waiver from chapter 5.4.1.G.3 to permit parking in front of the principal structure along Reutlinger Ave.; Waiver 2) a waiver from chapter 10.2.10 to reduce the required VUA LBA from 5 feet to 3 feet along both the unnamed alley and Reutlinger Ave.; Waiver 3), a waiver from table 5.4.1.G.3 to permit the top of the garage door to be above the existing grade of the adjacent roadway (Reutlinger Ave.); and Waiver 4) a waiver from chapter 10.2.4 to eliminate the required 10 foot LBA between the OR-3 and C-2 zoning based on the staff report and testimony heard today.

The vote was as follows:

YES: Commissioners Brown, Jarboe, Kirchdorfer, Lewis, Peterson, Proffitt, Tomes and Turner

NOT PRESENT AND NOT VOTING: Commissioners Blake and White

Development Plan and Binding Elements

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

WHEREAS, There does not appear to be any environmental constraints on the subject site. The proposal preserves a historic industrial building that is on the National Register of Historic Places; and

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

WHEREAS, Open space requirements are being met on the site; 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 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

PLANNING COMMISSION MINUTES
January 7, 2016

PUBLIC HEARING

CASE NO. 15ZONE1050

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

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** Case No. 15ZONE1050, the Detailed District Development Plan and binding elements on page 18 of the staff report in addition to the applicant's proposed binding element restricting certain uses on the site and **ON CONDITION** that the on-street parking space striping is removed from the development plan and the applicant is able to show that sufficient parking is being provided both on site, in the garage and on-street to meet the minimum parking requirement and there is a resolution on whether there is a TARC stop along East Oak St. at the site or not based on the staff report and testimony heard today.

Proposed 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. The development shall not exceed 177,000 square feet of gross floor area.
3. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
4. 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.
5. 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

PLANNING COMMISSION MINUTES
January 7, 2016

PUBLIC HEARING

CASE NO. 15ZONE1050

- Develop Louisville, Louisville Metro Public Works and the Metropolitan Sewer District.
- b. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - c. A minor plat or legal instrument shall be recorded consolidating the property into one lot. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of the approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
6. 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.
 7. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
 8. 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.

Applicant's Proposed Binding Element

The following permitted C-1 and C-2 uses will not be allowed in the C-2 portion of the subject property without approval from the Planning Commission or one of its committees after a public meeting of the committee or Commission. All those that received notice of the January 7, 2016 public hearing shall be provided written notice of the meeting by mail, postmarked at least 14 days in advance of the date of the meeting. The committee or Commission shall base any decision on whether to allow such uses on the criteria applicable to the modification of a binding element.

PLANNING COMMISSION MINUTES
January 7, 2016

PUBLIC HEARING

CASE NO. 15ZONE1050

C-1 Commercial District

1. Automobile rental agencies with no more than 25 rental passenger vehicles stored on site, no more than two service bays for cleaning or maintenance and having no repair or storage/dispensing of fuel
2. Automobile parking areas, public and private
3. Automobile service stations with service bays for repair of no more than two vehicles (see definition of Automobile Service Station for the type of repairs permitted)
4. Bed and breakfasts
5. Boarding and lodging houses
6. Car washes having prior approval by the agency responsible for traffic engineering
7. Community residences
8. Community Service Facility
9. Ice storage houses of not more than five (5) ton capacity
10. Medical laboratories
11. Pawn shop
12. Rental businesses offering items whose sale is a permitted use in this district, video cassette and similar products, rental and sales but not constituting an adult video cassette rental center
13. Veterinary hospital, provided the operation is conducted within a sound-proofed building, no animals are boarded and there are no runs or pens outside of the building

C-2 Commercial District

1. Automobile rental agencies
2. Automobile repair agencies
3. Automobile sales agencies
4. Billiard parlors, game rooms and similar entertainment uses
5. Bingo halls and parlors
6. Boat sales and related storage
7. Building materials, storage and sales provided all operations are totally enclosed in a building
8. Cleaning, pressing and dyeing establishments using non-flammable and non-explosive cleaning fluid
9. Community Service Facility
10. Contractor's shop, including but not limited to, building, electrical, HVAC, landscape and plumbing contractors, provided all operations are confined within a building
11. Dance halls
12. Flea market
13. Fraternities, sororities, clubs and lodges excluding those where the chief activity of which is a serve customarily carried on as a business
14. Indoor paint ball ranges
15. Plumbing and heating shops, storage and sales provided all operations are totally enclosed in a building
16. Printing, lithographing or publishing establishments, if constructed to insure that there is

PLANNING COMMISSION MINUTES
January 7, 2016

PUBLIC HEARING

CASE NO. 15ZONE1050

- no noise or vibration evident outside the walls of the buildings
17. Public utility buildings and facilities
 18. Rubber stamp manufacturing, where products are sold on premises
 19. Sign painting
 20. Tattoo, body art and piercing parlors
 21. Used car sales areas, provided that no repair or re-conditioning of automobiles or storage of parts shall be permitted except when enclosed in a building
 22. Uses located totally within the caverns developed under a Conditional Use Permit for Underground Space shall be considered to meet the requirement of confinement within a building

The vote was as follows:

YES: Commissioners Brown, Jarboe, Kirchdorfer, Lewis, Peterson, Proffitt, Tomes and Turner

NOT PRESENT AND NOT VOTING: Commissioners Blake and White

PLANNING COMMISSION MINUTES
January 7, 2016

PUBLIC HEARING

CASE NO. 15ZONE1056

Request: Change in zoning from CR to C-1 with a CUP for outdoor alcohol sales and consumption

Project Name: Finn's Restaurant

Location: 1318 McHenry Street

Owner/Applicant: Mill Lofts Owner LLC
Colin Underhill
1030 Goss Avenue
Louisville, Ky. 40217

Representative: Mill Lofts Owner LLC
Colin Underhill
1030 Goss Avenue
Louisville, Ky. 40217

Jurisdiction: Louisville Metro

Council District: 10-Pat Mulvihill

Case Manager: Julia Williams, RLA, 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:

03:33:47 Mrs. Williams discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Colin Underhill, Underhill Associates, 1030 Goss Avenue, Louisville, Ky. 40217
Mike Morris, 947 Goss Avenue, Louisville, Ky. 40217
Steve Magre, 1122 Rammers Avenue, Louisville, Ky. 40204
Todd Underhill

Summary of testimony of those in favor:

PLANNING COMMISSION MINUTES
January 7, 2016

PUBLIC HEARING

CASE NO. 15ZONE1056

03:38:45 Mr. Colin Underhill said he acquired the restaurant when he bought the property but always intended on having a restaurant. There was a daycare on site but could not remain because of environmental contaminants. The CUP application is for the patio with outdoor alcohol sales and consumption and the restaurant will serve 3 meals a day. "As owners in the project and developing 190 individual units, we know this use will be compatible to and welcomed by all residential occupants as an amenity and not a nuisance."

Mr. Underhill remarked, "Special attention will be given to noise pollution from the patio and reasonable operating hours will be adhered to."

03:46:54 Mr. Morris supports the project and the letter from the Smithsburg Area Community Council.

03:47:56 Mr. Magre supports the proposal and it will be a great asset to the community.

Mr. Magre also submitted a letter of support from Mrs. Judy Magre, president of the Neighborhood Association.

03:49:43 Mr. Todd Underhill stated, "We want to run a first class restaurant".

Deliberation

03:51:08 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 CR to C-1

On a motion by Commissioner Jarboe, seconded by Commissioner Lewis, the following resolution was adopted.

WHEREAS, the Louisville Metro Planning Commission finds, the Traditional Neighborhood Form District is characterized by predominantly residential uses, by a grid pattern of streets with sidewalks and often including alleys. Residential lots are predominantly narrow and often deep, but the neighborhood may contain sections of larger estate lots, and also sections of lots on which appropriately integrated higher density residential uses may be located. The higher density uses are encouraged to be located in centers or near parks and open spaces having sufficient carrying capacity.

PLANNING COMMISSION MINUTES
January 7, 2016

PUBLIC HEARING

CASE NO. 15ZONE1056

There is usually a significant range of housing opportunities, including multi-family dwellings.

Traditional neighborhoods often have and are encouraged to have a significant proportion of public open space such as parks or greenways, and may contain civic uses as well as appropriately located and integrated neighborhood centers with a mixture of mostly neighborhood-serving land uses such as offices, shops, restaurants and services. Although many existing traditional neighborhoods are fifty to one hundred twenty years old, it is hoped that the Traditional Neighborhood Form will be revitalized under the new Comprehensive Plan. Revitalization and reinforcement of the Traditional Neighborhood Form will require particular emphasis on (a) preservation and renovation of existing buildings in stable neighborhoods (if the building design is consistent with the predominant building design in those neighborhoods), (b) the preservation of the existing grid pattern of streets and alleys, (c) preservation of public open spaces; and

WHEREAS, the Louisville Metro Planning Commission further finds the proposal does not affect the existing street pattern. Sidewalks are provided within all rights of way. The proposal is for a zoning district that permits neighborhood serving uses. The proposal preserves public open spaces and the public realm of the right of way. New open spaces are created with the proposal. The proposal is for the preservation and renovation of an existing building for commercial purposes. The existing structure is historic and represents the industrial past of the neighborhood. The proposal will not create a new center but is considered part of a repurposing of an existing center. The proposal is located in a higher density single family residential neighborhood. The proposal is compact and results in an effective land use pattern. The areas infrastructure is already set up to serve an industrial which indicates it will be able to serve commercial as well, which is cost effective. The proposal is for commercial use on a mixed use site which will reduce trips and will support alternate transportation with sidewalks around the site. Transit is located nearby along Shelby Street which will serve the site as well.

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND**, to Metro Council, **APPROVAL** of Case No. 15ZONE1056, a change in zoning from CR to C-1 for Finn's Restaurant based on the staff report and testimony heard today.

The vote was as follows:

YES: Commissioners Brown, Jarboe, Kirchdorfer, Lewis, Peterson, Proffitt, Tomes and Turner

NOT PRESENT AND NOT VOTING: Commissioners Blake and White

CONDITIONAL USE PERMIT

PLANNING COMMISSION MINUTES
January 7, 2016

PUBLIC HEARING

CASE NO. 15ZONE1056

On a motion by Commissioner Jarboe, seconded by Commissioner Turner, the following resolution was adopted.

WHEREAS, The proposal does not affect the existing street pattern. Sidewalks are provided within all rights of way. The proposal is for a zoning district that permits neighborhood serving uses. The proposal preserves public open spaces and the public realm of the right of way. New open spaces are created with the proposal. The proposal is for the preservation and renovation of an existing building for commercial purposes. The existing structure is historic and represents the industrial past of the neighborhood. The proposal will not create a new center but is considered part of a repurposing of an existing center. The proposal is located in a higher density single family residential neighborhood. The proposal is compact and results in an effective land use pattern. The areas infrastructure is already set up to serve an industrial which indicates it will be able to serve commercial as well, which is cost effective. The proposal is for commercial use on a mixed use site which will reduce trips and will support alternate transportation with sidewalks around the site. Transit is located nearby along Shelby Street which will serve the site as well; and

WHEREAS, The proposed restaurant's patio is located within a mixed use area where existing historic buildings are being utilized; and

WHEREAS, the Louisville Metro Planning Commission finds, public facilities are available to serve the use; and

WHEREAS, the Louisville Metro Planning Commission further finds the patio area is identified on the plan and is not located within the public ROW. A 42" fence barrier is provided between the patio and the public ROW. The patio is more than 50' away from any residential uses.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** Case No. 15ONE1056, a Conditional Use Permit for outdoor alcohol sales and consumption; also, the conditions of approval listed under 5 on page 16 of the staff report with the addition that the applicant has stipulated they will close by midnight 7 nights a week based on the staff report (pages 3 and 4) and the testimony heard today.

The vote was as follows:

YES: Commissioners Brown, Jarboe, Kirchdorfer, Lewis, Peterson, Proffitt, Tomes and Turner

NOT PRESENT AND NOT VOTING: Commissioners Blake and White

PLANNING COMMISSION MINUTES
January 7, 2016

PUBLIC HEARING

CASE NO. 15ZONE1056

Revised Detailed District Development Plan and Binding Elements

On a motion by Commissioner Jarboe, seconded by Commissioner Turner, the following resolution was adopted.

WHEREAS, There does not appear to be any environmental constraints. Historic resources on the subject site are being preserved. Tree canopy requirements of the Land Development Code will be provided on the subject site; and

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

WHEREAS, There are no open space requirements with the current proposal; and

WHEREAS, The Metropolitan Sewer District 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 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. Buildings and parking lots will meet all required setbacks; and

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

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** Case No. 15ZONE1056, the Revised District Development Plan based on the staff report, testimony heard today and refer to pages 4 and 5 of the staff report for the analysis for the District Development Plan and the binding elements on page 15 and 16.

Existing 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.

PLANNING COMMISSION MINUTES
January 7, 2016

PUBLIC HEARING

CASE NO. 15ZONE1056

2. The development shall not exceed 246,643 square feet of gross floor area.
3. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
4. 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.
5. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested:
 - a. The development plan must receive full construction approval from Louisville Metro Department of Inspections, Permits and Licenses, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
 - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to receiving a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
6. 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.
7. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
8. 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

PLANNING COMMISSION MINUTES
January 7, 2016

PUBLIC HEARING

CASE NO. 15ZONE1056

site, shall be responsible for compliance with these binding elements.

Proposed Conditions of Approval for CUP area

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 of Zoning Adjustment.
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 a day care facility without further review and approval by the Board.
3. Proposal is subject to full construction plans being submitted to the Department of Public Works for traffic and MSD for storm water approvals. Once those have been approved, the plan is subject to Develop Louisville for building/parking permits.

The vote was as follows:

YES: Commissioners Brown, Jarboe, Kirchdorfer, Lewis, Peterson, Proffitt, Tomes and Turner

NOT PRESENT AND NOT VOTING: Commissioners Blake and White

PLANNING COMMISSION MINUTES
January 7, 2016

03:56:47 Mr. Davis stated there was earlier discussion regarding research for lawn and landscape contractor shops. Staff has provided a Resolution requesting that the Planning Commission pass said research.

WHEREAS, the Land Development Code currently only permits Lawn and Landscape Contractor shops in C-2 zoning districts;

WHEREAS, there are a number of Lawn and Landscape Contractor shops which operate from residentially used properties;

WHEREAS, the Planning Commission recognizes a need to review whether a new use classification or Conditional Use Permit category is appropriate for such uses;

RESOLVED, the Planning Commission does hereby request Planning & Design Services staff to research this topic and report back to the Planning Committee within 120 days.

By general consensus, the Planning Commission approved the resolution.

PLANNING COMMISSION MINUTES
January 7, 2016

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 5:00 p.m.

Chair

Planning Director