

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO PLANNING COMMISSION
September 21, 2017**

A meeting of the Louisville Metro Planning Commission was held on Thursday, September 21, 2017 at 1:00 p.m. at the Old Jail Building, located at 514 West Liberty Street, Louisville, Kentucky.

Commission members present:

Vince Jarboe – Chair
Marilyn Lewis – Vice Chair
David Tomes
Rich Carlson
Jeff Brown
Emma Smith
Lula Howard
Ramona Lindsey
Rob Peterson

Commission members absent:

Laura Ferguson

Staff Members present:

Brian Davis, Planning & Design Manager
Laura Mattingly, AICP, Planner II
Jay Lockett, Planner I
John Carroll, Legal Counsel
James Carey, Legal Counsel
Chris Cestaro, Management Assistant (minutes)

The following matters were considered:

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Approval of Minutes

**Approval of the minutes of the September 7, 2017 Planning Commission
public hearing**

00:15:17 On a motion by Commissioner Howard, seconded by Commissioner Peterson, the following resolution was adopted:

RESOLVED, that the Planning Commission does hereby **APPROVE** the minutes for the September 7, 2017 Planning Commission public hearing.

The vote was as follows:

YES: Commissioners Brown, Howard, Smith, Carlson, Peterson, and Lindsey.

NO: No one

NOT PRESENT: Commissioner Ferguson.

ABSTAIN: Commissioners Tomes, Lewis, and Jarboe.

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Consent Agenda

17STREETS1023

Request: Street Name Change from Holiday Towers Boulevard to Airport Hotels Boulevard
Project Name: Holiday Towers Boulevard Name Change
Location: Holiday Towers Boulevard
Owner: Louisville Metro
Applicant: V Enterprises LLC
Representative: Mike Evans
Jurisdiction: Louisville Metro
Council District: 21 – Dan Johnson

Case Manager: Jay Luckett, Planner I

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.)

An audio/visual recording of the Planning Commission public 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.

Agency Testimony:

00:16:22 Jay Luckett presented the case, see recording for detailed presentation.) He explained that there had been a “last minute” request to change the street name to Airport Hotels Boulevard, NOT “Airport Park Boulevard”, as noted in the staff report.

00:17:38 Brian Davis, Planning & Design Manager, said the street name is close enough to what was included in the notice; also, the notification requirements have been met for this hearing. He added that this request is also going to Metro Council for their review, and this new name has been cleared by E-911 Addressing.

The following spoke in favor of the request:

Michael Evans, 6625 Colonial Avenue, Evansville, IN 47725 (signed in but did not speak)

Summary of testimony of those in favor of the request:

No testimony.

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Consent Agenda

17STREETS1023

The following spoke in opposition to the request:

No one spoke.

The following spoke neither for nor against:

No one spoke.

Rebuttal:

00:20:21 On a motion by Commissioner Howard, seconded by Commissioner Peterson, the following resolution was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that based on the staff report and the evidence and testimony presented today, that all of the applicable guidelines of Cornerstone 2020 and the Land Development Code are being met; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the requested street name change be **APPROVED**.

The vote was as follows:

YES: Commissioners Brown, Howard, Smith, Carlson, Peterson, Lindsey, Tomes, Lewis and Jarboe.

NO: No one

NOT PRESENT: Commissioner Ferguson.

ABSTAIN: No one.

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Public Hearing

Case No. 17PARK1004

Request:	Parking Waiver
Project Name:	3122 Dixie Highway
Location:	3122 Dixie Highway
Owner:	Ahmed Albakri
Applicant:	Bill Schroll – Schroll Land Surveying LLC
Representative:	Bill Schroll – Schroll Land Surveying LLC
Jurisdiction:	City of Shively
Council District:	3 – Mary Woolridge

Case Manager: **Ross Allen, Planner I (Case presented by
Brian Davis, Planning & Design Manager)**

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

An audio/visual recording of the Planning Commission public 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.

Agency Testimony:

00:21:19 Brian Davis presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.)

00:26:07 In response to a question from Commissioner Brown, Mr. Davis explained some of the differences between the Louisville Metro Land Development Code and Shively's version of the Code, as they relate to this request.

00:26:57 In response to a question from Commissioner Carlson, Mr. Davis explained that the parking waiver goes with the use, not the property. If a new business/use comes in at a later date, its parking requirements would be re-evaluated for that use.

The following spoke in favor of the request:

Bill Schroll, 5450 Southview Terrace, Louisville, KY 40214

Abdulrahman Hathnawi, 3122 Dixie Highway, Louisville, KY 40216

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Summary of testimony of those in favor of the request:

00:28:01 Bill Schroll, the applicant's representative, presented the applicant's case and said he was available to answer questions. He said that one of the entrances onto Dixie Highway is planned to be closed, which would give the property three more parking spaces.

00:29:04 Abdulrahman Hathnawi, the new business owner, discussed the requests (see recording for detailed presentation.) He said there is another residential property in the back, and added that about 60% of his customers are neighbors, within walking distance from the store.

The following spoke in opposition to the request:

No one spoke.

The following spoke neither for nor against:

No one spoke.

Deliberation:

00:31:20 Commissioners' deliberation

00:31:43 In response to some questions from Commissioner Smith, Mr. Hathnawi discussed what businesses are already existing, and which are planned for the future.

00:35:47 On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the Parking Waiver is in compliance with the Comprehensive Plan. Guideline 7 Policy 10 states that parking requirements should take into account the density and relative proximity of residences to businesses in the market area, the availability and use of alternative modes of transportation, and the character and pattern of the form district. Additional considerations including hours of operation and opportunities for shared parking may be factored on a site by site basis. On-site parking standards should reflect the availability of on-street and public parking. The subject site, a corner lot, is near two R-7 residential multi-family units located north and west off Ramser Ave. and Ralph Ave. The site is bounded by a vacant C-2/R-7 zoned parcel to the west and a C-2 zoned parcel to the north with Gillette Ave. being south and Dixie Highway to the west. The site is limited by an existing parking lot that contains 23 parking

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spaces and pre-dates the current requirements of the City of Shively, KY LDC. The proposed expansion (Case no. 17DEVPLAN1084) to the existing convenience store (adding a Laundromat and Grocery Store) require a minimum of 29 spaces, the applicant cannot utilize joint use parking agreements since a vacant parcel to the north and west with multi-family dwellings to the south. The applicant is limited by only a joint use parking agreement if the owner of the multi-family dwellings to the south (across Gillette Ave.) allows, it is unknown by staff at the time. The applicant states the intent is to provide services along the Traditional Workplace corridor to nearby residential areas that are within walking distance or are only accessible by transit routes, TARC Route 18; and

WHEREAS, the Commission further finds that the applicant made a good faith effort to provide as many parking spaces as possible on the site, on other property under the same ownership, or through joint use provisions because the site is a corner lot and is limited in the ability to have joint use parking with abutting properties and/or properties adjacent to the subject site since they are undeveloped and unpaved parcel/s. The applicant has made a good faith effort to provide as many parking spaces allowed on the subject site with the inclusion of the new additions and the parking requirements. As stated previously joint use parking provisions would require agreements with neighboring property owners which are only to the east across Dixie Highway and South across Gillette Ave. where a multi-family dwelling unit is present. The applicant is limited to providing new parking and would either be required to purchase land to the north (vacant parcel and unpaved) in order to provide additional parking to meet the minimum requirements of the Land Development Code. The parking design utilizes all available areas on-site for parking and required landscape areas. The owner does not own other properties nearby. However, the nearby properties are predominantly multi-family housing which will allow for customers to walk to the subject site; and

WHEREAS, the Commission further finds that the requested waiver is the smallest possible reduction of parking spaces that would accommodate the proposed use. The requirements found in Table 9.1.2 do not accurately depict the parking needs of the proposed use and the requested reduction will accommodate the parking demand to be generated by the proposed use because the existing convenience store would have customers temporarily while the proposed Laundromat and grocery store would have longer term parking required. It is unknown whether the proposed parking would be sufficient with the waiver reduction. The parking design takes full advantage of the available space to provide parking, there is not sufficient space for additional parking and is therefore the smallest possible reduction to accommodate the proposed use; and

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WHEREAS, the Commission further finds that adjacent or nearby properties will not be adversely affected because the adjoining lot is vacant so no unwanted parking from this location will take place. Nearby properties will benefit from the proximity to needed services within walking distance; and

WHEREAS, the Commission further finds that the requirements found in Table 9.1.2 do not accurately depict the parking needs of the proposed uses due to the overlap in required parking for the types of businesses. The requested reduction will accommodate the parking demands to be generated by the proposed uses. Each business hopes to take advantage of the existing patrons of the existing use by providing needed services for the people who already frequent the existing store as well as the people in nearby apartment buildings and therefore will be able to accommodate the parking demand generated by the proposed uses; and

WHEREAS, the Commission further finds that there is a surplus of on-street or public spaces in the area that can accommodate the generated parking demand. There is not a surplus of on-street parking however the site is on a main transit route and within walking distance to many multi-family dwellings; and

WHEREAS, the Louisville Metro Planning Commission finds that based on the staff report and the evidence and testimony presented today, that all of the applicable guidelines of Cornerstone 2020 and the Land Development Code are being met; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the City of Shively that the requested Parking Waiver from the LDC (Shively, KY) Section 9.1.16.A.3.b to reduce the required amount of parking spaces from 29 to 23 spaces (a ten percent reduction) be **APPROVED**.

The vote was as follows:

YES: Commissioners Brown, Howard, Smith, Carlson, Peterson, Tomes, Lindsey, Lewis, and Jarboe.

NO: No one

NOT PRESENT: Commissioner Ferguson.

ABSTAIN: No one

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Public Hearing

Case No. 17ZONE1014

Request: Detailed District Development Plan and Landscape Waiver for proposed trailer parking.
Project Name: Cardinal Transportation
Location: 13013 Dixie Highway
Owner: Cardinal Transportation
Applicant: Cardinal Transportation
Representative: Rocky Mehic
Jurisdiction: Louisville Metro
Council District: **14 – Cindi Fowler**

Case Manager: **Laura Mattingly, 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.)

An audio/visual recording of the Planning Commission public 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.

Agency Testimony:

00:36:34 Laura Mattingly presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.)

The following spoke in favor of the request:

Rocky Mehic, 13013 Dixie Highway, Louisville, KY 40272

Summary of testimony of those in favor of the request:

00:41:53 Rocky Mehic, the applicant, said he was available to answer questions.

00:42:14 In response to a question from Commissioner Carlson, Mr. Mehic explained why he could not provide the 15-foot buffer area. In response to a question from Commissioner Lindsey, Mr. Mehic said the existing fence will be replaced with new chain-link and he also discussed what will be planted in the buffer area. Ms. Mattingly described the landscaping that will be installed in the 5-foot area.

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00:44:37 In response to a question from Commissioner Lindsey, Mr. Mehic said the waived buffer area will be used for parking and vehicle maneuvering. He said his business will be parking empty trailers on the site.

The following spoke in opposition to the request:

No one spoke.

The following spoke neither for nor against:

No one spoke.

Deliberation:

00:45:37 Commissioners' deliberation

00:49:15 The Commissioners came out of deliberation to clarify with Mr. Mehic that no loaded trailers would be parked/stored on-site, only empty ones (per binding element #12). Mr. Mehic agreed.

Detailed District Development Plan and Waiver

00:51:42 On a motion by Commissioner Brown, seconded by Commissioner Peterson, the following resolution was adopted:

(Waiver) WHEREAS, the Louisville Metro Planning Commission finds that the waiver will not adversely affect adjacent property owners as the applicant is proposing 5' buffers with plantings as well as a 6' fence for screening; and

WHEREAS, the Commission further finds that the waiver will not violate specific guidelines of Cornerstone 2020. The waiver will not violate guideline 3, Compatibility, of Cornerstone 2020, which calls for the protection of roadway corridors and public areas from visual intrusions, for mitigation of parking areas so as not to negatively impact nearby residents and pedestrians, and for parking areas adjacent to streets to be screened and buffered. The waiver will not violate guideline 13, Landscape Character, which calls for the protection of roadways through standards for buffers, landscape treatment, lighting and signs. These guidelines are not violated as the applicant has provided adequate buffering along Dixie Highway and will provide a 5' buffer along both north and south property lines with new fencing and plantings. This buffer will protect the neighboring properties from visual intrusions and provide for adequate transitions between incompatible uses; and

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WHEREAS, the Commission further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as 15' buffers on each side would take away 30' of width on site and make truck maneuvering difficult. The applicant feels that 10' is a more reasonable amount that will not affect the use of the site; and

WHEREAS, the Commission further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land and would create an unnecessary hardship on the applicant as providing a total of 30' of landscape buffer area would greatly diminish the area on which the applicant could utilize for trailer parking and truck maneuvering; and

(DDDP) WHEREAS, the Commission further finds that LOJIC has not identified any natural resources on site. Any vegetation on site will remain. The site has been developed previously and is covered almost entirely with gravel. The applicant will only be adding paved surface on a portion of the site of required for employee parking; and

WHEREAS, the Commission further finds that provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community have been provided through the proposed improved vehicular access and right of way dedication. Transportation has given their preliminary approvals; and

WHEREAS, the Commission further finds that this development does not require open space, as it does not meet the threshold for open space or outdoor amenity requirements; and

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

WHEREAS, the Commission further finds that this use is proposed along a commercially zoned corridor that is comprised of a mix of commercial and residential uses and is not necessarily compatible with the existing uses in the area. Conversely, declining economic conditions of the area would indicate that future development will not be commercial in nature. The applicant has provided the required landscaping along Dixie Highway to improve site aesthetics from the roadway and 5' property perimeter buffers to aide with transition between incompatible uses; and

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WHEREAS, the Commission further finds that this development generally conforms to the Comprehensive Plan and Land Development Code due to the site's existing conditions and the proposed site improvements; and

WHEREAS, the Louisville Metro Planning Commission finds that based on the staff report and the evidence and testimony presented today, that all of the applicable guidelines of Cornerstone 2020 and the Land Development Code are being met; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the Revised Detailed District Development Plan and the requested Landscape Waiver of Section 10.2.4 to decrease the 15' property perimeter landscape buffer yard along the north and south property lines to 5', **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. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
4. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested:
 - a. The development plan must receive full construction approval from Develop Louisville, Louisville Metro Public Works and the Metropolitan Sewer District.

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- b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
 - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - d. A minor plat or legal instrument shall be recorded creating the lot lines as shown on the development plan. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of the approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
 - e. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
5. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
6. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system permitted on the site.
7. 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.
8. Right-of-way dedication shall be required, 65' from centerline of payment within 30 days of Metro Council approval for the re-zoning. Right-of way may be dedicated by a Deed of conveyance or minor plat.

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9. The gate to access the property shall be open from 6am to 6pm (or open and close of business) to eliminate any queue of Semi trucks on Dixie Hwy.
10. No idling of trucks shall take place within 200 feet of single-family residences. No overnight idling of trucks shall be permitted on-site.
11. Each individual trailer may not be stored on the property for longer than 7 consecutive days.
12. Use shall be limited to empty tractor trailer parking and storage as proposed at the August 3, 2017 Planning Commission meeting. Any change of use on the property shall require approval by Metro Council.

The vote was as follows:

YES: Commissioners Brown, Howard, Carlson, Peterson, Lindsey, Smith, Tomes, Lewis, and Jarboe.

NO: No one

NOT PRESENT: Commissioner Ferguson.

ABSTAIN: No one

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Public Hearing

Case No. 16ZONE1079

Request: ***This case will be Continued to the October 5, 2017 Planning Commission public hearing.**
Change in zoning from R-4 to C-2 and a Detailed District Development Plan with Landscape Waiver

Project Name: Jet Li Imports
Location: 4562 Poplar Level Road
Owner: Dong Li, YHR 888, LLC
Applicant: Dong Li, YHR 888, LLC
Representative: Miller Wihry, LLC
Jurisdiction: Louisville Metro
Council District: **21 – Dan Johnson**

Case Manager: **Laura Mattingly, 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.)

An audio/visual recording of the Planning Commission public 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.

Agency Testimony:

00:52:05 Laura Mattingly said this case is being continued because the applicant missed the required seven-day legal ad notice deadline.

00:52:45 On a motion by Commissioner Carlson, seconded by Commissioner Howard, the following resolution was adopted:

RESOLVED, the Louisville Metro Planning Commission does hereby **CONTINUE** this case to the **October 5, 2017** Planning Commission public hearing.

The vote was as follows:

YES: Commissioners Brown, Howard, Carlson, Peterson, Lindsey, Smith, Tomes, Lewis, and Jarboe.

NO: No one

NOT PRESENT: Commissioner Ferguson.

ABSTAIN: No one.

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Public Hearing

Case No. 17STREETS1008

Request: Street Name Change from Davenport Drive to Malone Place
Project Name: Davenport Drive
Location: North/South Davenport Drive from Glen Lakes Drive to its current terminus north of Vista Lake Court
Owner: Louisville Metro
Applicant: Jim Obert, IH of KY, Inc.
Representative: Kelli Jones – Sabak Wilson & Lingo, Inc.
Jurisdiction: Louisville Metro
Council District: 19 – Julie Denton

Case Manager: Laura Mattingly, 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.)

An audio/visual recording of the Planning Commission public 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.

Agency Testimony:

00:53:32 Laura Mattingly presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.)

The following spoke in favor of the request:

Kelli Jones, Sabak Wilson & Lingo, 608 South Third Street, Louisville, KY 40202

Jim Obert, 4901 Hunt Road Suite 300, Cincinnati, OH 45242

Summary of testimony of those in favor of the request:

01:00:16 Kelli Jones, the applicant's representative, said the applicant is fine with the requested street name.

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Case No. 17STREETS1008

The following spoke in opposition to the request:

No one spoke.

The following spoke neither for nor against:

No one spoke.

Deliberation:

01:01:30 Commissioners' deliberation

01:03:27 On a motion by Commissioner Brown, seconded by Commissioner Smith, the following resolution was adopted:

WHEREAS, the Commission further finds that, based on the staff report, the applicant's findings of fact, and the evidence and testimony presented today, that all of the applicable guidelines of Cornerstone 2020 and the Land Development Code are being met; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the requested street name change from Davenport Drive to Malone Place on property described in the staff report be **APPROVED**.

The vote was as follows:

YES: Commissioners Brown, Howard, Smith, Carlson, Peterson, Tomes, Lindsey, Lewis, and Jarboe.

NO: No one

NOT PRESENT: Commissioner Ferguson.

ABSTAIN: No one

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Case No. 17ZONE1020

Request: Change in zoning from R-4 to R-6, and a Detailed District Development Plan with Waivers and Variances
Project Name: Morat Avenue Apartments
Location: 1701 Alpha Avenue
Owner: Multiple
Applicant: Continental Properties Company, Inc.
Representative: William Bardenwerper – Bardenwerper, Talbott & Roberts PLLC
Jurisdiction: City of Lyndon
Council District: 18 – Marilyn Parker

Case Manager: Laura Mattingly, 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.)

An audio/visual recording of the Planning Commission public 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.

Agency Testimony:

01:04:50 Laura Mattingly presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.) She noted that this property is in the jurisdiction of the City of Lyndon, not Louisville Metro, and also noted the number of letters and petition signatures that she has received both for and against the proposal. She added that binding elements #9-14 have been added at the request of the applicant.

01:16:19 In response to a question from Commissioner Carlson, Ms. Mattingly said there are 60 dwelling units in the condominium development to the south.

The following spoke in favor of the request:

William Bardenwerper, Bardenwerper Talbott & Roberts PLLC, 1000 North Hurstbourne Parkway Second Floor, Louisville, KY 40223

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Case No. 17ZONE1020

Sara Johnson, Continental Properties, West 134 North 8675 Executive Parkway,
Menomonee Falls, WI 53051

David Mindel and Kent Gootee, Mindel Scott & Associates, 5151 Jefferson
Boulevard, Louisville, KY 40219

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

John A. Bartlett, 1603 Alpha Avenue, Louisville, KY 40223

Gary Allgeier, 709 Winding Oaks Tr., Louisville, KY 40223

Summary of testimony of those in favor of the request:

01:17:40 William Bardenwerper, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.)

01:27:39 Sara Johnson, representing Continental Properties, presented the applicant's case and proceeded with the Power Point presentation.

01:32:07 Kent Gootee, an applicant's representative, discussed landscaping and site layout.

01:37:41 Mr. Bardenwerper resumed the podium and finished the presentation.

01:41:28 Diane Zimmerman, an applicant's representative, reviewed the traffic impact study. She noted that the intersection of Morat Avenue and South Hurstbourne Lane is not signalized.

01:44:38 Mr. Bardenwerper discussed the traffic study, and specifically the traffic patterns on Dorsey Lane and the Morat Avenue area. He discussed a "no-left-turn" option, and also the "J-Turn" option proposed by the City of Lyndon engineer.

01:52:20 Mr. Bardenwerper reviewed binding element #2 which addresses turning lane/s. He also reviewed additional binding elements that he said the residents of Pinehurst had asked for.

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01:55:03 John Bartlett said the development will ameliorate traffic issues while providing quality housing. He said Hurstbourne Parkway is part of a very fast-growing area, and he feels that this project is “responsible development”.

02:04:57 Gary Allgeier spoke in support. He emphasized that he and his family had researched Continental Properties and has confidence in the quality of their development.

02:07:15 In response to a question from Commissioner Carlson, Mr. Bardenwerper discussed a fitness track that is behind the site on the Owl Creek property. Commissioner Carlson, Mr. Gootee and Mr. Bardenwerper discussed the access gates (access for fire and police vehicles). Mr. Gootee and Mr. Bardenwerper agreed to put into a binding element stating that the applicant will agree to comply with the access gate requirements per the applicable fire department/s (see recording for detailed conversation.)

02:12:33 In response to a question from Commissioner Carlson, Mr. Gootee confirmed that, if Morat Avenue is blocked, there would be no other way to access the front gate.

02:16:22 In response to a question from Commissioner Lewis, Mr. Gootee pointed out the location of the gates. Mr. Bardenwerper added that the reason there is no connection to the community of Pinehurst was because Pinehurst asked that there be no access.

02:17:46 Commissioner Brown asked Ms. Zimmerman about intersections, and about proposed separate right- and –left-turn lanes from Morat onto Hurstbourne Lane.

02:19:24 In response to a question from Commissioner Lindsey, Mr. Gootee explained about sidewalks on Morat Avenue.

02:20:21 In response to a question from Commissioner Peterson, Mr. Gootee said there are no pedestrian “breaks” in the masonry wall.

The following spoke neither for nor against:

Dennis K. Barnett, 10410 Mort Avenue, Louisville, KY 40223

Vicki Warren, 10513 Eagle Pines Lane, Louisville, KY 40223

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Summary of testimony of those neither for nor against:

02:20:56 Vicki Warren, speaking as President of the Board of Directors of Pinehurst Green Patio Homes, said the Board has negotiated “numerous concessions” from the applicant and will now “not oppose” the project.

02:23:14 Dennis Barnett said he has worked with Continental Properties and their representative, Sarah Johnson, for the past three months. He said he is satisfied with the concessions the company has made but did request that the masonry wall be extended to cover his property. Ms. Johnson explained her discussions with Mr. Barnett regarding the masonry wall. Mr. Bardenwerper said the applicant is willing to add a binding element to address Mr. Barnett's concerns.

02:29:03 Mr. Barnett and Ms. Johnson discussed sewer hookup agreements (see recording for detailed discussion.) Mr. Barnett said that, based on the applicant's concessions and willingness to work with residents, he withdraws his previous opposition to the project.

The following spoke in opposition to the request:

Steve Porter, 2406 Tucker Station Road, Louisville, KY 40290

Grant Hart, 10030 Hobbs Station Road, Louisville, KY 40223

Dr. Martin Monson, 1600 Grey Owl Court, Louisville, KY 40223

Patricia Horton, 10622 Eagle Pines Lane, Louisville, KY 40223

Karen Alimohammadi, 200 Whittington Parkway, Louisville, KY 40222

Connie Rasper, 10621 Eagle Pines Lane, Louisville, KY 40223

Summary of testimony of those in opposition:

02:31:40 Steve Porter, attorney for the Owl Creek Community Association, asked Mr. Bartlett if he was aware of a lien against a Continental property on Bunsen Way. Mr. Bartlett said he was not. Ms. Johnson explained about the mechanic's lien issue (see recording for detailed explanation.)

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02:35:36 In response to a question from Mr. Porter, Ms. Zimmerman discussed intersections that would go to an "F" rating if this project is built. She explained about the calculation of delay that were used to reach her conclusions.

02:39:08 Steve Porter presented the opposition's case (see recording for detailed presentation.) He described the lack of accesses to this and other nearby developments, in addition to the increased traffic, as safety hazards, particularly at the Morat Avenue and Hurstbourne intersection. He added that this development will have over 199 units, with only Morat Avenue as the only "true" access point into the development.

02:49:56 Grant Hart, representing the Owl Creek community, presented a petition against the development and entered this into the record. He said the proposal is "the wrong use for the property" and that Owl Creek's concerns about the traffic and safety have not been addressed or mitigated.

02:53:40 Mr. Hart showed a video of traffic in the area.

03:06:21 Dr. Martin Monson spoke in opposition. He said the proposal does not fit the area, because of the proposed dwelling unit intensity and also because these are rental units surrounded on all four sides by single-family residential. He also questioned the need or want for such a development. He was particularly concerned about safety, and the lack of egress (only one primary entrance for a development with more than 199 units.) He discussed the already-heavy traffic.

03:18:28 Dr. Monson asked Mr. Gootee about removing a sidewalk if a right-turn lane is built into Morat. Commissioner Jarboe addressed that and said that sidewalk is going to remain on Hurstbourne. Dr. Monson also asked if the proposed dog park could go somewhere else. Its current proposed location is right behind his house and would impact his work.

03:20:28 Patricia Horton said she believed that "people are going to get killed on Hurstbourne Lane" trying to get in and out of this development. She said the problem is a dramatic increase in the number of cars, plus a dangerous non-signalized intersection.

03:25:35 Karen Alimohammadi said she was engaged by the opposition (Owl Creek) to review the traffic impact study. She discussed the time required for cars turning out of Morat Avenue; and also that the proposed median improvement was inadequate for the number of cars that will be using it. She said the U-Turn idea is unsafe and a burden on drivers.

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03:29:16 Connie Rasper said her primary concern is traffic safety.

03:34:29 Steve Porter resumed the podium for closing remarks. He said the videos that were shown were taken in the morning, and that afternoon traffic was the worst time.

03:37:16 In reponse to a question from Commissioner Carlson, Ms. Alimohammadi discussed how many more miles or minutes a right-turn-only exit would add to a trip, if the driver wanted to go left? Ms. Alimohammadi also discussed the "J-turn" and the U-turn options.

03:29:26 Grant Hart said that, during the recording of his video, he did time how long it took to turn left from Morat. He described the route he took to make a left turn and said it took about five minutes.

***NOTE: The meeting went into recess for about five minutes.**

Rebuttal:

03:40:27 Mr. Bardenwerper presented the applicant's rebuttal (see recording for detailed presentation.)

03:57:28 In response to a question from Commissioner Carlson, Mr. Bardenwerper addressed wording for proposed binding elements regarding gated access.

03:58:46 In response to a question from Commissioner Brown, Mr. Bardenwerper addressed market research to determine demand for this type of development. Ms. Johnson discussed market research done by the applicant (Continental).

04:00:53 Commissioner Peterson asked about turning left at an unlighted intersection.

04:05:01 Ms. Horton asked Mr. Bardenwerper what has transpired in the last 24 hours to make the Pinehurst board go neutral. Mr. Bardenwerper briefly discussed the negotiations between the applicant and the Pinehurst board.

04:09:26 Mr. Munson asked about density, and also asked if the proposed dog park could be moved away from his property. Mr. Bardenwerper said the applicant would agree to a binding element moving the dog park away from Mr. Munson's property. The exact location was discussed.

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04:14:00 In response to a question from Commissioner Lindsey, Mr. Bardenwerper said the number of units would be reduced from 244 to 236 and this would be put into a binding element. He said the plan would be revised accordingly.

Deliberation:

04:14:00 Commissioners' deliberation

Zoning

04:35:06 On a motion by Commissioner Brown, seconded by Commissioner Howard, the following resolution was adopted:

GUIDELINE- 1 COMMUNITY FORM

WHEREAS, the applicant, Continental Properties, ("Continental"), proposes an apartment community consisting of 1, 2 and 3 bedroom buildings with a total of 244 units on 14.27 +/- acres along Morat and Alpha Avenues, about 200 feet off N. Hurstbourne Parkway across from another apartment community accessed off Morat Avenue and Dorsey Lane; and

WHEREAS, the subject property includes 11 lots, several of which are customary small single family home size, although the structures are not new or notable; the largest portion of the property was long a sod farm, so the entire site is easily/affordably developable; it lies within the Neighborhood Form District and is located just north of a multi-family zoned condominium patio home community and a few remaining single family residences with access on Alpha and Morat Avenues; the subject property is located a very short distance from several large office parks, notably Hurstbourne Green, Forest Green and Shelbyhurst, thereby making it attractive to people who want to live close to work, as it provides opportunities for this anticipated community of residents to gain quick and easy access to a place they are already largely traveling to and from, which is one the Metro area's largest office workplaces; and with opportunities for shopping and dining along Hurstbourne Parkway and Shelbyville and Westport Roads, this is among the recent excellent locations proposed for a new, attractive apartment housing choice for residents who desire to live within short commutes; and

WHEREAS, the applicant's apartment community contains 11 apartment buildings, some with internal and some with detached garages; there is also surface parking; and

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WHEREAS, gross density will be high density range, but that is appropriate along an arterial highway and actually called for in the Hurstbourne Corridor Study, which is the foundational document for just about everything developed along or in the vicinity of Hurstbourne Parkway; it is near other major arterials (Shelbyville and Westport Roads) and within a short drive to major employment centers; buildings will be constructed of attractive durable building materials (brick and "hardy plank" lap siding) and will feature high-end architectural details, as shown in the PowerPoint presentation shown at the public hearing; and

WHEREAS, perimeter setbacks and landscape buffer areas are provided along all property lines as required by the Land Development Code (LDC), which will screen and buffer resident activities along the east and partial south property lines with an attractive opaque wall (also as shown in the PowerPoint presentation accompanying this application) and new tree plantings both inside and outside that wall and the proposed black brushed aluminum security fencing along other portions of the perimeter of the property, the north side being the railroad track; and

GUIDELINE - 2 CENTERS

WHEREAS, the proposed apartment community conforms with the overall Intents of and specifically with applicable Policies 1, 4, 5, 7, 11, 12, 13, 14 and 15 of Guideline 2 of the for all the reasons listed above and because it will make efficient use of easily developable, available property that lies within the Neighborhood Form District and is located, as said, just off a major arterial near major workplaces and significant shopping opportunities; Hurstbourne Parkway carries significant volumes of commuters to and from home and work in the above-mentioned significant workplace/retail served area; being located where it is, residents seeking new housing options will have easy access to the referenced workplaces, plus the commercial centers as referenced nearby; and internal open space focal points, such as clubhouse and pool, are included on the detailed district development plan (DDDP) accompanying this application; and

GUIDELINE - 3 COMPATIBILITY

WHEREAS, the proposed apartment community conforms with the overall Intents of and specifically with applicable Policies 1, 2, 3, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 21, 22, 23, and 28 of Guideline 3 for all the reasons described above and because this proposed apartment community is in a density range and design comparable to others located along arterial roads

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(such as Hurstbourne Parkway) and within close proximity to major workplaces (such as Hurstbourne Green, Forest Green and Shelbyhurst) located nearby; buildings will be 2 stories in height (except for the 1-story clubhouse) and constructed with attractive building materials comparable to residential communities in the area, as shown on the elevations in the PowerPoint accompanying this application; perimeter landscaping, screening and buffering will be provided and/or retained along all property lines, as described above, which include attractive black brushed aluminum security fencing along some of the perimeter and attractive, nicely landscaped opaque wall adjoining the Owl Creek Community Association outdoor recreation area and the Pinehurst Green condominium community, whose owners requested this type screening; and buildings are situated and located interior to the site, mostly surrounded by parking, detached garages, detention, and roads and railroad track within the referenced fencing, so as not to disrupt lower intensity adjoiners; and

WHEREAS, sidewalks are provided where required or desired, and accommodations are made for pedestrian and bicycle transportation as well as the handicapped and elderly; odors won't exist as in commercial and industrial developments, and air quality concerns related to traffic congestion or delay will be greatly mitigated by the fact that this is a residential apartment community purposely located where it is so as to reduce commuting distances; refuse will be picked up on a regular basis; lighting will be residential in character and directed down and away from adjoining properties in conformance with LDC regulations; and all signage will be in conformance with LDC regulations; and

GUIDELINES - 4 and 5 OPEN SPACE / NATURAL AREAS AND SCENIC AND HISTORIC RESOURCES

WHEREAS, the proposed apartment community conforms with the overall Intents of and specifically with applicable Policies 1, 3, 5, 6 & 7 of Guideline 4 and with the Intents of Guideline 5 for all the reasons described above and because it will feature open space interspersed among the buildings, parking areas and streets; that open space will be available for both passive and active recreational enjoyment by residents and will include a pool, clubhouse and small seating and other gathering areas throughout for an overall positive appearance and living experience for the community; landscaping will also be provided and/or trees retained along property perimeters, along street frontages and around buildings; setbacks and buffers along property lines will ensure good transitions between the proposed apartment community and other adjoining and nearby existing land uses; maintenance of landscaping, natural and open space areas will be performed

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by the corporate landlord of this rental community; this maintenance arrangement will result in a higher and more consistent level of maintenance of the open spaces than if the property were developed as a single-family subdivision; and no known natural or historic resources will be disturbed; and

GUIDELINE- 6 MARKETPLACE

WHEREAS, the proposed apartment community conforms with the overall Intents of and specifically with applicable Policies 1, 2, 4 and 6 of Guideline 6 because, as noted above, residents will largely be those who, because of this proposed apartment community, will be able to reside near work and thus strengthen the live-work relationship which is important to the continuing ability of the larger metro area to function; it will also support and be supported by the businesses, services, schools and churches in and around the already established nearly built-out activity center around the Hurstbourne Green, Forest Green and Shelbhurst; and this proposal also reduces public costs for land development by utilizing and improving the capacity of the Hurstbourne Parkway arterial and Morat/Alpha Avenue Lyndon city streets that already exist along this property's frontages, with easy connections to existing infrastructure for water, sewer, electric and phone services; and

GUIDELINES -7 (CIRCULATION), 8 (TRANSPORTATION FACILITY DESIGN), and 9 (BICYCLE, PEDESTRIAN AND TRANSIT)

WHEREAS, the proposed apartment community conforms with the overall Intents and applicable Policies 1, 2, 3, 4, 6, 9, 10, 11, 13, 14, 17, and 18 of Guidelines 7; Policies 3, 4, 5, 6, 9, 10, and 11 of Guideline 8 and Policies 1, 2, 3, and 4 of Guideline 9 because the proposed DDDP has been designed in conformance with all Metro Public Works and Transportation Planning design standards; good internal circulation, appropriate dual access to Morat and Alpha Avenues, comer clearances and parking are provided; access to Hurstbourne Parkway is easy enough in terms of right turns-in and right turns-out, and even left turns-in are not problematic; left turns-out do present a current challenge; however, plans and binding elements are included in the PowerPoint presentation accompanying this application to address that, either by cutting back the Hurstbourne Parkway median to provide more left-tum out stacking while navigating this tum or by constructing a no left tum traffic control device funded by the applicant; also the Diane Zimmerman-prepared Traffic Impact Study (TIS) further evidences the fact that this apartment community of this size and traffic generation/distribution at this location will technically work; and the DDDP and TIS accompanying this application received Metro

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Transportation Planning's preliminary approval prior to office public review; and sidewalks are provided where required; and

GUIDELINES -10,11 and 12- FLOODING AND STORMWATER, WATER QUALITY and AIR QUALITY

WHEREAS, the proposed apartment community conforms with the overall Intents and applicable Policies of Guidelines 10, 11 and 12 because, all drainage will run to internal catch basins and then to sufficiently sized detention basin, and from there to existing drainage channels and pipes; in these ways the DDDP complies with all MSD storm water management requirements as respects no increase in peak rates of run-off post verse pre-development; this DDDP must, of course, received the preliminary stamped of approval by MSD prior to docketing for public review; Louisville Water Company will provide water to the site; a soil erosion and sediment control plan will also be implemented to control sediment and erosion drainage during construction; MSD water quality regulatory requirements will also be addressed at construction stage; and air quality, perhaps most importantly of all, is addressed by virtue of the referenced shorter commuting distances explained hereinabove; and

GUIDELINE 13- LANDSCAPE CHARACTER

WHEREAS, the proposed apartment community conforms with the overall Intents and applicable Policies of Guideline 13 for all the reasons described above as respects the black brushed aluminum security fence and attractive, landscaped opaque wall, and because landscaping will be provided and/or trees retained around buildings, and property perimeter; open space is provided as described hereinabove and shown on the DDDP for a positive natural appearance and for passive recreational enjoyment by residents; and the tree canopy requirements are met; and

GUIDELINE 14- INFRASTRUCTURE

WHEREAS, the proposed apartment community conforms with the overall Intents and applicable Policies of Guideline 14 because, as noted above, water, sewer, electric, phone and cable service connections are available by nearby connection to ensure a reduced cost for infrastructure; and

WHEREAS, the Commission further finds that, based on the staff report, the applicant's findings of fact, and the evidence and testimony presented today, that all of the applicable guidelines of Cornerstone 2020 and the Land Development Code are being met; now, therefore be it

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RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the City of Lyndon that the proposed change in zoning from Change in zoning from R-4 to R-6 be **APPROVED**.

The vote was as follows:

YES: Commissioners Howard, Brown, Smith, Tomes, Lindsey, Lewis, and Jarboe.

NO: Commissioners Carlson and Peterson.

NOT PRESENT: Commissioner Ferguson.

ABSTAIN: No one

Sidewalk Waiver, VUA Encroachment, and Variance

04:36:15 On a motion by Commissioner Brown, seconded by Commissioner Howard, the following resolution was adopted:

(Sidewalk Waiver) WHEREAS, the Louisville Metro Planning Commission finds that the waiver not will adversely affect adjacent property owners as these streets do not connect to the east or north. A sidewalk is being provided from the entrance of the apartment complex along Alpha Ave and Morat to N. Hurstbourne Pkwy, in order to provide pedestrian access to the nearest transit stop; and

WHEREAS, the Commission further finds that the waiver will not violate specific guidelines of Cornerstone 2020. Guideline 2, Policy 16 encourages encourage activity centers to be easily accessible by bicycle, car, transit, and for pedestrians and people with disabilities. Large activity centers should be considered for designation as transit nodes. Guideline 7, Policy 1 states that developments should be evaluated for their impact on the street and roadway system and to ensure that those who propose new developments bear or reasonably share in the costs of the public facilities and services made necessary by development. Guideline 7, Policy 3 provides that development should be evaluated for their ability to promote mass transit and pedestrian use. Encourage higher density mixed use developments that reduce the need for multiple automobile trips as a means of achieving air quality standards and providing transportation choices. Guideline 7, Policy 4 encourages provisions for transportation services and facilities to promote and accommodate growth and change in activity centers rather than in a linear pattern. Provide walking and bicycling opportunities to enable activity centers to minimize single-occupant vehicle travel. Encourage a

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mix of complementary neighborhood serving businesses and services in neighborhood and village centers to encourage short trips easily made by walking or bicycling. Guideline 9, Policy 1 states that new development should provide for the movement of pedestrians, bicyclists and transit users with sidewalks along the streets of all developments where appropriate. These guidelines are not violated, as the applicant is mitigating for not providing sidewalks along Morat Ave and Alpha Ave north of the development's entrance by providing sidewalks from the entrance of the development to N. Hurstbourne which will give better access to transit for the occupants of the apartments; and

WHEREAS, the Commission further finds that the extent of waiver of the regulation is the minimum necessary to afford relief to the applicant as sidewalks along both Alpha Ave heading north and Morat Ave heading east would lead to dead ends and more appropriate sidewalks are being provided; and

WHEREAS, the Commission further finds that the applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived as they are providing sidewalks along Alpha and Morat that are not required that lead to a connection with the existing sidewalk along N. Hurstbourne; and

(VUA encroachment waiver) WHEREAS, the Commission further finds that the waiver will not adversely affect adjacent property owners as the requested encroachments are along only a small portion of the parkway and are set at a lower elevation than the parkway itself; and

WHEREAS, the Commission further finds that the waiver will not violate specific guidelines of Cornerstone 2020. Guideline 3, Policy 9 of Cornerstone 2020 calls for the protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigate when appropriate. Guideline 3, Policies 21 and 22 calls for appropriate transitions between uses that are substantially different in scale and intensity or density, and to mitigate the impact caused when incompatible developments occur adjacent to one another through the use of landscaped buffer yards, vegetative berms and setback requirements to address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances. Guideline 3, Policy 24 states that parking, loading and delivery areas located adjacent to residential areas should be designed to minimize the impacts from noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered. Guideline 13, Policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized,

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suburban, and rural areas. Guideline 13, Policy 7 calls for protection of the character of parkways and scenic byways and corridors through standards for buffers, landscape treatment, lighting and signs. The intent of parkway development standards is to protect existing scenic and aesthetic qualities, to ensure a quality visual experience on developing corridors and to protect and improve the visual experience on established corridors. These guidelines are not violated, as there is existing vegetation that will remain and provide a visual buffer within this small frontage along the parkway; and

WHEREAS, the Commission further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the shared frontage with N. Hurstbourne Pkwy is minimal in relation to the size of the project; and

WHEREAS, the Commission further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land and would create an unnecessary hardship on the applicant as the site plan would have to be significantly changed and parking decreased in order to accommodate the buffer area; and

(Variance for fence height) WHEREAS, the requested variance will not adversely affect public health safety or welfare as the fence will not block any vehicular visibility from the public right of way, most notably at the corner of Morat Ave and Alpha Avenue; and

WHEREAS, the Commission further finds that the requested variance will not alter the essential character of the general vicinity as the additional height was requested by the neighboring community on Morat Avenue with the intention of aiding in the transition between multi-family and single family homes and condominiums; and

WHEREAS, the Commission further finds that the requested variance will not cause a hazard or nuisance to the public as no part of the fencing will obstruct visibility of drivers from the public right of way; and

WHEREAS, the Commission further finds that the requested variance will not allow an unreasonable circumvention of zoning regulations as the additional height is meant to address security and aesthetic concerns from the neighboring community; and

WHEREAS, the Commission further finds that the requested variance arises from special circumstances which do not generally apply to land in the general

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vicinity or the same zone as the additional height is being requested as a compromise between the developer and the neighboring communities; and

WHEREAS, the Commission further finds that The strict application of the provisions of the regulation would deprive the applicant of reasonable use of the land as they applicant would not be able to provide the security and aesthetic value that has been requested of them by neighboring citizens; and

WHEREAS, the Commission further finds that the circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought; and

WHEREAS, the Commission further finds that, based on the staff report, the applicant's findings of fact, and the evidence and testimony presented today, that all of the applicable guidelines of Cornerstone 2020 and the Land Development Code are being met; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Sidewalk waiver of Section 5.8.1.B to not provide sidewalks along portions of Hurstbourne Parkway, Morat Ave and Alpha Ave; the requested Waiver of 10.3.5 to allow VUA encroachment into parkway setback and buffer; and the requested Variance from 4.4.3 to allow fence to exceed maximum height of 4' by 2'.

The vote was as follows:

YES: Commissioners Howard, Peterson, Brown, Smith, Tomes, Lindsey, Lewis, and Jarboe.

NO: Commissioner Carlson.

NOT PRESENT: Commissioner Ferguson.

ABSTAIN: No one

04:40:32 Before a vote was taken on the Detailed District Development Plan and Binding Elements, Ms. Mattingly read the binding elements into the record.

Detailed District Development Plan and Binding Elements

04:48:02 On a motion by Commissioner Brown, seconded by Commissioner Howard, the following resolution was adopted:

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WHEREAS, the Louisville Metro Planning Commission finds that karst and hydric soils were found on site. The applicant has taken all required steps, performed a Karst survey, and will complete a Wetlands Delineation prior to construction approval. Tree canopy requirements of the Land Development Code will be provided on the subject site; and

WHEREAS, the Commission further finds that provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community has been provided, and Metro Public Works has approved the preliminary development plan. The applicant has also proposed improvements to N. Hurstbourne Parkway at Morat Avenue to aid in safety at this intersection; and

WHEREAS, the Commission further finds that the proposal exceeds the open space requirement and includes a dog park and community center; and

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

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

WHEREAS, the Commission further finds that, based on the staff report, the applicant's findings of fact, and the evidence and testimony presented today, that all of the applicable guidelines of Cornerstone 2020 and the Land Development Code are being met; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Detailed District Development Plan and Binding Elements, **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

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Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.

2. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
3. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
4. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested:
 - a. The development plan must receive full construction approval from Develop Louisville, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
 - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - d. A minor plat or legal instrument shall be recorded consolidating the property into one lot. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of the approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
 - e. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
5. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.

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6. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system permitted on the site.
7. 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.
8. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the September 21, 2017 Planning Commission meeting.
9. The freestanding and any attached apartment community identification signage shall not be back-lit but rather shall be lighted only by exterior down-lit fixtures.
10. The Owner/Developer shall fund and/or construct at its expense a restricted left-out traffic control device from Morat Avenue onto Hurstbourne Parkway, as shown on the drawing produced at the 9/21/17 Public Hearing, to the extent that public officials and the Pinehurst Green Board agree prior to issuance of the last certificate of occupancy for an apartment building that the Owner/Developer shall fund and/or construct that traffic control device. To the extent that, by that date, a decision is not made, or no decision is made, for the Owner/Developer to fund and/or construct the no-left turn device, the Owner/Developer shall be released from any continuing obligation to fund and/or construct such device.
11. A 6 foot high masonry screening wall as shown on the imagery produced at the 9/21/17 public hearing, with enhanced shrubbery and both deciduous and evergreen landscaping along the exterior, shall be installed near the eastern and the southern property lines of the subject property, as drawn on the detailed district development plan, to a point near the intersection of Morat and Alpha Avenues, Said wall at that location shall be of sufficient height to shield headlights in the parking lot near the corner of Alpha and Morat Avenues. The final portion of this screen wall may be shorter than 6 feet tall and shall not interfere with sight lines at the corner.

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12. The Owner/Developer shall work with KTC to reinstall the “hidden driveway” signage where presently missing.
13. Parking lot lighting shall be fully-shielded lights with no light spillover onto adjoining properties.
14. Construction traffic shall be limited to Alpha Ave and that portion of Morat Avenue between Alpha Ave and N. Hurstbourne Pkwy.
15. Owner/Developer will coordinate with the appropriate emergency response agencies to ensure design and operation of gated entrances complies with emergency access gate requirements.
16. The dog park located along the eastern property line will be relocated on the development plan to the northeast corner prior to final plan transmittal.

The vote was as follows:

YES: Commissioners Brown, Howard, Smith, Peterson, Tomes, Lindsey, Lewis, and Jarboe.

NO: Commissioner Carlson.

NOT PRESENT: Commissioner Ferguson.

ABSTAIN: No one

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STANDING COMMITTEE REPORTS

Land Development and Transportation Committee

No report given.

Legal Review Committee

No report given.

Planning Committee

No report given.

Policy and Procedures Committee

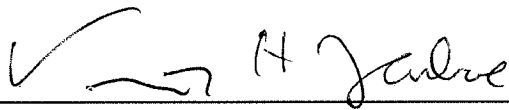
No report given

Site Inspection Committee

No report given.

ADJOURNMENT

The meeting adjourned at approximately 6:00 p.m.



Chairman



Division Director

