

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO PLANNING COMMISSION MEETING
May 23, 2019**

A meeting of the Louisville Metro Planning Commission was held on Thursday, May 23, 2019 at 1:00 p.m. at the Old Jail Building, located at 514 W. Liberty Street, Louisville, KY 40202.

Commissioners present:

Vince Jarboe, Chair
Marilyn Lewis, Vice Chair
Rich Carlson
Lula Howard
Ruth Daniels
Rob Peterson
David Tomes
Jeff Brown(arrived at 1:35 p.m.)

Commissioners absent:

Emma Smith
Donald Robinson

Staff members present:

Joe Reverman, Assistant Director, Planning & Design Services
Brian Davis, Planning & Design Manager
Joe Haberman, Planning & Design Manager
Jay Lockett, Planner I
Joel Dock, Planner II
Travis Fiechter, Legal Counsel
Beth Stuber, Transportation Planning
Tony Kelly, MSD
Chris Cestaro, Management Assistant (minutes)

The following matters were considered:

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APPROVAL OF MINUTES

Approval of the Minutes for the May 9, 2019 Planning Commission public hearing

00:03:15 On a motion by Commissioner Carlson, seconded by Commissioner Howard, the following resolution was adopted:

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the minutes of the meeting conducted on May 9, 2019.

The vote was as follows:

YES: Commissioners Daniels, Howard Carlson, and Jarboe.

ABSTAINING: Commissioners Tomes, Peterson, and Lewis.

NOT PRESENT: Commissioners Smith, Robinson and Brown.

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CONSENT AGENDA

CASE NO. 19STREETS1003

Request: Street / Alley Closure
Project Name: Hay Court
Location: Hay Court
Owner: Louisville Metro
Applicant: Barnie R. Elder Living Trust
Representative: Bill Schroll – Schroll Land Surveying, LLC
Jurisdiction: Louisville Metro
Council District: 13 – Mark Fox

Case Manager: Joel P. Dock, AICP, Planner II

Notice of this public hearing appeared in The Courier-Journal, 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. (The staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

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

CASE NO. 18STREETS 1027

Request: Street / Alley Closure
Project Name: Beargrass Ave. / Mehlers Rd.
Location: Beargrass Avenue and Mehlers Road at Beargrass Creek
Owner: Louisville Metro
Applicant: Louisville Metro Public Works
Representative: Jeff Brown
Jurisdiction: Louisville Metro
Council District: 9 – Bill Hollander

Case Manager: Jay Lockett, AICP, Planner I

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CONSENT AGENDA

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

The staff reports prepared for these cases were incorporated into the record. The Commissioners received these reports in advance of the hearing, and these reports were available to any interested party prior to the public hearing. (The staff reports are part of the case files maintained in Planning and Design Services offices, 444 S. 5th Street.)

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

00:04:37 On a motion by Commissioner Carlson, seconded by Commissioner Howard, the following resolution was adopted:

RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that both requested street/alley closures on the Consent Agenda as described in the attached legal descriptions be **APPROVED**.

The vote was as follows:

YES: Commissioners Tomes, Peterson, Daniels, Lewis, Howard, Carlson, and Jarboe.

NOT PRESENT: Commissioners Smith, Robinson, and Brown.

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PUBLIC HEARING

PDS Fees

Agency Testimony:

00:05:37 Joe Reverman, Assistant Director of Planning & Design Services, introduced the case and showed a Power Point presentation (see recording for detailed presentation.)

00:16:32 In response to a question from Commissioner Carlson, Mr. Reverman clarified the meaning of some of the language in the category regarding the category that has antenna towers/cell towers.

00:19:01 Commissioners' deliberation.

00:20:04 In response to a question from Travis Fiechter, legal counsel for the Planning Commission, Mr. Reverman discussed a notation that appears after the Landscape Plan Review proposal regarding parking lot square footage (see recording for detailed discussion.)

00:22:00 Mr. Reverman suggested that an effective date for this Schedule should be June 19, 2019, to coincide with new software that is being rolled out for Planning & Design Services on that date (Accela).

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

00:23:07 On a motion by Commissioner Carlson, seconded by Commissioner Howard, the following resolution was adopted:

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Louisville Metro Planning & Design Fee Schedule as presented by staff, with an effective date of June 19, 2019, OR the effective implementation date of the Accela software, whichever is latest.

The vote was as follows:

YES: Commissioners Tomes, Peterson, Daniels, Lewis, Howard, Carlson, and Jarboe.

NOT PRESENT: Commissioners Smith, Robinson, and Brown.

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PUBLIC HEARING

Two Year Rule Policy Change

Agency Testimony:

00:23:57 Brian Davis, Planning & Design Manager, presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.)

00:27:23 Commissioner Carlson, Mr. Davis, and Travis Fiechter (legal counsel for the Planning Commission) discussed Commissioner Carlson's idea about adding a requirement that, if an applicant is asking for reconsideration, they should either submit copies of the old/denied plan in addition to the new plan, or add a written description of the differences between the previous proposal versus the current proposal. This would allow the Planning Commissions to compare the proposals. See recording for detailed discussion.

00:30:37 Commissioner Howard said it had been her experience that an applicants' representative/s goes to staff first, and asks what they/their client needs to prepare for a hearing before Commissioners. Mr. Davis said staff should be required to let the applicant know that it is their responsibility to provide information to show how it's different, whether that is in the form of a new plan, a written request, etc.

00:32:42 Joe Reverman, Assistant Director of Planning & Design Services, said this policy could be implemented internally.

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

00:37:19 On a motion by Commissioner Carlson, seconded by Commissioner Howard, the following resolution was adopted:

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the proposed change to the Planning Commission Bylaws, Policies and Procedures 3.02.03 as presented today by staff.

The vote was as follows:

YES: Commissioners Tomes, Peterson, Daniels, Lewis, Howard, Carlson, and Jarboe.

ABSTAINING: Commissioner Brown.

NOT PRESENT: Commissioners Smith and Robinson.

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PUBLIC HEARING

CASE NO. 19MISC1023

Request: Comprehensive Plan Review of Blight Determination
Project Name: West Chestnut Spot Condemnation
Location: 2700 – 2708 West Chestnut Street
Owner: Deeper Life Christian Church
Applicant: Louisville/Jefferson County Landbank Authority
Representative: Mary McGuire
Jurisdiction: Louisville Metro
Council District: 5 – Donna Purvis

Case Manager: Brian Davis, AICP, Planning & Design Manager

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

Agency Testimony:

00:38:28 Brian Davis presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.)

00:41:52 Commissioner Daniels asked how long the property had been vacant. Mr. Davis referred that question to the applicant (Mary McGuire, with Louisville Metro Land Bank).

00:42:05 Commissioner Carlson asked what the proposed re-use is. Mr. Davis said he would refer that question to Ms. McGuire who can explain the condemnation process, and how it can be used to re-use the property.

The following spoke in support of this request:

Mary McGuire, Louisville Metro Land Bank, 444 South 5th Street 5th Floor, Louisville, KY 40202

Summary of testimony of those in support:

00:43:03 Mary McGuire explained about the condemnation process, the buildings, what their use is, and what may be accomplished by doing the condemnation. She showed a Power Point presentation which further clarified her explanation (see recording for her detailed presentation.) The buildings have been vacant for about 14

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years, and a fire has damaged the rectory building, which will likely need to be demolished.

00:47:18 Regarding proposed re-uses for the property, she said several applicants have approached the Landbank. One of the proposed uses would be to use the church as a community building; another proposal was to use the school building as office space or apartments.

00:48:15 Commissioner Brown asked who currently owns the buildings. Ms. McGuire said the Church owned it, but they have stopped paying the mortgage on it and abandoned it. It is not a foreclosure; she explained the difference between a foreclosure and a “spot blight” condemnation.

00:49:52 In response to a question from Commissioner Jarboe, Ms. McGuire explained that “spot blight” condemnation means that the Landbank would “eminent-domain” the property but would not necessarily demolish all the structures.

00:50:31 In response to a question from Commissioner Lewis, Ms. McGuire said the church building was built in the 1880’s; the rectory was built in the 1920’s, and the school was built in the 1940’s.

00:51:24 In response to a question from Commissioner Carlson, Travis Fiechter, legal counsel for the Planning Commission, explained the legal process involved in this case. It is about Louisville Metro acquiring the property, in order to resell it to someone who will appropriately rehab and redevelop it to serve a public purpose. See recording for discussion.

The following spoke in opposition to this request:

No one spoke.

Deliberation:

00:55:32 Commissioners’ deliberation.

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

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CASE NO. 19MISC1023

Comprehensive Plan Review of Blight Determination per Louisville Metro Code of Ordinances 32.777

00:55:57 On a motion by Commissioner Carlson, seconded by Commissioner Howard, the following resolution, based on the evidence and testimony heard today, was adopted:

RESOLVED, the Louisville Metro Planning Commission does hereby **DETERMINE** that re-use of this property is in keeping with the 2040 Comprehensive Plan.

The vote was as follows:

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

NOT PRESENT: Commissioners Smith and Robinson.

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PUBLIC HEARING

CASE NO. 19PARK1000

Request: Parking Waiver
Project Name: NoRae Bar Parking Waiver
Location: 717 East Market Street
Owner: East Market Holdings LLC
Applicant: East Market Holdings LLC
Representative: Louis Adamson
Jurisdiction: Louisville Metro
Council District: 4 – Barbara Sexton Smith

Case Manager: Jay Lockett, AICP, Planner I

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

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

Agency Testimony:

00:57:05 Jay Lockett presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.)

01:01:14 Commissioner Brown asked if one additional parking space could be found, since the applicant is removing a driveway curb cut in the front of the site (on Market). He asked if approval of this request could be on condition that the applicant removes the driveway that was there. Mr. Lockett said yes.

The following spoke in support of this request:

Louis Adamson, 717 East Market Street, Louisville, KY 40202

Summary of testimony of those in support:

01:02:22 Louis Adamson, co-owner of the property, said he would be willing to redo/remove the curb cut. He also discussed parking availability in the surrounding area.

01:03:45 Commissioner Brown asked if the applicant is considering using a valet parking service. Mr. Adamson said they are considering using a type of parking

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reimbursement for customers who park at the AC Hotel. Their hours of operation will also start at 5:00 p.m., so their customer parking should not conflict with other businesses in the area.

The following spoke in opposition to this request:

No one spoke.

Deliberation:

01:04:47 Commissioners' deliberation.

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

Parking Waiver

01:06:44 On a motion by Commissioner Carlson, seconded by Commissioner Daniels, the following resolution, based on the Standard of Review and Staff Analysis, and evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the proposal would allow for the reuse of an existing site within an established activity center. The site is well served by existing transportation networks and is part of a walkable area well served by transit, bike and pedestrian networks. The elimination of parking minimums is consistent with the Traditional Marketplace form district as described in Plan 2040; and

WHEREAS, the Commission further finds that the applicant has provided one space on the subject site, and made a good faith effort to secure agreements with other sites for joint-use parking but was unsuccessful; and

WHEREAS, the Commission further finds that the requested waiver is the smallest possible reduction of parking spaces that would accommodate the proposed use, as they have provided as much as possible on site; and

WHEREAS, the Commission further finds that adjacent or nearby properties will not be adversely affected, as the development pattern of the area allows for minimum on-site parking for most sites. Businesses in the area are used to sharing public parking

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facilities and patrons are able to utilize alternative transportation networks to reach the area; 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 use. Patrons of bars and taverns should be discouraged from driving as much as possible. Bars and taverns have a parking requirement in the Land Development Code that is at odds with the public health, safety and welfare. Public transit, pedestrian networks and the wide availability of taxis and ride-sharing services reduce the need for patrons to drive to bars and taverns, thereby mitigating public safety issues traditionally associated with such uses; and

WHEREAS, the Commission further finds that there is a surplus of on-street and public spaces in the area that can accommodate generated parking demand. All streets near the area have abundant on-street parking available and there is a large public garage located on the same block as the subject site; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the proposed **Parking Waiver** to reduce minimum parking requirement from 10 to 1, to utilize parking spaces located in a public parking lot and to use on-street parking spaces not directly abutting the subject site be approved, **ON CONDITION** that the existing driveway be removed and the sidewalk restored in order to gain an additional on-street parking space.

The vote was as follows:

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

NOT PRESENT: Commissioners Smith and Robinson.

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CASE NO. 19DEVPLAN1003

Ken Blacketer, 15300 Beckley Crossing Drive, Louisville, KY 40245

David Bright, 10001 Taylorsville Road, Louisville, KY 40299

David Steff, 7812 Applevue, Louisville, KY 40228

Summary of testimony of those in support:

01:12:15 William Bardenwerper, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.) He noted that the proposal is for 181 units overall – this should be corrected on the submitted plan.

01:22:37 Ron Thomas, an applicant's representative, explained how it was determined that this is a wetland, what's been done in terms of delineation, what the Army Corps of Engineers had to say, and what the effect would be of developing on wetlands. See recording for his detailed presentation. He noted that the land survey was presented to the Army Corps of Engineers and they approved the delineation. They issued a JD ("Jurisdictional Determination").

01:24:04 He said the wetlands that were found in the area now known as "Phase III" were "low-quality wetlands" – it had been drained and was used for farming up until about a decade ago. The Corps will still be involved in the review process, as well as the Kentucky Division of Water. Mitigation will be involved.

01:26:53 Kevin Young, an applicant's representative, reviewed the design of Phase III. Mr. Bardenwerper explained some delineations of one of the exhibit aerial photos. Eric Senn explained how the applicant's drainage improvements should help a neighbor who has been having a great deal of flooding and drainage issues on his property. He explained the new detention basin that is planned and how that will reduce the flow from their property.

01:30:05 Mr. Bardenwerper summarized the presentation.

01:34:11 Tony Kelly, with MSD, said MSD has met with the engineers, the downstream property owner, the Councilman, and the developer multiple times. He said the applicant will install an 18-inch low-flow pipe, and explained the water "stacking" and reduction, detention, drainage, etc. He said the applicant is required to have Corps of Engineers approval prior to MSD's construction approval.

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00:36:18 In response to a question from Commissioner Jarboe, Mr. Kelly discussed the functioning of detention basins #1 and #2. He said that the applicant has reduced flow to the pre-development flow rate, but he said the capacity of the downstream system is a problem. By adding the proposed improvements, the flow rate will be reduced, allowing the downstream system to “catch up”.

01:39:02 In response to a question from Commissioner Carlson, Mr. Kelly said basin #1 cannot be enlarged any more. He added that the property owner downstream is having erosion control issues, but this is not the developer’s fault, but is MSD’s responsibility. He said MSD is working to find a solution for this property owner. Detaining currently-undetained water into basin #2 and adding an 18-inch pipe will reduce water from going downstream.

01:43:32 Travis Fiechter, legal counsel for the Planning Commission, asked if a stub street shown on the plan is going to go into or over detention basin #1. Mr. Kelly said a stub street allows MSD to have access to detention basins to maintain them. Mr. Luckett pointed out specific details of stub streets on the plan. Mr. Bardenwerper pointed out a connection, built by the applicants, that allows one part of Apple Valley to have access to another part of Apple Valley.

NOTE: David Steff spoke after those in opposition.

02:02:55 David Steff, president of the Apple Valley Homeowners Association, spoke in support. He said the building designs are good, and the applicants have been responsive. He discussed some of the drainage problems discussed by Mr. Coates and Mr. Boyer. Using an aerial photo, he pointed out 4 acres of MSD that was bought in 1999 after a bad flood to build a detention basin for the stream. He discussed the stream and why its flow/shape can cause water backups. He said MSD connected pump stations at the end of Apple Valley Drive but then neglected to re-grade the land that was excavated. Water has since “never drained right to the creek”.

The following spoke in opposition to this request:

James Coates, 7619 East Manslick Road, Louisville, KY 4022

Michael Boyer, 7621 East Manslick Road, Louisville, KY 40228

John Torsky, representing Councilman James Peden, 601 West Jefferson Street, Louisville, KY 40202

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Summary of testimony of those in opposition:

01:45:55 James Coates, a property owner who lives directly behind the development, said major water he gets in his backyard after rain events. He said the detention basins are not helping his property.

01:47:52 Michael Boyer said water is bypassing the basins from Phase I and Phase II and have turned his backyard into "a swamp". He said the increase of water pressure and volume has caused tremendous damage on his property. He said the tree damage alone is between \$10,000-\$12,000, all damage done in the last two years since the development started. He described his interactions with the developers and Mr. Bardenwerper. He said he has also had issues with the residents of the complex; the applicants mowing on his property; and broken concrete dumped onto his property. During the construction of Phase II, he said there was excavation on his property. He asked about the approved Landscape Plan which shows a fence running from the west side down and across the back of the property (17LSCAPE1064). He said he asked the applicant about this fence, and the applicant said he knew nothing about it.

01:55:13 John Torsky, representing Councilman James Peden, said he wanted to make sure the applicant's previous statements about this project are on the record. He read many comments from the applicants from previous meetings into the record (see recording for his detailed presentation.)

01:59:34 Commissioner Carlson asked how much of the flooding/drainage issues on Mr. Coates' and Mr. Boyer's properties had occurred since this project had been built. Mr. Boyer said Mr. Coates has seen an increase in mud in his backyard, which is there a week after a rain event.

02:02:18 The Commission went into Recess at approximately 3:00 p.m.

***NOTE: During the recess, Commissioner Jarboe left the meeting and Commissioner Lewis took his place as Acting Chair.**

The Commission resumed.

02:02:55 David Steff spoke in support, after those in opposition (his testimony is recorded under "Summary of testimony of those in support")

Rebuttal:

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02:05:45 Mr. Bardenwerper presented the applicant's rebuttal. David Bright, one of the applicants, said he was not aware of soil erosion or concrete dumping on anyone else's property. Mr. Bardenwerper said the neighbors' properties are in an existing floodplain, which may explain their severe water issues. He introduced a floodplain map into the record.

02:07:02 Mr. Bardenwerper called Kevin Young to the stand to recount his past conversations with Councilman Peden about the development capability of this site (see recording.)

Deliberation:

02:11:49 Commissioners' deliberation.

02:27:16 Commissioner Carlson and Commissioner Brown discussed flooding issues. Commissioner Brown said there are portions of the site that are in the floodplain and Mr. Kelly had already testified that MSD has already identified work they need to do, regardless of this development.

02:28:32 Mr. Kelly discussed downstream improvements that will be done by MSD as soon as funding is available. This will be done regardless of what development happens on this site. There is no timetable to determine when funding will be available.

02:29:44 Commissioner Tomes and Commissioner Brown discussed road connections proposed for Phase III. Commissioner Tomes also said he understood that any mitigation that's done for wetlands has to be done within the same watershed. In response to a question from Commissioner Carlson, Mr. Kelly said the boundaries of the watershed are determined by the Corps of Engineers.

02:35:10 Commissioner Carlson asked where the replacement wetlands would go, and what will be done about the connectivity. He felt it would be advantageous to have a second access. Mr. Bardenwerper said the connectivity issue was addressed in 2015/2017; he said Councilman Peden did not want access or connectivity to Apple Valley from this development. Mr. Bardenwerper and Commissioner Carlson discussed connectivity to Beulah Church Road. See recording for detailed discussion.

02:40:08 Mr. Thomas discussed watersheds and wetlands.

02:41:37 Mr. Kelly corrected himself and said that a wetland can be replaced outside of this immediate area.

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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.

Revised Detailed District Development plan

02:44:54 On a motion by Commissioner Tomes, seconded by Commissioner Peterson, the following resolution, based on the applicant's justification and evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that there are wetlands in the area of the new proposed buildings as delineated on the RDDDP based upon an Army Corps of Engineers Wetland Evaluation. Impact fees will be required to obtain a Corps permit for work as needed. The applicant is also planning a new detention basin and floodplain compensation area not previously shown on the prior plan to address any impacts; and

WHEREAS, the Commission further finds that the internal street and pedestrian layout as currently approved will remain with the addition of one additional street with sidewalks along the entire new additional street; and

WHEREAS, the Commission further finds that the development is required to have 15% open space (or 1.2 acres) and the proposed development as shown on the RDDDP has 41% open space (or 3.3 acres). The Recreation Open Space requirements are also being satisfied; and

WHEREAS, the Commission further finds that the applicant is proposing a new 23,000 square foot detention basin and floodplain compensation area not previously shown on the prior plan. The 23,000 square foot proposed detention basin is approximately twice the size of what is regulatory required; and

WHEREAS, the Commission further finds that the style, design and proposed landscaping will be the same as the remainder of the apartment community already constructed and thus will be compatible with the site and the surrounding area; and

WHEREAS, the Commission further finds that the proposal in conformance with the Comprehensive Plan and Land Development Code for all the same reasons as found in

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the original rezoning of the property and the subsequent approvals of the various sections of this project; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Revised Detailed District Development plan, **SUBJECT** to the following **existing** binding elements:

1. The development shall be in accordance with the approved revised district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
3. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested:
 - a. The revised development plan must receive full construction approval from Louisville Metro Department of Codes and Regulations Construction Permits, Transportation Planning Review 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.

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- d. A major subdivision plat creating the lots and roadways as shown on the approved district development plan shall be recorded prior to issuance of any building permits.
4. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
5. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
6. Prior to the recording of the record plat, copies of the recorded documents listed below shall be filed with the Planning Commission.
 - a. Articles of Incorporation filed with the Secretary of State and recorded in the office of the Clerk of Jefferson County and the Certificate of Incorporation of the Homeowners Association.
 - b. A deed of restriction in a form approved by Counsel to the Planning Commission addressing (responsibilities for the maintenance of common areas and open space, maintenance of noise barriers, maintenance of WPAs, TPAs) and other issues required by these binding elements / conditions of approval.
 - c. Bylaws of the Homeowner's Association in a form approved by the Counsel for the Planning Commission.
7. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the February 2, 2017, Planning Commission meeting.

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8. A 6 ft. high solid wood shadow box fence shall be provided along the north property line between the multi-family portion of the Ashton Park 2 project adjoining the Fountains Condominiums. This new fence shall tie into the existing Fountains Condominiums fence and shall be stained the same color as the existing fence.
9. The applicant shall install landscaping as shown on the proposed landscape plan presented at the February 2, 2017, public hearing.
10. The connection from Appleview Lane to Appletree Way shall be labeled as "No Parking" on both sides.

The vote was as follows:

YES: Commissioners Tomes, Peterson, Lewis, and Howard.

NO: Commissioners Daniels, Brown, and Carlson.

NOT PRESENT: Commissioners Smith, Robinson, and Jarboe. .

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PUBLIC HEARING

CASE NO. 18ZONE1087

Request: Change in zoning from C-1 Commercial to M-2 Industrial with a revised plan and landscape waivers
Project Name: 1332 Tile Factory Lane
Location: 1330 & 1332 Tile Factory Lane
Owner: Roark Realty LLC
Applicant: Roark Realty LLC
Representative: Glenn Price – Frost Brown Todd
Jurisdiction: Louisville Metro
Council District: 21 – Nicole George

Case Manager: Joel Dock, AICP, Planner II

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

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

Agency Testimony:

02:46:54 Joel Dock presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.)

The following spoke in support of this request:

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

Mike Hill, Land Design & Development, 503 Washburn Avenue, Louisville, KY 40222

Summary of testimony of those in support:

02:51:48 Glenn Price, the applicant's representative, presented the applicant's case and showed a Power Point presentation (See recording for detailed presentation.)

02:55:52 Mike Hill, an applicant's representative, completed the development plan presentation. He said that, yesterday, the applicant turned in a new set of plans which addressed Commissioner Brown's request at LD&T to remove a pedestrian access that ran through the parking lot from the building out to Tile Factory Lane. There is no sidewalk along Tile Factory Lane.

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02:58:28 In response to a question from Commissioner Lewis, Mr. Hill showed the area affected by the waiver request to omit the buffer and plantings on the east and south. He also described the 8-foot-tall privacy fence along the rear of the property and a 6-foot tall privacy fence along the side.

03:00:00 Commissioner Howard asked about lot consolidation. Mr. Hill said that trucks currently cross both lots. Mr. Price said the applicant could agree to either consolidate the lots or do a crossover easement. Staff can add that as an additional binding element.

03:01:41 Commissioner Carlson asked what the parked trucks will have in them. Mr. Price said some trucks may be loaded or empty, but none will contain any hazardous products and/or products prohibited by binding element. Mr. Price said that, to the best of the applicant's knowledge, the trucks do not handle paint or any other hazardous materials.

03:06:40 Commissioner Carlson and Mr. Dock discussed a binding element regarding trucks which are required to be placarded by the Department of Transportation shall not be parked on-site. There was some discussion about how this is related to the Land Development Code, land-use policy, and enforcement. Commissioner Brown said he agreed with Commissioner Carlson that, because of the site's proximity to a residential neighborhood, anything that is defined as a hazardous material by the DOT should be restricted.

03:16:16 Commissioner Brown asked about the use of the area behind the building abutting the R-4 properties. Mike Hill said it is currently being used as storage; no activities or doors in or out of the rear of the building.

The following spoke in opposition to this request:

Brian Rohleder, 4554 Poplar Level Road, Louisville, KY 40213

Summary of testimony of those in opposition:

03:17:33 Brian Rohleder, a business owner adjacent to the site (to the east), spoke in opposition. He pointed out a location where truck traffic is blocking Poplar Level Road. He said this is forcing people to back up onto Tile Factory Lane and into his parking lot. Regarding the buffer on the east side, he said he has a demonstration and training facility where noise from this site can be a problem. In response to a question from Commissioner Lewis, Mr. Rohleder said the truck idling noise is not really an issue; it is when the trucks are loading/unloading and backing in. This is disruptive to his

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training classes. He said the existing fence has concrete and other debris piled up against it; also trucks back into it.

Rebuttal:

03:22:30 Mr. Price presented rebuttal. He said the applicant is willing to put up an 8-foot privacy fence instead of the current chain-link fence (see recording for detailed location of the fence.)

03:24:56 Commissioner Brown commented on the turning issue at the intersection. This is a State-owned intersection.

03:27:08 Commissioner Brown asked if the applicant would be willing to move a “stop bar” and move the detection to accommodate the new “stop bar” location. Mr. Price said he could not agree to this without knowing the cost. Commissioner Brown said he would address this with Louisville Metro electrical maintenance division, since this probably needs to be done regardless of whether this rezoning is approved or not.

Deliberation:

03:28:44 Commissioners’ deliberation.

03:29:20 Commissioner Carlson read his requested binding element into the record, as follows:

“No truck required by United States Department of Transportation regulations to display a “Hazardous Materials” placard shall be parked on-site.”

Mr. Dock added that this binding element would apply to both lots.

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

03:33:24 On a motion by Commissioner Carlson, seconded by Commissioner Peterson the following resolution based on the Plan 2040 Staff Analysis, the applicant’s justification, and evidence and testimony heard today, was adopted:

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WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the intents of **Community Form – Goal 1** because the proposal does not result in an expansion into a residential area as it is located with the workplace form; the proposed district is located adjacent to existing high intensity uses and major transportation infrastructure. It is also with a workplace district that covers roughly 2,000 acres of land between Poplar Level and Newburg Roads; the proposal is located within with a workplace district that covers roughly 2,000 acres of land between Poplar Level and Newburg Roads; the proposed district does not immediately abut residential uses and its location at the subject site enables an operator to use existing space within a workplace district in- lieu-of relocating to an area which might result in a disproportionate impact on disadvantaged populations; the proposal is located in area that concentrates potentially noxious uses to limit impacts on human health, quality of life and the environment; adequate transportation networks are in place to provide for the appropriate movement of traffic; the proposal is located in area that concentrates potentially noxious uses to limit adverse impacts of noise from proposed development on existing communities ; the storage, transport, and production of hazardous uses are not permitted with the proposed district; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Community Form Goal 1** because the proposed zone change (the "Proposal") conforms with Community Form Goal 1 and all applicable Policies adopted thereunder, including Policies 6, 7, 8, 15, 16, 17, 18, and 21. The Proposal is properly located within a Suburban Workplace Form District and is surrounded by other industrial and distribution businesses near Poplar Level Road, which has direct access to the Watterson Expressway and the interstate system. The Proposal is adjacent to a few residential uses which will be buffered by an 8-foot tall solid fence. The building is set back from the street. Sidewalks are not available along the frontage of the site nor are they available in the vicinity. Poplar Level Road is a transit corridor. Adequate infrastructure for this land use presently exists on-site. The truck distribution business on-site does not handle hazardous uses or uses having air, noise and light emissions. Disadvantaged populations will not be adversely impacted by the proposal. Odors, particulates or other emissions will not be caused by the development. The development does not cause substantial traffic; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Community Form : Goal 2** because the proposal is compatible with uses located within the form district of its location; the proposal is an Industrial use; the proposed district puts to use, and zones appropriately, land within a workplace district resulting result in efficient land use and cost - effective infrastructure investment; the proposal is located within a district that is intended to concentrate industrial and employment centers in order to reduce the negative impacts of industrial uses elsewhere in the

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community; the proposal utilizes existing industrial land; and the proposal promotes the utilization of existing infrastructure; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Community Form Goal 2** because the Proposal conforms with Community Form Goal 2 and all applicable Policies adopted thereunder, including Policies 2, 6, 7 and 15. Locating transportation uses adjacent to other such uses- all of which have near access to the interstate system, is appropriate. This development constitutes an activity center which has a relatively low trip generation rate. On-site parking reflects the character of the area, as can be readily seen from the surrounding land uses. This development has a compact development pattern; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Community Form : Goal 3** because there do not appear to be any natural features on the subject property; the subject property does not appear to contain wet or highly permeable soils, severe, steep or unstable slopes; the subject site is not near Ohio River; the subject property is not located within the 100-yr floodplain and does not appear to contain features vulnerable to natural disasters; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Community Form Goal 3**. The Proposal conforms with Community Form Goal 3 and all applicable Policies adopted thereunder, including Policies 3, 9 and 10 because open space is not appropriate in this type development/Form District. No substantial change to site topography is proposed. There are no wet or highly permeable soils on site nor are there steep or unstable slopes or flood-prone areas on-site; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Community Form : Goal 4** because no structures are present on site which requires preservation, reuse, or rehabilitation, and no cultural features are present on site; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Mobility: Goal 1** because The proposed higher intensity is located within the appropriate form district to serve the use; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Mobility Goal 1** because this is the site of a business which has a limited intensity in a vicinity of employment centers; and

WHEREAS, the Commission further finds that the Proposal conforms to **Mobility Goal 2** and all applicable Policies adopted thereunder, including Policies 4 and 5.

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Access is to Poplar Level Road and is not through and area of significantly lower intensity and does not create significant nuisances. Sight distances are adequate; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Mobility: Goal 3** because the proposal does not significantly impact mobility within the area as it is an existing industrial area and consumer interaction is limited; Poplar Level Road provides for public transit and pedestrian uses; the existing workplace form provides limited means of walkability within its current extend, except that Poplar Level Road provides for multi-modal transport; the proposal does not significantly impact the transportation network in the area as the form is intended to serve industrial uses similar to the proposal; and significant improvements to the public transportation network are not required; and

WHEREAS, the Commission further finds that the proposal conforms with **Mobility Goal 3** and all applicable Policies adopted thereunder, including Policies 2 and 5. This development is a low impact development that utilizes the interstate highway system for transport. It is appropriately located near the Watterson Expressway (Interstate-264). Because of the relatively low intensity of the business on-site its location is appropriate; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Community Facilities : Goal 2** because the site is served by existing utilities or capable of being served by public or private utility extensions; the site has an adequate supply of potable water and water for fire-fighting purposes; and the site will meet necessary requirements for sewage treatment and disposal to protect public health and to protect water quality; and

WHEREAS, the Commission further finds that the Proposal conforms to **Community Facilities Goal 2** and all applicable Policies adopted thereunder, including Policies 1, 2 and 3. The site is served by all existing necessary utilities and has an adequate supply of potable water and water for fire-fighting purposes provided by the Louisville Water Company. Sewage treatment and disposal is adequately handled by the facilities of the Metropolitan Sewer District; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Economic Development: Goal 1** because the proposed district is appropriately located within a workplace form district and is compatible with nearby uses; the proposed district is appropriately located within a workplace form district to take advantage of special infrastructure needs; the proposal is located within close proximity to a major arterial roadway with access to the interstate; the site is not near

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the Ohio; and the proposal is located with appropriate transportation connectivity within close proximity to a major arterial roadway with access to the interstate; and

WHEREAS, the Commission further finds that the Proposal conforms to Economic Development Goal I and all applicable Policies adopted thereunder, including Policies 2, 4 and 5. Although not generating high volumes of traffic, the development is located in an older industrial subdivision near Poplar Level Road, an arterial roadway, and the Watterson Expressway. The site is close to the airport; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Livability: Goal 1** because the site does not appear to be susceptible to erosion or karst disturbance; the subject site is not located within the 100- yr floodplain and does not appear to contain other conditions that impact increase disturbance; and the storage, transport, and production of hazardous uses are not permitted with the proposed district; and

WHEREAS, the Commission further finds that the Proposal conforms to **Livability Goal 1** and all applicable Policies adopted thereunder, including Policies 17 and 21. Use of the site will not affect groundwater resources. The site is not subject to erosion and the regulatory floodplain will be observed; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the requested Change-in-Zoning from C-1 to M-2 on property described in the attached legal description be **APPROVED**.

The vote was as follows:

YES: Commissioners Peterson, Daniels, Brown, Lewis, Howard, and Carlson.

NOT PRESENT: Commissioners Tomes, Jarboe, Smith, and Robinson.

Waiver of Land Development Code, section 10.2.4 to omit the required buffer and plantings along east and south property lines

03:35:11 On a motion by Commissioner Carlson, seconded by Commissioner Peterson the following resolution based on the applicant's justification, and evidence and testimony heard today, was adopted:

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WHEREAS, the Louisville Metro Planning Commission finds that the proposed waiver will not adversely affect adjoining property owners because an 8-foot tall privacy fence is proposed where the south property line abuts residential home properties and a commercial business. This tall fence will adequately buffer the adjoining property owners from site impacts. The east property line is proposed to have a 6-foot tall privacy fence. This fence will abut a building on the adjacent property, built near the property line. The fence will have no adverse impact to this property; and

WHEREAS, the Commission further finds that the proposed waiver will not violate the Comprehensive Plan because it conforms to Community Form Goal 1 and Policies 9 and 10. Adequate screening will be in place to protect adjacent properties from the trucking/transportation use on the subject site. The buffer will protect nearby residents from lights, noise and visual appearances; and

WHEREAS, the Commission further finds that the extent of the waiver is the minimum necessary to afford relief to the Applicant because it allows the Applicant to make viable use of its storage yard while protecting the neighbors from the use of the property for storage and truck movement; and

WHEREAS, the Commission further finds that the strict application of the regulation would deprive the Applicant of the reasonable use of its land and would create an unnecessary hardship on the Applicant because the adjoining property owners would not benefit from the strict application of the regulation: the neighbor to the east has a building that is close to the property line having no visibility to this site; and the neighbors to the south have residences that are distant from the common property line and will be protected by the 8-foot privacy fence. The Applicant is in need of the use of predominantly all of the storage yard for its trailers; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Waiver of Land Development Code, section 10.2.4 to omit the required buffer and plantings along east and south property lines.

The vote was as follows:

YES: Commissioners Peterson, Daniels, Brown, Lewis, Howard, and Carlson.

NOT PRESENT: Commissioners Tomes, Jarboe, Smith, and Robinson.

Revised Detailed District Development Plan

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03:36:13 On a motion by Commissioner Carlson, seconded by Commissioner Peterson, the following resolution based on the evidence and testimony heard today, was adopted:

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Revised Detailed District Development Plan, **SUBJECT** to the abandonment of existing binding elements and adoption of proposed binding elements:

Proposed Binding Elements for 9-78-78 (revised) and 18ZONE1087

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 Louisville Metro Department of Codes and Regulations Construction Permits and Transportation Planning Review and the Metropolitan Sewer District.
 - b. The property shall be consolidated by deed or other acceptable legal instrument, or a reciprocal and cross access easement shall be recorded for those lots as shown on the approved development plan. A copy of

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either document must be provided to Planning and Design Services and/or the Planning Commission's legal counsel for review.

- 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

5. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.

6. No idling of trucks shall take place within 200 feet of single-family residences. No overnight idling of trucks shall be permitted on-site.

7. The following uses shall not be permitted on the subject property without the prior approval of the Planning Commission by majority vote taken following the public hearing that is duly noticed to all property owners otherwise entitled to notice for a zone change:
 - Processing of meat or meat products or fish or fish products
 - Blending of insecticides, fungicides, disinfectants and related industrial and household chemical compounds
 - Poultry, rabbit or animal packing or slaughtering

8. No trucks required by United States Department of Transportation regulations to display a "Hazardous Materials" placard shall be parked on-site.

The vote was as follows:

YES: Commissioners Peterson, Daniels, Brown, Lewis, Howard, and Carlson.
NOT PRESENT: Commissioners Tomes, Jarboe, Smith, and Robinson.

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CASE NO. 18ZONE1004

Request: Change in zoning from R-4 Single Family to R-6 Multi-Family with detailed plan, landscape waivers, stub extension waiver, height variance, and setback variance.

Project Name: Mill Creek Condos

Location: 9801 Watterson Trail and 9710-9712 Locust Lane

Owner: 614 Development Group

Applicant: 614 Development group

Representative: Dinsmore & Shohl, LLP

Jurisdiction: City of Jeffersontown

Council District: 11 – Kevin Kramer

Case Manager: Joel Dock, AICP, Planner II

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

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

Agency Testimony:

03:39:10 Joel Dock presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.) He made one correction to the staff report: this site is located in the City of Jeffersontown, not Louisville Metro.

03:47:25 In response to a question from Commissioner Brown, Mr. Dock said the applicant can discuss whether the Jeffersontown Fire Department has reviewed the existing conditions on Locust Lane.

The following spoke in support of this request:

Daniel O’Gara, Dinsmore & Shohl LLP, 101 South Fifth Street Suite 2500, Louisville, KY 40202

Ashley Bartley, Qk4, 1046 East Chestnut Street, Louisville, KY 40204

Summary of testimony of those in support:

03:48:20 Daniel O’Gara, the applicant’s representative, presented the applicant’s case and showed a Power Point presentation (See recording for detailed presentation.)

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03:50:20 Mr. Dock explained that he had received an opposition letter after publication of the agenda materials. It was from a resident of Jefferson Park Place subdivision, which is opposite Watterson Trail.

03:50:35 Ashley Bartley, an applicant's representative, discussed the site plan and reviewed the waivers and variances (see recording for detailed presentation.) She noted that the Jeffersontown Fire Department did not comment specifically on the gravel drive, but they did review the plan and provide other comments. She assumed that if the Fire Department had an issue with the drive, they would have included that in their remarks.

The following spoke in opposition to this request:

Tim Shaughnessy, 9712 Southern Breeze Lane, Louisville, KY 40299

Linda Brown, 9811 Watterson Trail, Louisville, KY 40299

Kent Craig, 9600 Locust Lane, Louisville, KY 40299

Summary of testimony of those in opposition:

03:55:22 Tim Shaughnessy asked if these would be 32 apartments or 32 condominiums. Ms. Bartley said they will be owned townhomes, not rented. Mr. Shaughnessy said he is opposed to the project because the neighborhood character is single-family homes; Watterson Trail does not have the capacity for the additional traffic; and because the introduction of multi-family housing sets a precedent that will affect future redevelopment of Watterson Trail. He noted that many residents of surrounding developments oppose multi-family rezoning, but schedules would not allow for most of them to attend this hearing. He noted that there are no sidewalks along Watterson Trail and no plans to build any – any pedestrians would find no sidewalks and no connections.

04:01:12 Linda Brown said she is concerned that the development will “adversely affect” herself and her neighbors. She is concerned about flooding; with heavy rains, Mill Creek can flash flood. The majority of that water does go back onto the property that is being developed. Some of the areas that flood are downstream from the catch-basin. She said she is also concerned about contamination to the stream. Traffic is always an issue. She is concerned that the rooftop decks will eliminate her privacy. She is concerned about sewer problems – she said some of her neighbors already have

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water/sewage backing up in their basements and yards because of the old sewer system in Jeffersontown.

04:06:43 Kent Craig, an adjoining property owner, said he agreed with the previous two speakers. He is also concerned with water runoff from the road. He said that, right now, the utilities are on the north side of his driveway. Will they go underground? He said that, if the utilities go underground, he would like to see them go underground all the way to his house. He also discussed garbage collection.

Rebuttal:

04:09:36 Mr. O’Gara presented the rebuttal. He noted that there is existing multi-family to the west; also, sidewalks will be going in on the shared multi-use path into the City Center of Jeffersontown, and this development will connect to that. He discussed sewer and water issues, and said MSD has signed off on this development request. He said the developer will have to comply with the MSD Green Management Plan. Regarding garbage pickup, he said the applicant is willing to work with Mr. Craig.

04:11:16 Commissioner Carlson asked Mr. O’Gara and Ms. Bartley to discuss the possibility of mitigating the privacy concerns from the rooftop decks. Ms. Bartley said there is existing vegetation which will be maintained; there are also requirements for screening. There will also be a fence and landscaping. Commissioner Carlson asked how tall the trees will be at planting on the east side. Ms. Bartley said the minimum height at planting is six feet. She and Commissioner Carlson discussed tree screening.

04:13:25 Commissioner Howard asked if any screening would be added to the roofs, to protect the privacy of nearby neighbors. Ms. Bartley said that eventually the evergreens will grow to that height. This could be a detail addressed by the City of Jeffersontown. Mr. Dock said that, if the applicant puts up a green wall, structure, or fencing, the applicant will have to add to their variance. Vegetation or landscaping up there would be exempt.

04:16:17 Commissioner Brown asked if the rooftop decks were used in the FAR calculation. Mr. Dock said no, because it is not “livable space”. Garage space is not included either.

04:17:36 In response to a question from Mr. Shaughnessy, Mr. O’Gara pointed out the location of the multi-family development. That development is not accessed directly from Watterson Trail.

04:19:31 Commissioners’ deliberation.

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04:29:42 Mr. O’Gara asked the Commissions what the changes were that they were looking for. Trying to enhance the privacy, either educe the height of the building or come up with some better screening. Commissioner Brown is concerned about the clearance on the gravel road. Ms. Bartley discussed accesses on property to the west (see recording.) She said she is fairly sure that the client would not be willing to remove a story.

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.

04:34:05 On a motion by Commissioner Carlson, seconded by Commissioner Brown, the following resolution was adopted:

RESOLVED, the Louisville Metro Planning Commission does hereby **Continue** this case to the **June 6, 2019** Planning Commission public hearing to give the applicant time to address the Commissioners’ concerns as noted today.

The vote was as follows:

YES: Commissioners Peterson, Daniels, Brown, Lewis, Howard, and Carlson.
NOT PRESENT: Commissioners Tomes, Jarboe, Smith, and Robinson.

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STANDING COMMITTEE REPORTS

Land Development & Transportation Committee

No report given.

Site Inspection Committee

No report given.

Planning Committee

No report given.

Development Review Committee

No report given.

Policy & Procedures Committee

No report given.

CHAIRPERSON/DIRECTOR'S REPORT

No report given

ADJOURNMENT

The meeting adjourned at approximately 5:49 p.m.

Chairman

Division Director