

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO PLANNING COMMISSION
December 5, 2019**

A meeting of the Louisville Metro Planning Commission was held on December 5, 2019 at 1:00 p.m. at the Old Jail Building, located at 514 W. Liberty Street, Louisville, Kentucky.

Commission members present:

Vince Jarboe, Chair
Jeffery Brown
Robert Peterson
Richard Carlson
Lula Howard
Jim Mims

Commission members absent:

Marilyn Lewis, Vice Chair
David Tomes
Ruth Daniels

Staff Members present:

Emily Liu, Director, Planning and Design Director
Joe Reverman, Planning and Design Assistant Director
Brian Davis, Planning and Design Manager
Julia Williams, Planning Supervisor
Joel Dock, Planner II
Dante St. Germain, Planner II
Jay Lockett, Planner I
Beth Stuber, Engineering Supervisor
Laura Ferguson, Legal Counsel
Pamela M. Brashear, Management Assistant

The following matters were considered:

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APPROVAL OF MINUTES

NOVEMBER 21, 2019 PLANNING COMMISSION REGULAR MEETING MINUTES

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

RESOLVED, that the Planning Commission does hereby **APPROVE** the minutes of its meeting conducted on November 21, 2019.

The vote was as follows:

YES: Commissioners Brown, Carlson, Howard and Jarboe

NOT PRESENT FOR THIS CASE: Commissioners Daniels, Mims, Tomes and Lewis

ABSTAINING: Commissioner Peterson

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PUBLIC HEARING

CASE NO. EPSC Appeal – Shallow Lake Road

Project Name: Appeal of a Notice of Violation issued by MSD in accordance with Chapter 159 of the Louisville Metro Code of Ordinances titled Erosion Prevention and Sediment Control Ordinance.
Location: 7018 Shallow Lake Road
Appellant: Luis Romero
Municipality: Prospect
Council District: 16 – Scott Reed

Agency Testimony:

00:04:44 Ms. Ferguson, Legal Counsel, explained the appeal of the Notice of Violation. The Planning Commission may uphold the decision or dismiss it.

Appellant:

The following spoke in favor of this request:

Luis Romero, Jr. 1406 Cardinal Drive, Louisville, Ky. 40213
Luis Romero, Sr. 1406 Cardinal Drive, Louisville, Ky. 40213

Summary of testimony of those in favor:

00:27:48 Mr. Romero, Jr. stated he has worked with Mr. Doss in the past. Two field notice corrections were issued - one for the silt fence in the front and the other was for the construction entrance.

Mr. Romero, Jr. said he was out of town for the weekend but when he got back he tried to rectify the issues. The (construction entrance) silt fence was not trenched in the 8 inches as is required because he needed rock 3's for it and still had time to finish it. One of the poles fell over but did not prevent the fence from being useful.

Mr. Romero, Jr. also stated that he has had several violations in the past but there's usually 2 days to fix it and he always makes sure the problem is fixed in those 2 days.

00:34:09 Mr. Romero, Sr. stated his son has been getting complaints for a while. Maybe the neighbors don't want his son there because it's been vacant almost 10 years. The project is not a building, but his son's new home.

The following spoke in opposition to this request:

Jackie Florals, MSD, 700 West Liberty Street, Louisville, Ky. 40202
Scott Doss, 255 Sunview Court, Louisville, Ky.

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CASE NO. EPSC Appeal – Shallow Lake Road

Bob Stauble,

00:06:34 Ms. Florals stated the appellant is not present and has waived his right to a continuance. MSD administers the ordinance for Erosion Prevention and Sediment Control and the purpose is to conserve, protect and enhance the natural resources of Jefferson Co., control soil erosion arising from development and to comply with all state and federal regulations relating to the Clean Water Act.

Ms. Florals submitted exhibits into the record.

Ms. Florals asked questions of Bob Stauble and Scott Doss. They both testified that the applicant/appellant received a Notice of Violation and was issued a stop work order as well.

00:14:59 Commissioner Brown asked what dates was the applicant/appellant issued the notice and when it was brought into compliance. Mr. Doss said it was inspected on 10/31 and he gave him until 11/4 to correct it (silt fence). It was corrected 11/6.

00:16:20 Commissioner Peterson asked if the applicant/appellant had any previous violations. Mr. Doss said yes, at least 2 on record.

00:27:07 Chair Jarboe asked how many days was the applicant/appellant fined? Ms. Florals said the fine is just for 1 day (\$500).

Rebuttal

00:36:31 Ms. Florals questioned Mr. Stauble regarding the construction entrance and silt fence, which was not trenched and unable to keep sediment on the lot. There were no off-site impacts.

00:38:16 Commissioner Carlson asked if a person receiving a Notice of Violation could ask for an extension if they're having issues getting the work done. Mr. Stauble said yes.

00:39:56 Commissioner Howard stated the Notice of Violation and Stop Work Order were both issued on the same day, November 5, 2019. The handout, last page, has the date as November 13, 2019. Mr. Doss said it should be November 5, 2019.

Deliberation

00:41:41 Planning Commission deliberation.

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CASE NO. EPSC Appeal – Shallow Lake Road

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.

EPSC Appeal – Shallow Lake Road

On a motion by Commissioner Carlson, seconded by Commissioner Howard, the following resolution based on the testimony of the MSD witnesses was adopted.

RESOLVED, that the Louisville Metro Planning Commission does hereby **UPHOLD** the Notice of Violation issued by MSD in accordance with Chapter 159 of the Louisville Metro Code of Ordinances titled Erosion Prevention and Sediment Control Ordinance.

The vote was as follows:

**YES: Commissioners Brown, Carlson, Howard, Mims, Peterson and Jarboe
NOT PRESENT AND NOT VOTING: Commissioners Daniels, Tomes and Lewis**

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

RESOLVED, that the Louisville Metro Planning Commission does hereby **UPHOLD** the fine of \$500.00 issued by MSD in accordance with Chapter 159 of the Louisville Metro Code of Ordinances titled Erosion Prevention and Sediment Control Ordinance.

The vote was as follows:

**YES: Commissioners Brown, Carlson, Howard, Mims, Peterson and Jarboe
NOT PRESENT AND NOT VOTING: Commissioners Daniels, Tomes and Lewis**

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PUBLIC HEARING

CASE NO. 19-AMEND-0003

Request: Binding element amendment
Project Name: Highview Center
Location: 7207 Fegenbush Lane
Owner: RB5, LLC
Applicant: Smart LED Signs and Lighting
Jurisdiction: Louisville Metro
Council District: 23 – James Peden
Staff Case Manager: Beth Jones, AICP, Planner II

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:

00:49:56 Ms. Jones discussed the case summary, standard of review and staff analysis from the staff report.

01:00:17 Commissioner Brown asked where would the exact location be for the new sign? Ms. Jones said she doesn't know the exact location but if different than where it's located now, they will be required to submit a new sign plan.

Commissioner Brown said there's no justification for deleting the binding element.

01:02:17 Commissioner Carlson said aren't all binding elements in conflict with the Land Development Code, LDC. Ms. Jones said it doesn't follow LDC guidelines or meet the requirements of that Plan Development District, PDD document. Mr. Davis said the binding element pre-dates the PDD, so the Planning Commission will have to decide if the PDD trumps the older binding element or keep the binding element in place on the proposed site because back then that's what was decided.

The following spoke in favor of this request:

Tim Story, Smart LED, 11441 Blankenbaker Parkway, Louisville, Ky. 40299

Summary of testimony of those in favor:

01:09:07 Mr. Story said he wants to bring the sign into compliance and plans to be 300 feet away from residents.

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01:10:41 Commissioner Howard said there is no monument-style sign as the binding element indicates. It should have been discussed at the previous meeting. Commissioner Brown said it was discussed at DRC and included in the motion to create a monument-style sign but the vote wasn't unanimous.

Commissioner Howard asked if the Land Development Code will allow the sign to be larger. Ms. Jones said the LDC will allow it to be up to 100 square feet and a maximum height of 12 feet. The proposal is well below this, but above the current sign.

01:13:40 Ms. Ferguson stated the Planning Commission has several options – keep the existing binding element; amend or delete; or place conditions on the plan.

01:14:49 Commissioner Brown asked, for this site, could we treat the surrounding PDD residential uses as a residential zone when it comes to sign compliance in the LDC? Ms. Ferguson said that would be very hard to enforce.

The following spoke in opposition to this request:

David Steff, 7812 Appleview Lane, Louisville, Ky. 40228
John Torsky, 601 West Jefferson Street, Louisville, Ky. 40202

Summary of testimony of those in opposition:

01:15:53 Mr. Steff disclosed that Commissioner Carlson is his relative (daughters' father-in-law).

Mr. Steff said Fegenbush is a major artery through the PDD Town Center. There's a very sharp curve. There will be accidents when drivers try to read the sign.

Mr. Steff stated there should be monument-style signs and not pole signs. The PDD needs to be amended.

01:18:28 Mr. Torsky, representative of Councilman Peden, stated he has filed a resolution to be introduced at next Thursdays' Metro Council meeting asking the Planning Commission to study the issue of giving residential use properties the same protection as residential zone when it comes to changing image signs. The LDC does speak to traffic patterns and the roads need to be taken into consideration when deciding to allow LED changing image signs. The intersection in question is horrible and there are a lot of calls and accidents.

Deliberation

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01:20:40 Commissioner Carlson stated he voted no at DRC. The large flashing sign will intrude into homes and the intersection has been a problem and safety issue.

01:21:37 Commissioner Howard stated an amendment to the binding element will bring it in compliance with the LDC and the Highview PDD. The concern is how it will prevent other signs from being on the site meeting the LDC.

01:22:30 Commissioner Brown stated it was an oversight in the PDD to not recognize the residential uses as a residential zoning district when it comes to signage. The LED sign can be offensive and distractions at this intersection need to be minimized.

01:23:23 Commissioner Mims stated the sign looks like it's in the right-of-way and amending the binding element will help locate it in a better spot. A condition could be put in place to make it monument-style with a limitation for 16 square feet of the LED portion, a height of 12 square feet, the area of 65 square feet and 300 feet away from residentially zoned properties.

01:24:31 Commissioner Peterson said he's o.k. with eliminating the binding element and the LED portion of the sign will be addressed when the applicant comes back. The image will be improved.

01:25:53 Chair Jarboe stated he's not in favor of a changing image sign.

01:26:41 Commissioner Brown added, under the current binding element, if they reduce the size and the height, they would be allowed a certain proportion of changing image because nothing prohibits that based on the current binding element.

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

On a motion by Commissioner Carlson, seconded by Commissioner Brown, the following resolution based on no justification for the amendment was adopted.

RESOLVED, that the Louisville Metro Planning Commission does hereby **DENY** the binding element amendment.

The vote was as follows:

YES: Commissioners Brown, Carlson, Howard, Peterson and Jarboe

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NO: Commissioner Mims

NOT PRESENT AND NOT VOTING: Commissioners Daniels, Tomes and Lewis

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CASE NO. 19-STRCLOSURE-0008

Request: Closure of Public Right-of-Way
Project Name: Noble Funk Development Alley Closure
Location: Alley south of West Breckinridge Street between South 2nd Street and South 3rd Street
Owner: Louisville Metro
Applicant: Domino Partners
Representative: QK4
Jurisdiction: Louisville Metro
Council District: 4– Barbara Sexton Smith
Case Manager: Jay Lockett, AICP, Planner I

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

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

Agency Testimony:

01:31:45 Mr. Lockett discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Ashley Bartley, 1046 East Chestnut Street, Louisville, Ky. 40204
Dominique Shrader, Domino Partners, 427 East Market Street, Louisville, Ky. 40202

Summary of testimony of those in favor:

01:36:04 Ms. Bartley gave a power point presentation. There was 100% consent for the closure. The alley network is very fragmented and in poor condition. The alley traffic will be re-routed through the parking lot and one to the west. Some improvements that will prevent cars from driving through are restoring the curb-cut, building sidewalks and installing bollards at the end of the alley. AT&T has an underground manhole and it may have to be relocated at the applicant's expense and would need to be an easement.

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01:44:25 Ms. Shrader stated the plan is to provide a brewery, food, gathering space, event space and multi-use for the community. The proposed green space is very important. The building will be a safe and well-lit environment as well.

01:46:21 Commissioner Brown asked if there's an existing curb-cut on the 3rd St. side. Ms. Bartley said yes.

Deliberation

01:46:55 Planning Commission deliberation.

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

Closure of Public Right-of-Way

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

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

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

WHEREAS, the Louisville Metro Planning Commission finds, the request to close the right-of-way is in compliance the Goals, Objectives and Plan Elements of the Comprehensive Plan as Mobility Goal 2, Policy 2 states to coordinate use of rights-of-way with community design policies. Ensure accessible rights-of-way to accommodate

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mobility needs of all transportation network users; Mobility Goal 3, Policy 1 states to provide transportation services and facilities to promote and accommodate growth and change in activity centers through improved access management. Goal 3, Policy 12 states to ensure that transportation facilities of new developments are compatible with and support access to surrounding land uses, and contribute to the appropriate development of adjacent lands. Where appropriate, provide at least one continuous roadway through the development to tie all local access roads or parking areas to the arterial street system. Adequate stub streets and pedestrian connections should be provided by developments. Any cost associated with the rights-of-way to be closed will be the responsibility of the applicant or developer. Adequate public facilities are available to serve existing and future needs of the community. Any facility required to be placed in an easement or relocated will be done so by the developer. Transportation facilities have been provided to accommodate future access and to not dispossess property owners of public access. All adjacent lands maintain access to public infrastructure and utility services will continue to be provided to these lands. While part 2.2 of the Streetscape Standards of the SoBro Planned Development District discourages the closure of alleys, the applicant has provided access easements that will maintain the existing connectivity of the alley network. The closure of the alley where it intersects with S 3rd St will eliminate a known point of conflict between pedestrians and vehicles. The new access easement layout will be offset instead a straight line, which will reduce vehicle speeds through the alley network, and the closure of the alley will also reduce the number of curb cuts on major arterial roadways. The overall result will be a safer transportation network for all road users in the area, while still maintaining connectivity; and

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

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council the closure of public right-of-way on property described in the attached legal description be **APPROVED, SUBJECT** to the following condition of approval.

1. Any easements requested or work required by AT&T associated with the existing utility service equipment in the closure area shall be completed to their satisfaction prior to the recording of the final plat. Written confirmation from an authorized representative of AT&T of the completion of this work shall be submitted to Planning and Design Services Staff prior to recording of the final plat.

The vote was as follows:

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YES: Commissioners Brown, Carlson, Howard, Mims, Peterson and Jarboe
NOT PRESENT AND NOT VOTING: Commissioners Daniels, Tomes and Lewis

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PUBLIC HEARING

CASE NO. 19ZONE1001

Request: Change in zoning from R-4 to R-5 with associated rear yard
Waiver and Major Preliminary Subdivision
Project Name: Shepherdsville Road Subdivision
Location: 8809 Shepherdsville Road
Owner: Linda Sue Goodwin Neubeck
Applicant: Superior Builders
Representative: Bardenwerper, Talbott & Roberts
Jurisdiction: Louisville Metro
Council District: 23 – James Peden
Case Manager: Dante St. Germain, AICP, Planner II

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

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

Agency Testimony:

01:51:47 Ms. St. Germain discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Nick Pregliasco, Bardenwerper, Talbott and Roberts, 1000 North Hurstbourne Parkway, Louisville, Ky. 40223
Diane Zimmerman, 12803 High Meadows Pike, Prospect, Ky. 40059

Summary of testimony of those in favor:

01:58:32 Mr. Pregliasco gave a power point presentation. This case was continued to gather additional information - traffic counts have been obtained, cost of moving telephone poles, how the property will look when it's developed and a proposed binding element for the applicant to contribute to an improvement in some form (not necessarily the turn lane). LG&E costs will be \$62,500 and \$189,000 is the total cost for the 34 lot subdivision. The proposed binding element has very broad language – a contribution of \$1,000 per lot, a total of \$34,000 to be used for sidewalks, road widening, etc.

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02:12:57 Commissioner Mims asked how much additional growth would be necessary before the auxiliary lane would be needed. Ms. Zimmerman said she went to the year 2032 using 1% growth rate and the turn lane is still not warranted. Looking at the annual traffic counts made by the Ky. Transportation Cabinet, Shepherdsville Rd. has shown no growth in traffic volume since 2003. It will take 20 left turn lanes in 2032 to meet the volume warrant.

Deliberation

02:16:10 Planning Commission deliberation. Commissioner Peterson said he would prefer the left turn lane but could vote in favor without it.

02:16:51 Commissioner Mims said this project does not warrant (not proportionate) the turn lane. It's an affordable housing project. The \$1,000 per lot contribution is more reasonable.

02:18:40 Commissioner Brown said he thinks the \$1,000 per lot is an underestimation. This is a rezoning and they need to mitigate that impact by providing the dedicated left turn lane for the new access point.

02:19:45 Commissioner Carlson said the left turn lane is needed and cost should not be a factor. Almost everyone that has done development in the Shepherdsville Rd. area has had to provide widening of the road to facilitate turning. Also, Shepherdsville Rd. is a major north/south route for emergency vehicles and there are no shoulders. There is an overall community benefit for the turn lane.

02:21:58 Commissioner Howard said she questions why the left turn lane needs to be put in now. Commissioner Brown said if the abutting lots are re-developed, and was a standard subdivision, we can't require off-site improvements for this left turn lane. Commissioner Howard remarked, then we're requiring a left turn lane for future development that may or may not occur. Commissioner Brown said it could be phased in, maybe wait for the last 4 lots.

02:27:11 Commissioner Peterson said he's in favor of the proposal.

02:27:15 Chair Jarboe said he wishes there could be some shoulder work done to make the road safer. The money being offered by the applicant is a nice gesture.

02:30:05 Ms. St. Germain stated the applicant has proposed language for the binding element to read as follows: The applicant shall contribute \$34,000.00 to Louisville Metro Public Works to use for any purpose within the council district including

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sidewalks, shoulders, turn lanes, etc. at the time of the recording of the record plat for section 1 of the subdivision. Commissioner Mims asked if the applicant is dedicating right-of-way. Ms. St. Germain said yes, a considerable amount.

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

Zoning Change from R-4 to R-5

On a motion by Commissioner Mims, seconded by Commissioner Peterson, the following resolution based on the Plan 2040 Staff Analysis, testimony heard today, provision of smaller lots making the housing more affordable, the reasonable proportionate allowance of \$1,000 per lot provided by the developer and right-of-way dedication and the Applicant's Findings was adopted.

02:34:57 Commissioner Carlson said the applicant has not made any commitment for this project to be affordable housing. Commissioner Mims said the lots are smaller with more density on the property; therefore, driving down the overall development cost. Ms. Liu said to tie this case to affordable housing would mean it would have to meet certain criteria. Chair Jarboe said it's cheaper housing. Commissioner Mims added, it's an affordable concept that is being introduced into this neighborhood. Commissioner Howard stated because they're smaller lot sizes, it's more affordable to some people without having to go through the ADI.

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Community Form because, the proposal is for low-density residential zoning. Shepherdsville Road is a minor arterial at this location; the proposal is for low-density residential zoning and is not substantially different in scale, intensity or density from surrounding land uses. The surrounding zoning is R-4, which permits 4.84 dwellings per acre. The requested zoning is R-5, which permits 7.26 dwellings per acre; and

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

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

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WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Mobility because, the proposal is for low-density residential zoning and is not for high density or intensity; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Mobility because, access to the development will be achieved from Shepherdsville Road, a minor arterial at this location; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Mobility because, no direct residential access to Shepherdsville Road is proposed. Access to Shepherdsville Road will be achieved via a local road passing through the development. Direct residential access will be to the local road; and

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

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Livability because, the site features a small intermittent stream which is being placed in an open space lot; Karst features were discovered and will be mitigated during construction; the subject property is not located in the regulatory flood plain; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Housing because, the proposal would permit the construction of housing which would be of a moderately higher density than is permitted under the current zoning district, increasing the variety of housing in the neighborhood; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Housing because, the proposed zoning district is for a moderately higher density than allowed under the current zoning district, potentially increasing the variety of price points and providing more options for mixed-income development; the subject site is located ½ mile from Preston Highway, a multi-modal transportation corridor with amenities providing neighborhood goods and services. The proposal is not for higher-density residential zoning; and

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

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improve the variety of housing throughout Louisville Metro; existing residents will not be displaced.

Community Form: Goal 1 Policies 3, 7 and 9

The subject property is located in the Neighborhood Form District, which is characterized by predominantly residential uses that vary from low to high density and that blend compatibly into the existing landscape and neighborhood area. Plan 2040 states that this form district will contain diverse housing types in order to provide housing choice for different ages, incomes and abilities. This proposal falls under the definition of a low-density development as low density is defined as single family residential under 5 dwelling units/acre and this request is for a maximum density of 4.4 dwelling units/acre. With the change to the R5 zone the lots are smaller but the overall density is still considered low and so is compatible with the surrounding lots which are zoned R-4 would also be a low density by virtue of the requirements of the R4 zone. This proposal provides an option for a single-family home on a smaller lot not otherwise found in the immediate vicinity and potentially reducing the home cost making it an affordable option for a wider range of individuals.

Community Form: Goal 2 Policy 9 and Goal 4 Policies 2 and 3

Though the goal is to encourage new developments and rehabilitation of buildings that provide commercial, office and or residential uses and to encourage preservation of distinctive cultural feature, the existing structures on the site are proposed to be demolished. The home constructed in 1926 is an example of a bungalow in rural Jefferson County, it is more than 90 years old but is not significant in its design, features or setting. It is not located in an Historic Preservation District and it is not listed on the National Register of Historic Places. The developer shall comply with the requirements of the Wrecking Ordinance Section 150.110 and the required 30 day hold on the issuance of the wrecking permit shall be observed.

Community Form: Goal 3 Policies 1, 2, 6, 7, 8, 9, 10 and 13

This goal is to enhance neighborhoods by protecting and integrating open space, watersheds and other natural resources. This subdivision complies with the intent and these policies as the layout proposed includes the creation of 1.6 acres of open space. This open space preserves and protects the existing intermittent stream that extends across a portion of the site, provides open space for use by the residents, and includes a detention basin proposed to address the increased storm drainage resulting from this development. The homeowner's association will maintain the open area.

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There are no known wet or highly permeable soils, steep or unstable slopes and no flood prone areas. A site survey has identified 2 potential sinkholes. These are located on buildable lots and will be further analyzed by a geotechnical engineer to determine appropriate mitigation methods to be followed during construction

Mobility: Goal 1 Policy 1, Goal 2 Policies 3 & 4, Goal 3 Policies 7 & 21

The Mobility goals are to implement an accessible system of alternative transportation modes, to provide a safe and accessible transportation system, and to encourage patterns that connect and support future growth. This subdivision complies with the intent and applicable policies in that sidewalks are proposed to be constructed along all road frontages, with the provision of stub street to both the north and south for potential future development, with no proposed access through lower intensity, with the provision of adequate right of way as required by the Land Development Code to be dedicated to Shepherdsville Road and for both of the proposed streets and with no direct access from the individual lots of the subdivision to Shepherdsville Road which is classified as a minor arterial road. Additionally, this subdivision provides a housing option on smaller sized lot that is not currently available in the area and these additional homes would be easily accessible to the regional center north of the site on the Outer Loop and the marketplace corridors located both north and west of the site on Preston Highway.

Community Facilities: Goal 2 Policies 1, 2 and 3

The proposed subdivision complies with the intent and applicable policies identified in the Community Facilities plan element since the subdivision is located in an area served by existing utilities that can be extended to serve the development including water, sewer, gas, electric, telecommunication lines and cable.

Livability: Goal 1 Policies 2, 5, 9 -11, 17, 19, 26 - 28 and 30

The goal of this element is to protect and enhance the natural environment and integrate it with the built environment as development occurs. An open space lot is provided in this subdivision that will protect all but about 60 LF of the existing 1,100 LF of intermittent stream that is identified in the north central portion of the site. In addition, in the open space lot a 25' stream buffer is shown along the intermittent streams banks to preserve the existing riparian zone vegetation for the wildlife that lives in these areas, to reduce the possibility of erosion, as a filter to catch water borne pollutants and to further mitigate negative impacts on the stream. A detention basin is also proposed in the open space lot to accommodate the increased storm drainage resulting from this development.

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Prior to the plan proceeding before the Planning Commission, it will be reviewed by and receive preliminary approval from MSD regarding the storm and sanitary sewer system proposed for the site. By this review MSD will ensure that post-development runoff rates do not exceed pre-development rates and therefore that this development will not have a negative impact on existing stormwater systems. At construction review MSD will ensure that the proposed subdivision plans will identify that Best Management Practices be utilized, will include measures to address water quality and comply with MSD's soil erosion and sediment control standards. For these reasons, the proposed subdivision shall comply with this goal.

Housing: Goal 1 Policies 1 & 2, Goal 2 Policies 1 & 2 and Goal 3 Policies 1-3

The goal of this element is to expand and ensure a diverse range of housing choices. The proposed subdivision allows for the construction of a home on a smaller lot than allowed on the surrounding R4 subdivisions and therefore potentially at a lower cost and appealing to lower income individuals. The smaller lot is one that is likely to appeal to older residents and individuals or couples without children thereby promoting inter-generational residents in this area.

Though the site is not currently served by public transit it is located in relatively close proximity being within a 2-mile radius to area workplaces, shopping and other neighborhood supportive facilities. These are found in the Regional Center and Suburban Market Corridors located on the Outer Loop and with both a Suburban Workplace and Suburban Marketplace Corridor on Preston Highway. It is also located just over a Yi mile from Preston Highway a multi-modal corridor with access to public transportation and an expanded variety of uses.

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council the change in zoning from R-4, Single Family Residential to R-5, Single Family Residential on the property described in the attached legal description be **APPROVED**.

The vote was as follows:

YES: Commissioners Howard, Mims, Peterson and Jarboe

NO: Commissioners Brown and Carlson

NOT PRESENT AND NOT VOTING: Commissioners Daniels, Tomes and Lewis

Waiver from Section 7.3.30.E to allow more than 15% of the required rear yard of a buildable lot to be occupied by a drainage easement

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

WHEREAS, the waiver will not adversely affect adjacent property owners as the drainage easement is entirely on the subject property and designed to direct water away from adjoining properties; and

WHEREAS, the waiver will not violate specific guidelines of Plan 2040 as Plan 2040 does not address drainage easements; and

WHEREAS, the Louisville Metro Planning Commission finds, the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as MSD requires the easement to be in the given location; 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 because the easement is required by MSD and it is not optional for the applicant to provide it.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** a waiver from section 7.3.30.E to allow more than 15% of the required rear yard of a buildable lot to be occupied by a drainage easement.

The vote was as follows:

YES: Commissioners Howard, Mims, Peterson and Jarboe

NO: Commissioners Brown and Carlson

NOT PRESENT AND NOT VOTING: Commissioners Daniels, Tomes and Lewis

Major Preliminary Subdivision DDDP with Binding Elements

On a motion by Commissioner Mims, seconded by Commissioner Howard, the following resolution based on the testimony presented today was adopted.

WHEREAS, there do not appear to be any historic resources on the subject site. Karst features were discovered on the site and will be mitigated during construction. The intermittent stream on site is being handled with an open space lot and a detention basin; and

WHEREAS, provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community has not been provided. Metro

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Public Works requires a left-turn lane on Shepherdsville Road which the applicant does not propose to provide; and

WHEREAS, there are no open space requirements pertinent to the current proposal. One open space lot is being provided; and

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

WHEREAS, the Louisville Metro Planning Commission finds, the overall site design and land uses are compatible with the existing and future development of the area. The proposed density is similar to the existing density in the neighborhood surrounding the site; and

WHEREAS, the Louisville Metro Planning Commission further finds the development plan does not conform to applicable guidelines and policies of the Comprehensive Plan as it does not meet Mobility and Housing policies. It does conform to requirements of the Land Development Code with the exception of the requested waiver.

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

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. The development shall be in accordance with the approved Preliminary Subdivision Plan. No further subdivision of the land into a greater number of lots than originally approved shall occur without approval of the Planning Commission.
3. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.

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4. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
5. The applicant shall submit a Tree Preservation Plan for approval by Planning and Design staff showing trees/tree masses to be preserved prior to beginning any construction procedure (i.e. clearing, grading, demolition). An original stamped copy of the approved Tree Preservation Plan shall be present on site during all clearing, grading, and construction activity and shall be made available to any DPDS inspector or enforcement officer upon request.
6. The applicant shall submit a landscape plan for approval by Planning Commission staff showing plantings and/or other screening and buffering materials to comply with the Chapter 10 of the Land Development Code prior to recording the record plat. The applicant shall provide the landscape materials on the site as specified on the approved Landscape Plan prior to issuance of Certificates of Occupancy for the site.
7. A note shall be placed on the preliminary plan, construction plan and the record plat that states, "Construction fencing shall be erected prior to any grading or construction activities - preventing compaction of root systems of trees to be preserved. The fencing shall enclose the area beneath the dripline of the tree canopy and shall remain in place until all construction is completed. No parking, material storage, or construction activities shall be permitted within the fenced area."
8. Open space lots shall not be further subdivided or developed for any other use and shall remain as open space in perpetuity. A note to this effect shall be placed on the record plat.
9. The applicant shall install signs, approved by the Metro Public Works Dept., which indicate the future extension of the public right of way for "Street B". Such signs shall be installed prior to release of bonds for the installation of the street infrastructure.

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10. The developer shall be responsible for maintenance of all drainage facilities and undeveloped lots ensuring prevention of mosquito breeding, until such time as the drainage bond is released.
11. After release of the drainage bond, mosquito abatement on open space lots shall be the responsibility of the Homeowners Association. Accumulations of water in which mosquito larvae breed or have the potential to breed are required to be treated with a mosquito larvacide approved by the Louisville Metro Health Department. Larvacides shall be administered in accordance with the product's labeling. This language shall appear in the deed of restrictions for the subdivision.
12. Prior to the recording of the record plat, copies of the recorded documents listed below shall be filed with the Planning Commission.
 - a. Articles of Incorporation in a form approved by Counsel for the Planning Commission and the Certificate of Incorporation of the Homeowners Association.
 - b. A deed of restriction in a form approved by counsel of the Commission outlining responsibilities for the maintenance of open space.
 - c. Bylaws of the Homeowners' Association in a form approved by Counsel for the Planning Commission.
13. At the time the developer turns control of the homeowners association over to the homeowners, the developer shall provide sufficient funds to ensure there is no less than \$3,000 cash in the homeowners association account. The subdivision performance bond may be required by the planning Commission to fulfill this funding requirement.
14. The applicant shall contribute \$34,000 to Louisville Metro Public Works to use for any purpose, with preference to the area of the site in question and adjoining properties, as determined by the Director of Public Works and Planning and Design Services. Such improvements could include sidewalks, shoulders, turn lanes and the contribution will be made at the time of the recording for section 1.

The vote was as follows:

YES: Commissioners Howard, Mims, Peterson and Jarboe

NO: Commissioners Brown and Carlson

NOT PRESENT AND NOT VOTING: Commissioners Daniels, Tomes and Lewis

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PUBLIC HEARING

CASE NO. 19-ZONE-0028

Request: Change in zoning from R-4, single-family to R-7, multi-family with detailed plan
Project Name: Commerce Crossing Apartments
Location: 9711 Cooper Church Drive
Owner: James S and Jeanette Conder
Applicant: Capstone Realty, Inc.
Representative: Dinsmore & Shohl, LLP
Jurisdiction: Louisville Metro
Council District: 24 – Madonna Flood
Case Manager: Joel P. Dock, AICP, Planner II

NOTE: Commissioner Carlson left and did not vote on this case.

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:

02:47:14 Mr. Dock discussed the case summary, standard of review and staff analysis from the staff report. Commissioner Brown asked if the off-site location would be handled as a binding element. Mr. Dock said through the record plat and construction plan phasing. Ms. Stuber said it would need to be a binding element or on the preliminary plan because she will not read these minutes. Mr. Dock said it should read: Sidewalks will be provided at an alternative location and in accordance with Ordinance 85, Series 2019.

The following spoke in favor of this request:

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

Summary of testimony of those in favor:

02:53:49 Mr. Ashburner gave a power point presentation.

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Mr. Ashburner stated, with regard to the sidewalk issue, we have discussed multiple locations for off-site sidewalk improvements. The agreement was for the Preston and Interchange improvements which includes corner improvements allowing people to get from Interchange to a bus stop closer to Preston. The exit ramp is the reason a noise study had to be performed but indicates no mitigation is required for the buildings.

Deliberation

02:59:16 Planning Commission deliberation.

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

Zoning Change from R-4 to R-7

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

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Community Form because, the proposed district is located adjacent to major roadways and within close proximity to commercial and employment centers. The site is located along TARC express route 45x; the subject property lies within 250 feet on an interstate off-ramp. A noise study has been provided and potential impacts, if any, will be mitigated as needed; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Form because, the proposed district encourages residential use; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Community Form because, the site does not appear to possess any issues related to wet or highly permeable soils, severe, steep or unstable slopes with the potential for severe erosion; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 4: Community Form because, the site does not appear to contain distinctive cultural features; the site does not contain sites that are listed on the national register; and

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WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Mobility because, the proposed district is located near a marketplace district and future and current employment centers to support transit-oriented development and an efficient public transportation system; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Mobility because, the proposed district is adjacent to similar densities, as well as a religious institution. Access to the site would create a limited impact on a small remainder of lower density properties; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Mobility because, per ordinance 85, series 2019 sidewalks will be provided off-site to improve mobility for the community at-large; no access to high speed roadways is provided. Access is provide via local access road opposite the site from Preston Highway; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Facilities because, the proposal is located in an area served by existing utilities or planned for utilities as evidenced by adjacent development; the proposal would appear to have access to an adequate supply of potable water and water for fire-fighting purposes as evidenced by adjacent development; preliminary approval has been received from MSD; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Livability because, tree canopy should be preserved where possible and the minimum for tree canopy will be met; the site does not appear to present karst features that prevent or hinder development of the site; the development site is not located in the floodplain; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Housing because, the proposed district encourages a variety of housing types that are reflective of the need for missing middle and affordable housing in the Louisville area; the proposed district as a whole promotes options to allow for aging in place. The location of the development presents itself as a more appropriate location for workforce housing; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Housing because, the proposal district supports intergenerational and mixed-income development that is connected to nearby employment centers; the subject site is located near major employment centers and

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commercial goods and services providers. It is located along TARC express route 45x; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Housing because, the proposed district encourages fair and affordable housing by allowing a variety of ownership options and unit costs throughout Louisville Metro. The district expands opportunities for people to live in quality, variably priced housing in locations of their choice by enabling the provision of affordable and accessible housing in dispersed locations throughout Louisville Metro; the proposed district results in the loss of a single family home for the maximum occupancy of 47 units; the proposed district encourages the use of innovative design methods by expanding the ability to provide a variety of housing types and styles. The proposed district better serves the needs to provide affordable housing than the current district.

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

The vote was as follows:

YES: Commissioners Brown, Howard, Mims, Peterson and Jarboe
NOT PRESENT AND NOT VOTING: Commissioners Daniels, Tomes, Carlson and Lewis

Detailed District Development Plan and Binding Elements

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

WHEREAS, the development plan does not significantly impact natural resources on the property proposed for development. An ephemeral stream will be piped within a sanitary sewer and drainage easement; and

WHEREAS, provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community will be provided as sidewalks will be provided at an off-site location per ordinance 85, series 2019 to benefit the community at-large; and

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WHEREAS, open space has been provided and will be integrated between this proposal and the adjacent multi-family community; and

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

WHEREAS, the Louisville Metro Planning Commission finds, the proposal is generally compatible within the scale and site design of nearby existing development and with the form district's pattern of development as the development is similar in design with the development under construction in case 17DEVPLAN1062; and

WHEREAS, the Louisville Metro Planning Commission further finds the proposed development plan conforms to Plan 2040. The proposal encourages a variety of housing types that are reflective of the need for missing middle and affordable housing in the Louisville area. The proposal supports intergenerational and mixed-income development that is connected to nearby employment centers. The proposal better serves the needs to provide affordable housing than the current development on the property.

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

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. Before any permit (including but not limited to building, parking lot, change of use, site disturbance) 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 Transportation Cabinet.
 - 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.

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- d. A street closure shall be approved and recorded for the unnamed right-of-way shown along the northern property line. A copy of the recorded instrument shall be placed in the case file. e. An agreement shall be entered into between the subject property and property at 9707 Cooper Church Road to allow for access to, and the use of, all recreational and common open space provided upon the property at 9707 Cooper Church Road and shown on the development plan in case 17DEVPLAN1062. This agreement shall be submitted for review and approval by the Planning Commission's legal counsel. The minimum total open space between the two properties shall not decrease below 2.21 acres (1.1 acres of recreational open space).
3. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
 4. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
 5. 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.
 6. The requirements for sidewalks shall be satisfied in accordance with Ordinance 85, Series 2019. Construction plans, bond and permit for the alternative sidewalk shall be provided at the time of construction plan approval for the subject site.

The vote was as follows:

YES: Commissioners Brown, Howard, Mims, Peterson and Jarboe

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NOT PRESENT AND NOT VOTING: Commissioners Daniels, Tomes, Carlson and Lewis

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CASE NO. 19-ZONE-0036

Request: Change in zoning from R-4, single-family & OR-3, office-residential to C-2, commercial with detailed plan and variance(s)

Project Name: Commerce Crossings Retail

Location: 5210 Commerce Crossings Drive

Owner: Elda Acquisition, LLC

Applicant: Capstone Realty, Inc.

Representative: Dinsmore & Shohl, LLP

Jurisdiction: Louisville Metro

Council District: 24 – Madonna Flood

Case Manager: Joel P. Dock, 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:

03:02:39 Mr. Dock discussed the case summary, standard of review and staff analysis from the staff report.

03:06:34 Commissioner Brown asked if the applicant is exceeding the maximum setback on Old Preston to accommodate a future connection to the abutting properties? Mr. Dock said yes, that's correct.

The following spoke in favor of this request:

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

Summary of testimony of those in favor:

03:07:47 Mr. Ashburner gave a power point presentation. This and the previous case are attempts to add to the employment and business center of Commerce Crossings.

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Mr. Ashburner agrees with the staff's analysis and the proposed binding elements. This is not a maxed out development. It's designed to mirror the current developments across the street (Office Commercial). It's a contemporary building but similar in scale and uses.

Deliberation

03:12:35 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 OR-3 and R-4 to C-2

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

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Community Form because, while the proposed rezoning will result in the conversion of residential zoning to commercial zoning, the southern limits of the commercial boundary is in line with the southern limits the office and workplace form district boundaries to the immediate west. Mitigation, such as landscape buffers and building setback, to reduce the impacts of non-res development abutting residentially zoned property will be provided; the subject site is located where demand and adequate infrastructure exists as the site is at the intersection of a local industrial roadway and major arterial roadway with immediate access to I-265; the proposed development is split between NFD and SW form districts and is appropriately located for its intensity and density to provide supportive service to the surrounding population as well as employees within the employment center of the workplace district; The proposed zoning district does not permit the siting of hazardous uses; the proposed zoning district does not permit uses with significant impacts on human health beyond emissions that will be ordinarily expected by customer interaction and vehicle use; the subject site is located at the intersection of a local industrial road and arterial roadway. Expected traffic would not appear to have significant impacts on adjacent residential areas; the proposed district does not permit uses that result in significant adverse impacts from noise and where noise is expected is away from residences; the proposed district does not allow for hazardous use that negatively impact public health, safety, or welfare; and

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WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Form because, the proposed district is appropriately located for its scale and design to provide supportive use to the employment center and additional retail options for nearby populations. Infrastructure is sufficient to support a wide variety of uses; the subject site provides appropriate connections to adjacent roadway. Connectivity to Old Preston Highway has a minimal impact on the local roadway classification as the vehicular movement would immediately connect vehicles to an arterial roadway; the proposed district locates retail commercial development in an activity center where sufficient population exists and is anticipated to support it; the proposed district results in an efficient land use pattern which concentrates non-residential activity within a non-residential activity center adjacent or within proximity to similar and higher intensity districts; the proposed district encourages a mixture of compatible land uses in order to reduce traffic congestion by requiring fewer trips, support and enhance alternative modes of travel, and encourage vitality and a sense of place; the proposed district will result in development that is in scale with adjacent development and provides additional supportive services to nearby residents and employees; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Community Form because, the subject site does not appear to contain sensitive environmental features; the subject property does not appear to contain wet or highly permeable soils, severe, steep or unstable slopes where the potential for severe erosion problems exists; the subject site does not appear to impact the vulnerable environmental features or flood-prone areas; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 4: Community Form because, the subject site does not appear to contain buildings, sites, districts and landscapes that are recognized as having historic or architectural value. The proposed district is compatible with the intensity of development in the area; tree canopy will be provided as required by the LDC; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Mobility because, the proposed development is split between workplace and neighborhood form districts adjacent to the marketplace corridor. It would appear that the zoning proposed is appropriately located near activity centers, employment centers, and public transportation systems (TARC route 45X); and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Mobility because, access to the proposed districts is

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through areas of similar intensity and no significant nuisances will be created on nearby residential neighborhoods; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Mobility because, the proposed activity is located in an area of compatible land uses that are isolated from service or retail oriented activity centers. The proposed district increases the types of uses that may serve employees or provide supportive services to the industrial area; the proposal is easily accessible by bicycle, car, transit, pedestrians and people with disabilities; the subject site provides all pedestrian amenities and is located near transit corridors; the proposal has a limited impact on the transportation network; the developer will bear or share in rough proportionality the costs of transportation facilities and services made necessary by development; the developer will make all necessary improvement to the transportation network required of their development; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Facilities because, the development appears to be in an area served by existing utilities or capable of being served by public or private utility extensions; an adequate supply of potable water and water for fire-fighting purposes will be available; preliminary approval has been received from MSD; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Economic Development because, the proposed district is located partially within a workplace form district; however, the district does not occupy land that should be reserved for industrial development. Rather, it provides supportive services to the industrial employment nearby; the proposed district is along an arterial roadway within proximity to I-265. Nuisances will not be created as abutting roadways are intended to serve the proposed district; the proposed district is located partially within a workplace form district; however, the district does not occupy land that should be reserved for industrial development. Rather, it provides supportive services to the industrial employment nearby; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Livability because, preliminary approval has been received from MSD; the site does not appear to be within the floodplain. Further, the storage or treatment of hazardous uses is not permitted within the proposed district.

COMMUNITY FORM

The proposal complies with the intent and applicable policies of the Community Form

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Plan Element. The subject property is located in the Suburban Workplace Form District, which the Comprehensive Plan states is a form "characterized by predominantly industrial and office uses where the buildings are set back from the street in a landscaped setting." Here, the proposal is consistent with the Suburban Workplace FODn District as it will provide for smaller scale office/retail opportunities to complement the existing Commerce Crossings business park. The proposed development will observe the Suburban Workplace form in much the same way as the office building across Commerce Crossings Drive. The proposal is compatible with the scale and site design of the surrounding properties. The proposal is surrounded by a large office on the west, a small office center on the north, Preston Highway on the east and a single family residence to the south. The proposed development will provide buffering as required in the Land Development Code to prevent adverse impacts on adjacent properties. The proposal will add to the mixture of uses available in the Commerce Crossings business park and will be at a scale to serve both the workers in Commerce Crossings and the residents in nearby neighborhoods.

MOBILITY

The proposed development complies with the intent and applicable policies of the Mobility Plan Element. The proposed development will be accessed via both Commerce Crossings Drive and Old Preston Highway. The proposed development is near other activity centers along Preston Highway as well as Interstate 265. The proposed development will share access with the office use to the west. The proposed development will also contain sidewalks along both street frontages.

COMMUNITY FACILITIES

The proposed development complies with the intent and applicable policies of the Community Facilities Plan Element. The subject property is adequately served by all utilities, including water and sewer.

ECONOMIC DEVELOPMENT

The proposed development complies with the intent and applicable policies of the Economic Development Plan Element. The proposed development is designed to serve the needs of the larger Commerce Crossings business park and nearby residential areas. Allowing workers an option for lunch, a medical office visit or other daily need within Commerce Crossings should prove to be an asset for both the workers and others in the area.

LIVABILITY

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The proposed development complies with the intent and applicable policies of the Livability Plan Element. The proposed development will accommodate both the new and through drainage as required by MSD. The proposed development is also designed to give the workers within Commerce Crossings and residents of surrounding neighborhoods access to the property via sidewalk, reducing vehicle miles traveled. The proposed development will comply with the tree canopy sections of the LDC.

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council the change in zoning from R-4, Single Family Residential and OR-3, Office Residential to C-2, Commercial on property described in the attached legal description be **APPROVED**.

The vote was as follows:

YES: Commissioners Brown, Howard, Mims, Peterson and Jarboe

NOT PRESENT AND NOT VOTING: Commissioners Daniels, Tomes, Carlson and Lewis

1. Variance of Land Development Code, section 5.3.1.C.5 to reduce the non-residential to residential setback along the west property line from 30' to 20'

WHEREAS, the requested variance will not adversely affect public health, safety, or welfare as the adjacent development is developed for non-residential purposes and the minimum landscape buffer will be provided; and

WHEREAS, the requested variance will not alter the essential character of the general vicinity as the adjacent development is developed for non-residential purposes and the minimum landscape buffer will be provided; and

WHEREAS, the requested variance will not cause a hazard or nuisance to the public as the adjacent development is developed for non-residential purposes and the minimum landscape buffer will be provided; and The requested variance will not allow an unreasonable circumvention of zoning regulations as the requirement calls for a non-residential to residential setback and because of the nature of the zoning district the setback is required, but the site is developed for non-residential uses; and

WHEREAS, the requested variance will not allow an unreasonable circumvention of zoning regulations as the requirement calls for a non-residential to residential setback and because of the nature of the zoning district the setback is required, but the site is developed for non-residential uses; and

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WHEREAS, the requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone as the requirement calls for a non-residential to residential setback and because of the nature of the zoning district the setback is required, but the site is developed for non-residential uses; and

WHEREAS, the Louisville Metro Planning Commission finds, the strict application of the provisions of the regulation would deprive the applicant of reasonable use of the land for the reasons previously stated in these findings; and

WHEREAS, the Louisville Metro Planning Commission further finds the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as the site has not been developed and relief is being sought.

2. Variance of Land Development Code, section 5.3.1.C.5 to increase the maximum setback along Old Preston Highway from 80' to 190'

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

WHEREAS, the requested variance will not adversely affect public health, safety, or welfare as the proposed setback is consistent with the workplace form to which the site is oriented to serve; and

WHEREAS, the requested variance will not alter the essential character of the general vicinity as the proposed setback is consistent with the workplace form to which the site is oriented to serve; and

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

WHEREAS, the requested variance will not allow an unreasonable circumvention of zoning regulations as the proposed setback is consistent with the workplace form to which the site is oriented to serve; and

WHEREAS, the requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone as the site is split between two form districts; and

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WHEREAS, the Louisville Metro Planning Commission finds, the strict application of the provisions of the regulation would deprive the applicant of reasonable use of the land for the reasons previously stated in these findings; and

WHEREAS, the Louisville Metro Planning Commission further finds the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as the site has not been developed and relief is being sought.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** a variance of the Land Development Code, section 5.3.1.C.5 to reduce the non-residential to residential setback along the west property line from 30 feet to 20 feet and a variance of Land Development Code, section 5.3.1.C.5 to increase the maximum setback along Old Preston Highway from 80 feet to 190 feet.

The vote was as follows:

YES: Commissioners Brown, Howard, Mims, Peterson and Jarboe

NOT PRESENT AND NOT VOTING: Commissioners Daniels, Tomes, Carlson and Lewis

Detailed District Development Plan and Binding Elements

On a motion by Commissioner Howard, seconded by Commissioner Brown, the following resolution based on the Standard of Review and Staff Analysis and it meets the Land Development Code regulations with approval of the variances was adopted.

WHEREAS, the development plan does not significantly impact natural resources on the property and all tree canopies, landscaping buffering, and open space is provided; and

WHEREAS, provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community will be provided as pedestrian connections and internal parking lot connectivity is provided; and

WHEREAS, sufficient open space is provided in tree canopy, landscaping buffering, and open space; and

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

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WHEREAS, the Louisville Metro Planning Commission finds, the proposal is generally compatible within the scale and site design of nearby existing development and with the Workplace form district's pattern of development as the proposed development is consistent with existing development; and

WHEREAS, the Louisville Metro Planning Commission further finds the proposed development plan conforms to Plan 2040. The subject site is located where demand and adequate infrastructure exists as the site is at the intersection of a local industrial roadway and major arterial roadway with immediate access to I-265.

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

The development shall be subject to all applicable binding elements of the general plan, docket 9-32-97, as well as the following:

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. Before any permit (including but not limited to building, parking lot, change of use, site disturbance) 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 Transportation Cabinet.
 - 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. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the December 5, 2019 Planning Commission meeting. A copy of the approved rendering is available in the case file on record in the offices of the Louisville Metro Planning Commission.

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3. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
4. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
5. 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.
6. The developer and/or property owner shall provide a cross over access agreement or private access easement to the property to the south if it is ever developed for a nonresidential use. A copy of the signed easement agreement shall be provided to Planning Commission staff upon request.

The vote was as follows:

YES: Commissioners Brown, Howard, Mims, Peterson and Jarboe

NOT PRESENT AND NOT VOTING: Commissioners Daniels, Tomes, Carlson and Lewis

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CASE NO. 19-ZONE-0065

Request: Change in Form District from Neighborhood to Suburban Workplace, change in Zoning from R-4 to PEC with Landscape Waivers, and a Detailed Development Plan

Project Name: Logistics Airpark North

Location: 5400 and 5402 Minor Lane and 3101, 3201, 3202 and 3206 Dupin Drive

Owner: Evangel World Prayer Center of KY Inc.

Applicant: Nicklies Development Inc.

Representative: Milestone Design Group; Nicklies Development

Jurisdiction: Louisville Metro

Council District: 13- Mark Fox

Case Manager: Julia Williams, AICP, Planning Supervisor

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

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

Agency Testimony:

03:18:40 Ms. Williams discussed the case summary, standard of review and staff analysis from the staff report.

03:28:06 Commissioner Brown stated, for the waivers, it doesn't look like they are proposing to do a PEC, Planned Employment Center use on the existing parking lots subject to the waiver. Ms. Williams said not around the school building.

Commissioner Brown said it was mentioned at LD&T that the applicant would provide a berm along Minor Ln. Ms. Williams said yes, it's shown on the development plan but the height is unknown.

03:28:51 Commissioner Mims stated there is an opportunity for truck traffic to continue using Minor Ln. and not be routed out through the access road. Ms. Williams said the applicant intends to have trucks only use the south entrance from the adjacent property. Also, they've indicated some binding elements and working with Planning and Design and Public Works staff for signage. They will also be providing gates but it doesn't satisfy the Comprehensive Plan.

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The following spoke in favor of this request:

Jim Calvery, Nicklies Development, Inc., 6060 Dutchmans Lane, Louisville, Ky. 40205
Sue Bishop, 3301 Dupin Drive, Louisville, Ky.

Summary of testimony of those in favor:

03:31:09 Mr. Calvery gave power point presentation and a history of the site. Currently, there is no plan to develop this property. The school will continue operating until December 31, 2020.

The issues are as follows: access to the site; signage; keeping trucks off Minor Ln. – will use striping and narrowing portion, stop sign and stop bar and signage (at intersection of Logistics Airpark North)

In the future when the property develops, we will come in with a code compliant plan – building sidewalks along Minor Ln. and Dupin Dr. Currently there's a road under construction.

Mr. Calvery said a 2-5 foot berm (Minor Ln. towards school) is proposed and can be built now. A gate will be placed south of the school and Ford has its own gate.

03:44:26 Ms. Bishop, an adjacent neighbor, said a guard rail had to be replaced recently because of the high traffic. The vacant lot and traffic are major concerns. After speaking to Mr. Nicklies about these and other concerns, they were addressed immediately. The vacant property has not been maintained, enhanced or attractive at all in the past and the plans show that it will be in the future, with the access road being built right now.

03:49:37 Commissioner Mims asked if the proposed parking for Ford will be fenced. Mr. Calvery said yes.

03:53:07 Commissioner Brown stated the fire departments wrote regulations for how the gate will look and operate. Will you comply with those regulations? Mr. Calvery said yes.

Deliberation

03:55:59 Commissioner Brown stated he's in favor of rezoning the entire site but would like to review as the uses are proposed. The use they're proposing today is unobtrusive, no changes being made to the site, it's an existing parking lot and they're

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providing reasonable access to divert the trucks from Minor Ln. and Dupin Dr. They've mitigated the impact for this particular PEC use.

03:56:54 Commissioner Mims stated the large buildings are imposing but the traffic generation is usually minimal.

03:57:40 Commissioner Peterson stated the proposed binding elements have addressed the concerns from LD&T regarding the traffic and the trucks. Also, their commitment to working with the neighbors is very commendable.

03:58:12 Chair Jarboe said the mitigation of the roadway is the key to this proposal.

03:59:07 Commissioner Howard stated the staff report is not favorable.

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.

Change in form district from Neighborhood to Suburban Workplace

On a motion by Commissioner Brown, seconded by Commissioner Howard, the following resolution based on the Applicant's Findings and the testimony heard today was adopted.

WHEREAS, the Planning Commission finds that the proposal conforms with KRS 100.213 because it agrees with the Comprehensive Plan of Metro Louisville and Jefferson County, its goals, objectives, guidelines and policies (sometimes called "Plan 2040") as further detailed in these Findings; and

WHEREAS, the Planning Commission finds that the existing zoning classification, R-4, and Neighborhood Form District is inappropriate and the proposed zoning classification, PEC, and proposed Suburban Work Place Form District is appropriate as further detailed in these findings; and

WHEREAS, the Planning Commission finds that there have been major changes of an economic, physical or social nature within the area involved which were not anticipated in the adopted comprehensive plan and which have substantially altered the basic character of the area as further detailed in these findings; and

WHEREAS, the Planning Commission further finds that the Suburban Work Place Form Area is a more consistent and appropriate form area for this property because the

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Suburban Work Place Form District (SWFD) is designed to reserve land for industrial and employment uses in suburban locations with design standards intended to promote development and redevelopment that ensures adequate access for employees, freight, and products, to provide services and amenities for employees, and to improve transit service; because the Property is adjacent to and in between two parcels consisting of 199 acres of which 138 is zoned EZ1 and is in the Suburban Work Place Form District, and 61 acres is zoned PEC and is in the Suburban Work Place Form District; because adequate transportation access to, from, and throughout the proposal has been designed; because significant buffering from abutting uses is provided naturally and as shown on the proposal; and because the development is located at the intersection of an arterial (Outer Loop) and a collector (Minor Lane) near an expressway (I-65); and

WHEREAS, the Planning Commission further finds that the proposal complies with Community Form Goal 2 to Encourage sustainable growth and density around mixed-use centers and corridors, and Goal 3 to Enhance neighborhoods by protecting and integrating open space, watersheds and other natural resources because the proposed development use is compatible with nearby existing development and with the pattern of development within the adjacent Suburban Work Place Form District; because any adverse impact on adjacent residential uses, including traffic, parking, signs, and lighting, will be mitigated through the binding elements that have been proposed and agreed upon by the applicant; because appropriate transitioning from residential to non-residential uses will be provided through the use of natural vegetative buffers and landscaping, landscaped buffer yards, vegetative berms, compatible building design and materials, height restrictions and setbacks, which will also protect the character of residential areas, roadway corridors, and public spaces from visual intrusions; because the proposed development is designed to provide accessibility to people with disabilities; because the parking, loading and delivery areas are adequate for the proposed use and are designed to minimize any adverse impact on adjacent residential areas; because proposed signage will be compatible with the Suburban Work Place Form Area and will be integrated with or attached to structures wherever possible; and

WHEREAS, the Planning Commission further finds that the proposal complies with Economic Development goals and objectives and all applicable Policies thereunder because the development is appropriately located to meet the needs of this proposed workplace district and its employees, and because, as stated previously, this development is in close proximity to other existing facilities serving the Ford Motor Company Plant, United Parcel Service (UPS) and the Louisville International Airport and their collective employees; because the proposed development has chosen to locate on a site that will enable primary and secondary job creation in close proximity to existing social and economic infrastructures; because the proposed development adheres to the policies designed to promulgate the intentions of this Guideline; because the development will help keep dollars in the immediate community; because the

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development will have the ability to spread tax burden for public facilities maintenance and neighborhood programs; because the development will attract new investment dollars adjacent to major economic engines in Louisville, (Ford Plant, UPS, Louisville International Airport); because the development may provide management level and entry-level positions; because the development will offer flexible working hours; because the development will assist in preserving existing standards of living over time; because the development will provide new services and products not previously available in a timely manner to nearby industries; and

WHEREAS, the Planning Commission further finds that the proposed site is one of the most significant development sites in the Louisville Metro, and possesses unique characteristics unmatched by other alternatives such as access, existing paved parking lots, separation from residential properties; and It is located adjacent to the most traveled section of interstate highway in the Commonwealth of Kentucky with nearly 330,000 vehicles traveling past the site on a daily basis; and

WHEREAS, the Planning Commission further finds that the proposed development of this property is positioned in one of the nation's best performing areas for industrial development--the I-65 & South Louisville Airport sub-market in Louisville. From its standing as the hub of UPS' WorldPort, Louisville's Airport is the 7th busiest cargo airport in the world, between Dubai International Airport of the United Arab Emirates, and the Charles de Gaulle Airport outside Paris, France; and

WHEREAS, the Planning Commission further finds that the Property is exceptionally well-located off Interstate 65, and is in immediate proximity to the Louisville International Airport and UPS's WorldPort, and that the Louisville International Airport has stood as UPS's WorldPort, the state's largest employer with over 20,000 employees, for over 3 decades, and furthermore, UPS has demonstrated its commitment to Louisville and the surrounding area by investing over \$5 billion in UPS' operations infrastructure, and therefore this Property and the associated development plan, benefits from its' standing less than 2 miles from the Airport and less than 3 miles to Ford Motor Company's distribution plant (which houses more than 8,500 employees), and that the I-65 and Outer Loop location offers excellent operational benefits to Third Party Logistics providers and e-commerce retailers, and that the Property's location is easily accessible via the Outer Loop Exit off Interstate 65, and that the Property is in walking and/or short driving distance to other amenities which directly benefit the tenancy and its employees, including economy hotels, neighborhood restaurants, and fueling stations; and

WHEREAS, the Planning Commission further finds that the proposed site is one of the most significant development sites in the Louisville Metro, and possesses unique characteristics unmatched by other alternatives such as access, existing paved parking lots, separation from residential properties; and It is located adjacent to the most

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traveled section of interstate highway in the Commonwealth of Kentucky with nearly 330,000 vehicles traveling past the site on a daily basis; and

WHEREAS, the Planning Commission further finds that the proposed development of this property is positioned in one of the nation's best performing areas for industrial development--the I-65 & South Louisville Airport sub-market in Louisville. From its standing as the hub of UPS' WorldPort, Louisville's Airport is the 7th busiest cargo airport in the world, between Dubai International Airport of the United Arab Emirates, and the Charles de Gaulle Airport outside Paris, France; and

WHEREAS, the Planning Commission further finds that the Property is exceptionally well-located off Interstate 65, and is in immediate proximity to the Louisville International Airport and UPS's WorldPort, and that the Louisville International Airport has stood as UPS's WorldPort, the state's largest employer with over 20,000 employees, for over 3 decades, and furthermore, UPS has demonstrated its commitment to Louisville and the surrounding area by investing over \$5 billion in UPS' operations infrastructure, and therefore this Property and the associated development plan, benefits from its' standing less than 2 miles from the Airport and less than 3 miles to Ford Motor Company's distribution plant (which houses more than 8,500 employees), and that the I-65 and Outer Loop location offers excellent operational benefits to Third Party Logistics providers and e-commerce retailers, and that the Property's location is easily accessible via the Outer Loop Exit off Interstate 65, and that the Property is in walking and/or short driving distance to other amenities which directly benefit the tenancy and its employees, including economy hotels, neighborhood restaurants, and fueling stations; and **WHEREAS**, the Planning Commission further finds that the proposal as implemented enables temporary parking to be "out of sight, and out of mind" from adjoining properties while preserving land for future development; and

WHEREAS, the Planning Commission further finds that the Applicant has researched other sites, and the proposed site will become a revenue generating property, focusing future efforts on real estate that makes a difference in peoples' lives; and the current plan affords a major employer and contributor towards the greater good of our City to park trailers and vehicles on a piece of under-utilized land, the greater benefit is for this property to begin contributing to the tax rolls for our City in many ways; and

WHEREAS, the Planning Commission further finds that the proposal complies with the Mobility and Transportation policies because the proposed use has chosen to locate on a site that will enable efficient and safe access and direct access to a major arterial, where nuisances and activities of the proposed use will not adversely affect adjacent areas; and because access to major roadways will be through adjacent PEC zoned property and not through residential neighborhoods; and because it has been demonstrated that the development will not cause adverse impacts to the traffic-carrying

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capacity of the existing roadway network; because on-site parking is sufficient to serve the proposed use and is set back and screened away from nearby existing residential areas; and because the access points are located as reviewed and preliminarily approved by the Louisville and Jefferson County Metro Department of Public Works and will not pose any safety hazards; and because the agreed connection of this site to the existing roadway provides for a safe and reliable ingress and egress for truck traffic at the request of the Louisville and Jefferson County Metro Department of Public Works to better ensure safe maneuvering of trucks; and

WHEREAS, the Planning Commission further finds that the proposal complies with Livability/Environment and Community Facilities policies because the site has no blue line steams or wetlands that will be impacted; because the proposed plan has been reviewed approved by the Metropolitan Sewer District ("MSD"); because preliminary drainage conceptual plans have been approved and future plans will meet or exceed MSD requirements as determined in the construction plan design process; because the detention and drainage facilities are already constructed in dedicated sanitary sewer and drainage easements and will ensure that peak storm water runoff will not exceed predevelopment conditions; and

WHEREAS, the Planning Commission further finds that the granting of General Landscape Waiver of Chapter 10 part 2 and a Variance from Section 5.3 of the Land Development Code is appropriate because the requested waiver and variance will not adversely affect adjacent property owners; because this property will preserve existing trees as much as possible, and because extensive landscaping and berming will be created; because the waiver and variance requested are the minimum necessary to allow the Property to accommodate the proposed use with zero degradation of the land and structures and to remain in compliance with other sections of the Land Development Code; and because where relief is sought from the LDC, the applicant has sufficiently attempted to comply with the LDC and has not attempted to circumvent the requirements; and **WHEREAS**, The Planning Commission finds that the proposal does not over tax existing infrastructure because the site is served by all necessary utilities including water and sewerage facilities; and

WHEREAS, the Planning Commission finds that the proposal has been reviewed and approved by the Okolona Fire Protection District; and

WHEREAS, the Planning Commission further finds that the proposal complies with all other applicable Guidelines and Policies of the Jefferson County Comprehensive Plan.

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RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council the change in form district from Neighborhood to Suburban Workplace on property described in the attached legal description be **APPROVED**.

The vote was as follows:

YES: Commissioners Brown, Howard, Mims, Peterson and Jarboe

NOT PRESENT AND NOT VOTING: Commissioners Daniels, Tomes, Carlson and Lewis

Zoning Change from R-4 to PEC

On a motion by Commissioner Brown, seconded by Commissioner Howard, the following resolution based on the Applicant's Findings and the testimony heard today was adopted.

WHEREAS, the Planning Commission finds that the proposal conforms with KRS 100.213 because it agrees with the Comprehensive Plan of Metro Louisville and Jefferson County, its goals, objectives, guidelines and policies (sometimes called "Plan 2040") as further detailed in these Findings; and

WHEREAS, the Planning Commission finds that the existing zoning classification, R-4, and Neighborhood Form District is inappropriate and the proposed zoning classification, PEC, and proposed Suburban Work Place Form District is appropriate as further detailed in these findings; and

WHEREAS, the Planning Commission finds that there have been major changes of an economic, physical or social nature within the area involved which were not anticipated in the adopted comprehensive plan and which have substantially altered the basic character of the area as further detailed in these findings; and

WHEREAS, the Planning Commission further finds that the Suburban Work Place Form Area is a more consistent and appropriate form area for this property because the Suburban Work Place Form District (SWFD) is designed to reserve land for industrial and employment uses in suburban locations with design standards intended to promote development and redevelopment that ensures adequate access for employees, freight, and products, to provide services and amenities for employees, and to improve transit service; because the Property is adjacent to and in between two parcels consisting of 199 acres of which 138 is zoned EZ1 and is in the Suburban Work Place Form District, and 61 acres is zoned PEC and is in the Suburban Work Place Form District; because

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adequate transportation access to, from, and throughout the proposal has been designed; because significant buffering from abutting uses is provided naturally and as shown on the proposal; and because the development is located at the intersection of an arterial (Outer Loop) and a collector (Minor Lane) near an expressway (I-65); and

WHEREAS, the Planning Commission further finds that the proposal complies with Community Form Goal 2 to Encourage sustainable growth and density around mixed-use centers and corridors, and Goal 3 to Enhance neighborhoods by protecting and integrating open space, watersheds and other natural resources because the proposed development use is compatible with nearby existing development and with the pattern of development within the adjacent Suburban Work Place Form District; because any adverse impact on adjacent residential uses, including traffic, parking, signs, and lighting, will be mitigated through the binding elements that have been proposed and agreed upon by the applicant; because appropriate transitioning from residential to non-residential uses will be provided through the use of natural vegetative buffers and landscaping, landscaped buffer yards, vegetative berms, compatible building design and materials, height restrictions and setbacks, which will also protect the character of residential areas, roadway corridors, and public spaces from visual intrusions; because the proposed development is designed to provide accessibility to people with disabilities; because the parking, loading and delivery areas are adequate for the proposed use and are designed to minimize any adverse impact on adjacent residential areas; because proposed signage will be compatible with the Suburban Work Place Form Area and will be integrated with or attached to structures wherever possible; and

WHEREAS, the Planning Commission further finds that the proposal complies with Economic Development goals and objectives and all applicable Policies thereunder because the development is appropriately located to meet the needs of this proposed workplace district and its employees, and because, as stated previously, this development is in close proximity to other existing facilities serving the Ford Motor Company Plant, United Parcel Service (UPS) and the Louisville International Airport and their collective employees; because the proposed development has chosen to locate on a site that will enable primary and secondary job creation in close proximity to existing social and economic infrastructures; because the proposed development adheres to the policies designed to promulgate the intentions of this Guideline; because the development will help keep dollars in the immediate community; because the development will have the ability to spread tax burden for public facilities maintenance and neighborhood programs; because the development will attract new investment dollars adjacent to major economic engines in Louisville, (Ford Plant, UPS, Louisville International Airport); because the development may provide management level and entry-level positions; because the development will offer flexible working hours; because the development will assist in preserving existing standards of living over time;

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because the development will provide new services and products not previously available in a timely manner to nearby industries; and

WHEREAS, the Planning Commission further finds that the proposed site is one of the most significant development sites in the Louisville Metro, and possesses unique characteristics unmatched by other alternatives such as access, existing paved parking lots, separation from residential properties; and It is located adjacent to the most traveled section of interstate highway in the Commonwealth of Kentucky with nearly 330,000 vehicles traveling past the site on a daily basis; and

WHEREAS, the Planning Commission further finds that the proposed development of this property is positioned in one of the nation's best performing areas for industrial development--the I-65 & South Louisville Airport sub-market in Louisville. From its standing as the hub of UPS' WorldPort, Louisville's Airport is the 7th busiest cargo airport in the world, between Dubai International Airport of the United Arab Emirates, and the Charles de Gaulle Airport outside Paris, France; and

WHEREAS, the Planning Commission further finds that the Property is exceptionally well-located off Interstate 65, and is in immediate proximity to the Louisville International Airport and UPS's WorldPort, and that the Louisville International Airport has stood as UPS's WorldPort, the state's largest employer with over 20,000 employees, for over 3 decades, and furthermore, UPS has demonstrated its commitment to Louisville and the surrounding area by investing over \$5 billion in UPS' operations infrastructure, and therefore this Property and the associated development plan, benefits from its' standing less than 2 miles from the Airport and less than 3 miles to Ford Motor Company's distribution plant (which houses more than 8,500 employees), and that the I-65 and Outer Loop location offers excellent operational benefits to Third Party Logistics providers and e-commerce retailers, and that the Property's location is easily accessible via the Outer Loop Exit off Interstate 65, and that the Property is in walking and/or short driving distance to other amenities which directly benefit the tenancy and its employees, including economy hotels, neighborhood restaurants, and fueling stations; and

WHEREAS, the Planning Commission further finds that the proposal as implemented enables temporary parking to be "out of sight, and out of mind" from adjoining properties while preserving land for future development; and

WHEREAS, the Planning Commission further finds that the Applicant has researched other sites, and the proposed site will become a revenue generating property, focusing future efforts on real estate that makes a difference in peoples' lives; and the current plan affords a major employer and contributor towards the greater good of our City to park trailers and vehicles on a piece of under-utilized land, the greater benefit is for this property to begin contributing to the tax rolls for our City in many ways; and

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WHEREAS, the Planning Commission further finds that the proposal complies with the Mobility and Transportation policies because the proposed use has chosen to locate on a site that will enable efficient and safe access and direct access to a major arterial, where nuisances and activities of the proposed use will not adversely affect adjacent areas; and because access to major roadways will be through adjacent PEC zoned property and not through residential neighborhoods; and because it has been demonstrated that the development will not cause adverse impacts to the traffic-carrying capacity of the existing roadway network; because on-site parking is sufficient to serve the proposed use and is set back and screened away from nearby existing residential areas; and because the access points are located as reviewed and preliminarily approved by the Louisville and Jefferson County Metro Department of Public Works and will not pose any safety hazards; and because the agreed connection of this site to the existing roadway provides for a safe and reliable ingress and egress for truck traffic at the request of the Louisville and Jefferson County Metro Department of Public Works to better ensure safe maneuvering of trucks; and

WHEREAS, the Planning Commission further finds that the proposal complies with Livability/Environment and Community Facilities policies because the site has no blue line steams or wetlands that will be impacted; because the proposed plan has been reviewed approved by the Metropolitan Sewer District ("MSD"); because preliminary drainage conceptual plans have been approved and future plans will meet or exceed MSD requirements as determined in the construction plan design process; because the detention and drainage facilities are already constructed in dedicated sanitary sewer and drainage easements and will ensure that peak storm water runoff will not exceed predevelopment conditions; and

WHEREAS, the Planning Commission further finds that the granting of General Landscape Waiver of Chapter 10 part 2 and a Variance from Section 5.3 of the Land Development Code is appropriate because the requested waiver and variance will not adversely affect adjacent property owners; because this property will preserve existing trees as much as possible, and because extensive landscaping and berming will be created; because the waiver and variance requested are the minimum necessary to allow the Property to accommodate the proposed use with zero degradation of the land and structures and to remain in compliance with other sections of the Land Development Code; and because where relief is sought from the LDC, the applicant has sufficiently attempted to comply with the LDC and has not attempted to circumvent the requirements; and

WHEREAS, the Planning Commission finds that the proposal does not over tax existing infrastructure because the site is served by all necessary utilities including water and sewerage facilities; and

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WHEREAS, the Planning Commission finds that the proposal has been reviewed and approved by the Okolona Fire Protection District; and

WHEREAS, the Planning Commission further finds that the proposal complies with all other applicable Guidelines and Policies of the Jefferson County Comprehensive Plan.

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

The vote was as follows:

YES: Commissioners Brown, Howard, Mims, Peterson and Jarboe

NOT PRESENT AND NOT VOTING: Commissioners Daniels, Tomes, Carlson and Lewis

1. Waiver from 10.2.4 to permit existing encroachments into the 35' LBA along the north property line (see exhibit) and not provide the planting and screening requirements

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

WHEREAS, the waiver will not adversely affect adjacent property owners as those uses are existing today and this proposed application does not increase the intensity for those areas; and

WHEREAS, the waiver will not violate specific guidelines and Plan 2040 as this is no real change in use associated with the rezoning and those areas will be used as they have been traditionally with the non-residential use; however, allowed in that previously residential zoned area; and

WHEREAS, the Louisville Metro Planning Commission finds, the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as they are performing no work or changes of use to those areas or the parking lots serving those areas; and

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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 because there is an existing use that will need to be accommodated.

2. Waiver from 10.2.10 to permit existing encroachments into the 15' VUA LBA along both Dupin Drive and Minor Lane and to not provide the required screening and plantings

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

WHEREAS, the waiver will not adversely affect adjacent property owners as those uses are existing today and this proposed application does not increase the intensity for those areas; and

WHEREAS, the waiver will not violate specific guidelines and Plan 2040 as this is no real change in use associated with the rezoning and those areas will be used as they have been traditionally with the non-residential use; however, allowed in that previously residential zoned area; and

WHEREAS, the Louisville Metro Planning Commission finds, the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as they are performing no work or changes of use to those areas or the parking lots serving those areas; 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 because there is an existing use that will need to be accommodated.

3. Waiver from 10.2.12 to allow the spacing between ILAs to be more than 20 spaces and to not provide ILAs

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

WHEREAS, the waiver will not adversely affect adjacent property owners as those uses are existing today and this proposed application does not increase the intensity for those areas; and

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WHEREAS, the waiver will not violate specific guidelines and Plan 2040 as this is no real change in use associated with the rezoning and those areas will be used as they have been traditionally with the non-residential use; however, allowed in that previously residential zoned area; and

WHEREAS, the Louisville Metro Planning Commission finds, the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as they are performing no work or changes of use to those areas or the parking lots serving those areas; 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 because there is an existing use that will need to be accommodated.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** Waiver #1 from 10.2.4 to permit existing encroachments into the 35 foot landscape buffer area along the north property line and the applicant will not be providing the screening or plantings required within the 35 foot LBA, landscape buffer area, Waiver #2 from 10.2.10 to permit existing encroachments into the 15 foot vehicular use area, VUA landscape buffer area, LBA along both Dupin Drive and Minor Lane and to not provide the required screening and plantings and Waiver #3 from 10.2.12 to allow the spacing between interior landscape areas, ILAs to be more than 20 spaces and to not provide ILAs.

The vote was as follows:

YES: Commissioners Brown, Howard, Mims, Peterson and Jarboe

NOT PRESENT AND NOT VOTING: Commissioners Daniels, Tomes, Carlson and Lewis

District Development Plan

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

WHEREAS, there do not appear to be any environmental constraints or historic resources 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

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the Kentucky Transportation Cabinet have approved the preliminary development plan. Pedestrians are not provided for as there are no sidewalks proposed along the roadways; and

WHEREAS, there are no open space requirements pertinent to the current proposal; and

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

WHEREAS, the Louisville Metro Planning Commission finds, the overall site design and land uses are compatible with the existing and future development of the area. Appropriate landscape buffering and screening is not being provided to screen adjacent properties and roadways. Trees are being planted in ILAs to help reduce the heat island effect of the property; and

WHEREAS, the Louisville Metro Planning Commission further finds the development plan does not conform to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code due to the lack of sidewalks and landscaping being provided on the site.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the District Development Plan **ON CONDITION** that the applicant include a fenced in area for the proposed semi-trailer parking area shown on the development plan and the elimination of the gate at the end of the Dupin Drive access, **SUBJECT** to the following Binding Elements:

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
3. Before any permit (including but not limited to building, parking lot, change of use, site disturbance) is requested:

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- a. The development plan must receive full construction approval from Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - c. A reciprocal access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be created between the adjoining property owner to the south and recorded. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; a copy of the recorded instrument shall be submitted to the Division of Planning and Design Services prior to obtaining a building permit.
4. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
 5. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
 6. The property owner shall provide a cross over access easement if the property to the north is ever developed for a nonresidential use. A copy of the signed easement agreement shall be provided to Planning Commission staff upon request.
 7. No idling of trucks shall take place within 200 feet of residences. No overnight idling of trucks shall be permitted on-site.
 8. No deliveries shall be permitted by any commercial use between 10:00 pm and 7:00 am

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9. A 2-5 foot berm shall be provided similar to what was described at the December 5, 2019 Planning Commission meeting.
10. The only permitted access for Ford Motor Company parking, and/or any future commercial/industrial use, of the property shall be from the property to the south, 5540 Minor Lane. Users of the current school and church shall continue to utilize the access points along Minor lane and Dupin Drive until they cease operations.
11. Applicant shall work with Staff to create a "No Truck Traffic" signage plan for Dupin Drive and Minor Lane from Preston and the Outer Loop back to the site, and place it into action prior to the church parking lots being used for vehicle parking and storage and before the remainder of the property may be used for any future commercial or industrial use.

The vote was as follows:

YES: Commissioners Brown, Howard, Mims, Peterson and Jarboe

NOT PRESENT AND NOT VOTING: Commissioners Daniels, Tomes, Carlson and Lewis

04:22:33 Go back and revisit the waiver request for adjustments and revisions.

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STANDING COMMITTEE REPORTS

Land Development and Transportation Committee

No report given.

Site Inspection Committee

No report given.

Planning Committee

No report given.

Development Review Committee

No report given.

Policy and Procedures Committee

No report given.

CHAIRPERSON/DIRECTOR'S REPORT

No report given.

ADJOURNMENT

The meeting adjourned at approximately 5:33 p.m.



Chair



Planning Director