

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO PLANNING COMMISSION
September 15, 2016**

A meeting of the Louisville Metro Planning Commission was held on September 15, 2016 at 1:00 p.m. at the Old Jail Building, located at 514 W. Liberty Street, Louisville, Kentucky.

Commission members present:

Vince Jarboe, Chairman
Marilyn Lewis, Vice Chair
Jeff Brown
Clifford Turner
Rob Peterson
Lula Howard
Emma Smith
Robert Kirchdorfer
Rich Carlson
David Tomes – Arrived at approximately 1:46 p.m.

Staff Members present:

Emily Liu, Director, Planning and Design Services
Joe Reverman, Assistant Director, Planning and Design Services
Brian Mabry, Planning Supervisor
Julia Williams, Planning Supervisor
Tony Kelly, MSD
Tammy Markert, Transportation Planning Coordinator
John Carroll, Legal Counsel
Jon Baker, Legal Counsel
Pamela M. Brashear, Management Assistant

The following matters were considered:

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APPROVAL OF MINUTES

SEPTEMBER 1, 2016 PLANNING COMMISSION REGULAR MEETING MINUTES

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

RESOLVED, that the Planning Commission does hereby **APPROVE** the minutes of its meeting conducted on September 1, 2016.

The vote was as follows:

YES: Commissioners Brown, Howard, Jarboe, Kirchdorfer, Lewis, Peterson, Smith and Turner

NOT PRESENT FOR THIS CASE: Commissioner Tomes

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BUSINESS SESSION

Appointment of New Planning Commissioner

Discussion:

00:05:53 Ms. Liu stated Donnie Blake has retired and the Planning Commission needs to appoint a new commissioner.

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

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPOINT** Richard Carlson as a member of the Planning Commission.

The vote was as follows:

YES: Commissioners Brown, Howard, Jarboe, Kirchdorfer, Lewis, Peterson, Smith and Turner

NOT PRESENT FOR THIS CASE: Commissioner Tomes

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BUSINESS SESSION

Election of New Vice Chair

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

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPOINT** Marilyn Lewis as the Vice Chair of the Planning Commission.

The vote was as follows:

YES: Commissioners Brown, Howard, Jarboe, Kirchdorfer, Peterson, Smith and Turner

NOT PRESENT AND NOT VOTING: Commissioner Tomes

ABSTAINING: Commissioners Carlson and Lewis

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PUBLIC HEARING

CASE NO. 15ZONE1036

Request: Set a night hearing date for 15ZONE1036
Project Name: Bardstown Pavilion
Location: 9505-9517, 9601, 9608-9610, 9700 and 9703 Bartley Drive
7500, 7600 and 7602 Bardstown Road and 7512 Cedar
Creek Road
Owner: Chester Dwight, Sheil Logsdon, Stephen and Betsy Clark,
Dwight and Jane Stewart, Madge and Etal Chalmers, Mark
Minton, Nancy Richardson, WM and Marietta Harkness,
Gary and Susanne Jenkins Revocable Trust, Susanne
Jenkins Revocable Trust, Craig Jack and Patricia Whitney
Applicant: Devonshire/Reit
Representative: Land Design and Development; Bardenwerper, Talbott and
Roberts, PLLC
Jurisdiction: Louisville Metro
Council District: 22-Robin Engel
Staff Case Manager: **Julia Williams, RLA, AICP, Planning Supervisor**

Agency Testimony:

00:11:02 Mrs. Williams stated that a petition was submitted for a night hearing and a request that it be held at Bates Elementary School. The Bates representative said the school is available November 9, 2016.

Mrs. Williams said she has secured the Central Government Center for either November 2 or 9, 2016.

00:11:50 Mrs. Williams remarked, "We received the petition on the 31st with most signatures and 280 of those signatures were valid. The next day we received an additional 40. Staff has been debating about whether or not it's 15 days prior to or if it counts the day of the hearing. Staff felt that overall they had enough signatures for a night hearing in the district and would ask that you consider a night hearing in the district. If you don't feel that's appropriate, they do have enough signatures for a night hearing downtown. Staff's recommendation is that you hold a night hearing at the Central Government Center on either November 2 or 9, 2016."

The following spoke in favor of this request:

Bardenwerper, Talbott and Roberts, PLLC, 1000 North Hurstbourne Parkway, 2nd floor, Louisville, Ky. 40223

The following spoke in favor of this request:

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00:13:41 Mr. Bardenwerper stated it's best to abide by the rules and have a night hearing in the district.

The following spoke in opposition to this request:

Michael Tigue, P.O. Box 729, LaGrange, Ky. 40031
Mike Brown, 3810 Springhurst Boulevard, Louisville, Ky. 40241

Summary of testimony of those in opposition:

00:15:30 Mr. Tigue said it's very important to his clients that the meeting be held at the school in the district. There was a discrepancy as to the number of valid signatures at the time the petition was turned in, but there's no evidence of this accusation.

00:21:45 Mr. Brown said he spoke with the principal of the school and confirmed they would be happy to host the meeting at Bates Elementary on November 9, 2016.

Deliberation

00:22:10 The commissioners would like the school checked out to make sure there's adequate security, seating, PA system and parking. Mrs. Williams will visit the school and take pictures, make sure the school is a suitable location and report the findings at the September 29, 2016 Planning Commission meeting.

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

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

RESOLVED, that the Louisville Metro Planning Commission does hereby **SCHEDULE** Case No. 15ZONE1036 for a public hearing on November 9, 2016 at 6:00 p.m., location to be determined.

The vote was as follows:

YES: Commissioners Brown, Carlson, Howard, Jarboe, Kirchdorfer, Lewis, Peterson, Smith and Turner

NOT PRESENT AND NOT VOTING: Commissioner Tomes

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PUBLIC HEARING

CASE NO. 15ZONE1039

Case No: 15zone1039
Request: R-4 to OR and C-1
Project Name: Osa Medical Office Park
Location: 4524-4528 Cane Run Road

Owner: Nustreams LLC
Osa Omoruyi
4200 Gardinerview Avenue, Suite 101
Louisville, Ky. 40213

Applicant: Nustreams LLC
Osa Omoruyi
4200 Gardinerview Avenue, Suite 101
Louisville, Ky. 40213

Representative: Milestone Design Group
Mark Madison
108 Daventry Lane, Suite 300
Louisville, Ky. 40223

Dinsmore and Shohl LLP
Clifford H. Ashburner, Esq.
101 South 5th Street, Suite 2500
Louisville, Ky. 40202

Jurisdiction: Louisville Metro
Council District: 1-Jessica Green
Case Manager: **Julia Williams, RLA, AICP, Planning Supervisor**

NOTE: COMMISSIONER TOMES ARRIVED AT 1:46 AND VOTED 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:

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00:36:11 Ms. Williams discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

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

Charles Stone, 4407 Oboe Drive, Louisville, Ky. 40216

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

Summary of testimony of those in favor:

00:42:55 Mr. Ashburner gave a power point presentation. The area is underserved. The owner/developer will stay out of the 50 foot setback area and there is a right-in right-out lane, hopefully to be a full entrance in the future. The renderings are code compliant and the offices will look residential. The project will be done in phases.

Also, Mr. Ashburner read binding element number 12 and submitted the justification statement into the record.

00:49:40 Mr. Stone wants to know the location of the 6% of trees to be kept. He also has pictures of dead trees he wants MSD to clean up.

00:54:10 Mr. Madison said there are no plans to do the entire length of the ditch. MSD will require that the applicant provide a viable public outlet.

Deliberation

00:58:27 The commissioners are in agreement that the plan, variance and waivers are appropriate.

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 OR and C-1

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

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

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

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

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

WHEREAS, A compensation basin is proposed to deal with any floodplain issues. 6% of the existing tree canopy will remain, where more than 76% of the site is in existing canopy; and

WHEREAS, the Louisville Metro Planning Commission finds, the proposal is within a mixed use corridor that has been created along Cane Run Road. The proposal is for high intensity zoning but is located along a major arterial and will have little impact on adjacent residential uses. The proposal will be a part of an existing center that has been established along the Cane Run Road corridor. The proposal is for new construction. The proposal is compact and located adjacent to other similar and more intense uses making the proposal a cost effective investment. The proposal is part of a non-residential corridor that has been established along Cane Run Road. The zoning is

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similar to other zoning in the area, which encourages a sense of place. The proposal is for the construction of office and commercial uses. The proposal is mixed use and is located in a mixed use area. The development is multi-purpose. The proposal could be made more compact with the construction of a larger multi-story medical building; and

WHEREAS, the Louisville Metro Planning Commission further finds all other agency comments should be addressed to demonstrate compliance with the remaining Guidelines and Policies of Cornerstone 2020.

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND**, to Metro Council, **APPROVAL** of Case No. 15ZONE1039, the change in zoning from R-4 to OR and C-1 based on the staff report, testimony heard today and the applicant's justification.

The vote was as follows:

YES: Commissioners Brown, Carlson, Howard, Jarboe, Kirchdorfer, Lewis, Peterson, Smith and Turner

ABSTAINING: Commissioner Tomes

Variance

WHEREAS, The requested variance will not adversely affect the public health, safety or welfare since the encroachment is adjacent to property that is zoned both residential and commercial where the residential use on the site is located in the commercial portion of the site; and

WHEREAS, The requested variance will not alter the essential character of the general vicinity since the encroachment is adjacent to property that is zoned both residential and commercial where the residential use on the site is located in the commercial portion of the site; and

WHEREAS, The requested variance will not cause a hazard or nuisance to the public since the encroachment is adjacent to property that is zoned both residential and commercial where the residential use on the site is located in the commercial portion of the site; and

WHEREAS, The requested variance will not allow an unreasonable circumvention of the zoning regulations since the encroachment is adjacent to property that is zoned both residential and commercial where the residential use on the site is located in the commercial portion of the site; and

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WHEREAS, The encroachment is adjacent to property that is zoned both residential and commercial where the residential use on the site is located in the commercial portion of the site; and

WHEREAS, the Louisville Metro Planning Commission finds, the strict application of the provision would deprive the applicant of reasonable use of the land since the encroachment is adjacent to property that is zoned both residential and commercial where the residential use on the site is located in the commercial portion of the site; and

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

Waiver

WHEREAS, The waiver will not adversely affect adjacent property owners since buffer is internal to the site and between two non-residential uses; and

WHEREAS, Guideline 3, policy 9 of Cornerstone 2020 calls for the protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigate when appropriate. Guideline 3, policies 21 and 22 calls for appropriate transitions between uses that are substantially different in scale and intensity or density, and to mitigate the impact caused when incompatible developments occur adjacent to one another through the use of landscaped buffer yards, vegetative berms and setback requirements to address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances. Guideline 3, policy 24 states that parking, loading and delivery areas located adjacent to residential areas should be designed to minimize the impacts from noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered. Guideline 13, policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. Guideline 13, Policy 6 calls for screening and buffering to mitigate adjacent incompatible uses. The intent of landscape buffer areas is to create suitable transitions where varying forms of development adjoin, to minimize the negative impacts resulting from adjoining incompatible land uses, to decrease storm water runoff volumes and velocities associated with impervious surfaces, and to filter air borne and water borne pollutants. Not providing an LBA and landscaping where the waiver is being requested won't violate the comprehensive plan because the location of the buffer is internal to the site and between two non-residential uses; and

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WHEREAS, the Louisville Metro Planning Commission finds, the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since the location of the buffer is internal to the site and between two non-residential uses; and

WHEREAS, the Louisville Metro Planning Commission further finds the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant since the location of the buffer is internal to the site and between two non-residential uses.

Detailed District Development Plan

WHEREAS, A compensation basin is proposed to deal with any floodplain issues. 6% of the existing tree canopy will remain, where more than 76% of the site is in existing canopy. Minimum tree canopy requirements of the Land Development Code will be provided on the subject site; and

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

WHEREAS, There are no open space requirements pertinent to the current proposal. Open space is provided in buffers and the detention area shown on the plan; 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 will be provided to screen adjacent properties and roadways. Buildings and parking lots will meet all required setbacks adjacent to single family uses; and

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

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

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RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the following for Case No. 15ZONE1039: the variance from table 5.3.2 to permit parking to encroach 35 feet into the 50 foot and 15 foot setbacks along the north property line; a waiver from chapter 10.2.4 to eliminate the required 5 foot landscape buffer area where the proposed C-1 is adjacent to the proposed OR on the site; and the Detailed District Development Plan and binding elements based on the staff report, testimony heard today and the applicant's justification, **SUBJECT** to the following Binding Elements:

Binding Elements

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. The development shall not exceed 11,500 square feet of gross floor area for Lot 1.
The development shall not exceed 45,630 square feet of gross floor area for Lot 2.
3. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
4. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
5. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit) 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.

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- c. A minor subdivision 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 approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
 - d. 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.
 - e. 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.
 - f. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
6. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
7. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
8. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
9. The property owner shall provide a cross over access easement if the property to the north is ever developed for a nonresidential use and to the south if the property is ever redeveloped. A copy of the signed easement agreement shall be provided to Planning Commission staff upon request.

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10. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the September 15, 2016 Planning Commission meeting.
11. No idling of trucks shall take place within 200 feet of single-family residences. No overnight idling of trucks shall be permitted on-site.
12. The applicant shall not be issued a building permit for Building D until it has conducted an abbreviated traffic study with a scope satisfactory to KYTC, submitted same to KYTC and has reached an agreement with KYTC on any improvements to Cane Run Road.

The vote was as follows:

YES: Commissioners Brown, Carlson, Howard, Jarboe, Kirchdorfer, Lewis, Peterson, Smith and Turner

ABSTAINING: Commissioner Tomes

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PUBLIC HEARING

CASE NO. 16ZONE1035

Case No: 16zone1035
Request: Change in zoning from C-1 to M-1 on 1.6 acres with a variance and waiver
Project Name: Warwick Storage
Location: 8050 and 8054 Warwick Avenue

Owner: Dreisbach Development Company
Chris Dreisbach
8049 Warwick Avenue
Louisville, Ky. 40222

Applicant: Dreisbach Development Company
Chris Dreisbach
8049 Warwick Avenue
Louisville, Ky. 40222

Representative: Land Design and Development
Kevin Young/Ann Richard
503 Washburn Avenue, Suite 101
Louisville, Ky. 40222

Bardenwerper, Talbott and Roberts PLLC.
William B. Bardenwerper
1000 North Hurstbourne Parkway, 2nd floor
Louisville, Ky. 40223

Jurisdiction: City of Lyndon
Council District: 7-Angela Leet
Case Manager: **Julia Williams, RLA, 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:

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01:05:15 Ms. Williams discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Bill Bardenwerper, Bardenwerper, Talbott and Roberts, 1000 North Hurstbourne Parkway, Louisville, Ky. 40223
Aaron Elridge, StorAll, 253 Womsted Drive, Grayson, Ky. 41143

Summary of testimony of those in favor:

01:11:18 Mr. Bardenwerper gave a power point presentation. There are a lot of railroads in Lyndon and the traffic stacks up. The building materials have the look of ephus, but are more durable. The height variance is being requested because of the increased design elements to the roof line. The proposal is not out of character with the area.

01:22:55 Mr. Elridge explained the loading/unloading area and the elevators to reach the 2nd floor. Also, there is 24 hour access to the facility.

Deliberation

01:30:15 The commissioners are in agreement that it's an appropriate use for the area, a nice design and there are no additional traffic burdens.

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 C-1 to M-1

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

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

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

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

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

WHEREAS, the Louisville Metro Planning Commission finds, the proposal is part of a neighborhood center that includes a mix of uses, while this particular site is only for one use. There are other more intense zoning sites located adjacent to and nearby the subject site. The proposal is high intensity and is located at the intersection of a minor arterial and a local private road that serves higher intensity zoning. There are no residential uses located nearby that would be negatively affected by the proposed zoning. The proposal does not create a new center but is located in an existing center. The proposal is for an industrial zone. The overall population in the vicinity would support the M-1 uses. The proposal is compact and results in an efficient land use pattern as it will continue to use existing infrastructure. The proposed M-1 zoning permits a mix of industrial land uses that would be compatible with the adjacent existing M-1, M-2, and CM properties. All forms of transportation are being provided for; and

WHEREAS, the Louisville Metro Planning Commission further finds all other agency comments should be addressed to demonstrate compliance with the remaining Guidelines and Policies of Cornerstone 2020.

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RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND**, to the City of Lyndon, **APPROVAL** of Case No. 16ZONE1035 a change in zoning from C-1 to M-1 based on the testimony and evidence presented today, the staff report in its entirety and the applicant's booklet with the revised proposed finding of facts and the statement of compliance with the 2020 Comprehensive Plan.

The vote was as follows:

YES: Commissioners Brown, Carlson, Howard, Jarboe, Kirchdorfer, Lewis, Peterson, Smith, Tomes and Turner

Variance

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

WHEREAS, The requested variance will not adversely affect public health safety or welfare since there are no low intensity/density uses located nearby that will be affected and the applicant is planting additional trees along Lyndon Lane to soften the pedestrian experience; and

WHEREAS, The requested variance will not alter the essential character of the general vicinity since there are other multi-story buildings located in the vicinity albeit not three stories; and

WHEREAS, The requested variance will not cause a hazard or nuisance to the public since the applicant is planting additional trees along Lyndon Lane to soften the pedestrian experience; and

WHEREAS, The requested variance will not allow an unreasonable circumvention of the zoning regulations since there are no low intensity/density uses located nearby and the applicant is planting additional trees along Lyndon Lane to soften the pedestrian experience; and

WHEREAS, The requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone since there are no low intensity/density uses located nearby; 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 since there are no low intensity/density uses located nearby; and

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

RESOLVED, that the Louisville Metro Planning Commission does hereby **GRANT** a variance to permit a maximum building height of 45 feet instead of the required 35 feet based on the look of the design, it does not appear that the height is going to be a detriment to the neighborhood, it will not adversely affect any of the adjacent property owners, it's not going to cause a hazard or nuisance to the public, the staff report and the evidence and testimony provided today.

The vote was as follows:

YES: Commissioners Brown, Carlson, Howard, Jarboe, Kirchdorfer, Lewis, Peterson, Smith, Tomes and Turner

Waiver

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

WHEREAS, Guideline 3, policy 9 calls for the protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigate when appropriate. Guideline 3, policies 21 and 22 calls for appropriate transitions between uses that are substantially different in scale and intensity or density, and to mitigate the impact caused when incompatible developments occur adjacent to one another through the use of landscaped buffer yards, vegetative berms and setback requirements to address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances. Guideline 3, policy 24 states that parking, loading and delivery areas located adjacent to residential areas should be designed to minimize the impacts from noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered. Guideline 13, policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. The intent of landscape buffer areas is to create suitable transitions where varying forms of development adjoin, to minimize the negative impacts resulting from adjoining incompatible land uses, to decrease storm water runoff volumes and velocities associated with impervious surfaces, and to filter air borne and water borne pollutants. The buffer area and plantings will be evident regardless of the easement overlap; and

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WHEREAS, the Louisville Metro Planning Commission finds, the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since the planting and screening requirements will still be met; and

WHEREAS, the Louisville Metro Planning Commission further finds 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 because the landscaping within the buffers will be what is required under the LDC and trees will also be planted along Lyndon Lane.

Revised Detailed District Development Plan

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

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

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

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

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

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RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND**, to the City of Lyndon, **GRANTING** a waiver to permit over 50% encroachment of an easement into a required 5 foot landscape buffer area along Warwick Ave. and **APPROVAL** of the Detailed District Development Plan with removal of 9-66-97 binding elements and the addition of the proposed binding elements based on the staff report, testimony and evidence presented today along with the applicant's justification and findings **SUBJECT** to the following Binding Elements:

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 and to the City of Lyndon for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. The development shall not exceed 134,000 square feet of gross floor area.
3. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
4. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
5. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested:
 - a. The development plan must receive full construction approval from Develop Louisville, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - c. A minor plat or legal instrument shall be recorded consolidating the property into one lot. A copy of the recorded instrument shall be

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submitted to the Division of Planning and Design Services; transmittal of the approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.

6. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
7. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
8. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
9. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the September 15, 2016 Planning Commission meeting.
10. No idling of trucks shall take place within 200 feet of single-family residences. No overnight idling of trucks shall be permitted on-site.

The vote was as follows:

YES: Commissioners Brown, Carlson, Howard, Jarboe, Kirchdorfer, Lewis, Peterson, Smith, Tomes and Turner

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CASE NO. 16ZONE1038

Case No: 16ZONE1038
Request: Text amendment of the SoBro PDD regarding allowing student housing as a Conditional Use within the Broadway subarea
Project Name: 200 and 212 West Broadway
Location: SoBro PDD Broadway Subarea
Owner: Multiple
Applicant: Luckett & Farley Development, LLC
Kelley Parker
737 South 3rd Street
Louisville, Ky. 40202
Representative: Luckett & Farley Development, LLC
Kelley Parker
737 South 3rd Street
Louisville, Ky. 40202
Jurisdiction: Louisville Metro
Council District: 4 – David Tandy
Case Manager: **Brian Mabry, Planning and Design Supervisor**

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:

01:39:59 Mr. Mabry discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Kelley Parker, Luckett and Farley Development, LLC, 737 South 3rd Street, Louisville, Ky. 40202

Summary of testimony of those in favor:

01:48:11 Ms. Parker gave a power point presentation. A conditional use permit can be done for subareas with each being heard on its own merit. "We feel that's in keeping

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with the character of the SoBro area and the design intent of the PDD (Planned Development District).”

01:50:13 Ms. Parker remarked, “Our next step will be to apply for a CUP (conditional use permit) for the building located at 200 and 212 W. Broadway, currently the JEC Educational Center, which is associated with JCTC. They’re looking at keeping the existing building but doing a significant remodeling and renovation of that structure.”

01:51:23 Ms. Parker stated, “Having the opportunity to apply for the CUP to allow student housing to be considered is appropriate given the significant number of student-oriented entities within this district. It will also serve as a catalyst for development through the area, which was sort of the intent of the PDD from the beginning.”

Deliberation

01:55:01 The commissioners like the concept of bringing students closer to the education buildings. It’s a great use for the area and much appreciated text amendment. It is sure to bring more vitality to the downtown area.

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.

Text Amendment

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

WHEREAS, This form is characterized by its location near the center of the population it serves. The Downtown Form is comprised of predominantly office, commercial, civic, medical, high-density residential and cultural land uses. It has a grid pattern of streets designed to accommodate a large volume of vehicular traffic and public transportation. There are provisions for on-street and long-term parking of vehicles and for substantial pedestrian and non-vehicular movement within the district. Buildings are generally the greatest in volume and height in the metropolitan area, and there is public open space including plazas and squares. The Downtown Form should give identity to the whole community and should provide for a mixture of high density and intensity uses. Unlike the other community forms, the Downtown is already a geographically defined area that is described by Louisville Codified Ordinance and in the Louisville Downtown Development Plan. The Downtown Development Plan also recognizes that Downtown consists of seven sub-districts and describes those sub-districts. The Downtown

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Development Plan and its successors are to be used as official planning evidence guiding land use decisions in the Downtown; and

WHEREAS, The proposal to amend the text for the SoBro Planned Development District will allow institutional residential uses such as dormitories, fraternities and sororities in the Broadway subarea of the SoBro PDD with a Conditional Use Permit. The Downtown form district encourages a mixture of high density and intensity uses. The proposal will set the stage for an increased residential element in the area; and

WHEREAS, The proposal is in conformance with **Guideline One, Community Form**, of the comprehensive plan because the proposed text amendment to the Planned Development District is compatible to the area and the mixture of uses and densities; and

WHEREAS, The text amendment provides the opportunity to enhance the vitality of the existing Broadway Subarea by providing additional residential units within the greater downtown area. The SoBro area, through the Planned Development District provides for different types of residential centers and densities as part of the Downtown Form District. In addition, the mechanism of Conditional Use Permit review ensures compatibility with surrounding properties; therefore, this proposal is in conformance with **Guidelines Two, Centers and Three, Compatibility**, of the comprehensive plan; and

WHEREAS, The proposal is in conformance with **Guideline Six, Economic Growth and Sustainability**, because the text amendment to the Planned Development District will contribute to the potential to have more people living in the SoBro district, which may bolster economic activity for the area; and

WHEREAS, The proposal is in conformance with **Guideline Nine, Bicycle, Pedestrian and Transit**, because the proposed text amendment will not affect the existing grid layout of the street or its multi-modal connections with an existing sidewalk network; and

WHEREAS, The proposal is generally in conformance with the SoBro Neighborhood Plan that was adopted by Louisville Metro in October of 2007. It furthers the Vision statement in the Plan which seeks to make SoBro a vibrant and diverse neighborhood district; and

WHEREAS, the Louisville Metro Planning Commission finds, the proposal is in conformance with the provisions for the Broadway Subarea of the SoBro Planned Development District, which is geared toward greater density than the other Subareas and has a purpose statement that seeks to bring in “new community-wide uses and structures such as retail, restaurants, entertainment and residential to balance the existing institutional and office uses.”; and

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WHEREAS, the Louisville Metro Planning Commission further finds the Louisville Metro Planning Commission is charged with making a recommendation to the Louisville Metro Council regarding the appropriateness of this Planned Development District text amendment. The Louisville Metro Council has final action authority over the request.

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND**, to Metro Council, **APPROVAL** of Case No. 16ZONE1038, the SoBro Planned Development District text amendment based on the evidence and testimony heard today and the staff report.

The vote was as follows:

YES: Commissioners Brown, Carlson, Howard, Jarboe, Kirchdorfer, Lewis, Peterson, Smith, Tomes and Turner

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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 3:03 p.m.



Chair



Planning Director