

**MINUTES OF THE MEETING  
OF THE  
LOUISVILLE METRO PLANNING COMMISSION MEETING  
June 6, 2019**

A meeting of the Louisville Metro Planning Commission was held on Thursday, June 6, 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  
Rich Carlson  
Ruth Daniels  
Rob Peterson  
Jeff Brown  
Donald Robinson

**Commissioners absent:**

Emma Smith  
Marilyn Lewis, Vice Chair  
Lula Howard  
David Tomes

**Staff members present:**

Emily Liu, Director, Planning & Design Services  
Joe Reverman, Assistant Director, Planning & Design Services  
Brian Davis, Planning & Design Manager  
Julia Williams, Planning & Design Supervisor  
Chris French, Planning & Design Supervisor  
Joel Dock, Planner II  
Lacey Gabbard, Planner I  
Jon Crumbie, Planning & Design Coordinator  
Dante St. Germain, Planner II  
John Carroll, Legal Counsel  
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 23, 2019 Planning Commission public hearing**

00:02:40 On a motion by Commissioner Carlson, seconded by Commissioner Peterson, the following resolution was adopted:

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** the minutes of the meeting conducted on May 23, 2019.

**The vote was as follows:**

**YES: Commissioners Peterson, Daniels, Carlson, and Jarboe.**

**ABSTAINING: Commissioners Robinson and Brown.**

**NOT PRESENT: Commissioners Smith, Lewis, Howard, and Tomes**

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**CASE NO. 19DEVPLAN1023**

Request: CONTINUED FROM THE 06/05/19 DRC MEETING –  
Revised Detailed District Development Plan  
Project Name: Residence Inn  
Location: 2510 Terra Crossing Boulevard  
Owner: David Peterson – DLP Real Estate LLC  
Applicant: David Peterson – DLP Real Estate LLC  
Representative: Nick Campisano – Campisano Capital LLC  
Jurisdiction: Louisville Metro  
Council District: 19 – Anthony Piagentini

**Case Manager: Lacey Gabbard, AICP, Planner I**

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.)

Agency Testimony

00:03:47 Commissioner Jarboe noted that this case was continued from yesterday's DRC meeting, because the DRC Committee lost their quorum before this case could be voted on.

00:04:34 Lacey Gabbard briefly presented the request. There was no one else present to speak about the case.

**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.**

00:05:16 Commissioners' deliberation. Commissioner Brown noted that this was heard at DRC yesterday. The proposal met all the Land Development Code requirements and there were no proposed changes to the binding elements.

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00:06:00 On a motion by Commissioner Brown, seconded by Commissioner Robinson, the following resolution, based on the Standard of Review and Staff Analysis, and evidence and testimony heard at the June 5, 2019 Development Review Committee meeting, was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that 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**, the Commission further finds that provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community has been provided, and Metro Public Works has approved the preliminary development plan. KYTC has not provided a review; and

**WHEREAS**, the Commission further finds that there are no open space requirements pertinent to the current proposal; and

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

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

**WHEREAS**, the Commission further finds that the development plan conforms to applicable guidelines and policies of Plan 2040 and to requirements of the Land Development Code; now, therefore be it

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

**General Plan 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

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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. Prior to development (includes clearing and grading) of each site or phase of this project, the applicant, developer, or property owner shall obtain approval of a detailed district development plan in accordance with Chapter 11, Part 6. Each plan shall be in adequate detail and subject to additional binding elements.
3. The development shall be in accordance with the approved Preliminary Subdivision Plan. No further subdivision of the land into a greater number of lots than originally approved shall occur without approval of the Planning Commission.
4. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
5. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
6. Before any permit (including but not limited to building, parking lot, change of use, site disturbance) is requested:
  - a. The development plan must receive full construction approval from Develop Louisville, Louisville Metro Public Works and the Metropolitan Sewer District.
  - b. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 for each lot prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
  - c. An 80' access and public utility easement will be dedicated with the first plat. All roads shall be dedicated and recorded to Public R/W on a major subdivision plat once 80% of the lots are developed.
  - d. A reciprocal access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be created between the adjoining property owners and recorded.

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7. 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.
8. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
9. 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.
10. The property owner shall provide a cross over access easement to the property to the east (Jewish Hospital property) if it is developed for a nonresidential use. A copy of the signed easement agreement shall be provided to Planning Commission staff upon request.
11. The materials and design of proposed structures shall be substantially the same as depicted in the exhibits as presented at the January 19, 2017 Planning Commission meeting.
12. No idling of trucks between the site and adjacent residential uses. No overnight idling of trucks shall be permitted on-site.
13. All street name signs shall be installed prior to requesting a certificate of occupancy for any structure. The address number shall be displayed on a structure prior to requesting a certificate of occupancy for that structure.
14. A note shall be placed on the preliminary plan, construction plan and the record plat that states, "Construction fencing shall be erected prior to any grading or construction activities – preventing compaction of root systems of trees to be preserved. The fencing shall enclose the area beneath the dripline of the tree canopy and shall remain in place until all construction is completed. No parking, material storage, or construction activities shall be permitted within the fenced area."

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15. Threshold for road improvements detailed within shall be based on current ITE trip generation peak hour rates and calculated prior to construction approval for each site. Construction plans, bond and encroachment permit shall be required from the developer prior to construction plan approval of each site as the trip generation thresholds are met, and improvements shall be constructed and operational prior to issuance of Certificate of Occupancy for the site. A stable containing approved sites and trips generated shall be maintained by Transportation Planning.
  - a. Prior to issuance of a building permit for a site-generated 100th peak hour trip from the entire development, a stabilized road bed connecting Factory Lane and Old Henry Road shall be provided. Prior to the issuance of a certificate of occupancy (CO) for this site-generated 100th peak hour trip, the roadway connecting Factory Lane and Old Henry Road shall be completed.
  - b. Prior to issuance of the building permit for the 150th site generated peak hour trip, construction plans for the dual right turn from the I-265 north bound ramp to Old Henry Rd. shall be submitted to KYTC. The turn lane shall be operational before the issuance of a Certificate of Occupancy related to this 300th site generated peak hour trip or a bond for the amount of the construction will be posted.
  - c. Prior to the issuance of a building permit for the site generating the 225th peak hour trip of the entire development, a traffic signal shall be present at the I-265 southbound at Old Henry Rd intersection. Traffic signal shall be operational prior to the issuance of Certificate of Occupancy.
  - d. Prior to the issuance of a building permit for the site generating the 500th peak hour trip of the entire development, a dual left turn lane and signalization shall be provided at the Old Henry and Terra Crossing intersection. Signal and left turn lanes shall be operational prior to the issuance of Certificate of Occupancy. Implementation of this binding element is conditioned on KTC approval.
16. A Uniform signage plan in compliance with LDC 5.12.1 shall be submitted with or prior to approval of the first Detailed District Development Plan of this GDDP.

**Existing Site 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

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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. Prior to development (includes clearing and grading) of each site or phase of this project, the applicant, developer, or property owner shall obtain approval of a detailed district development plan in accordance with Chapter 11, Part 6. Each plan shall be in adequate detail and subject to additional binding elements.
3. The development shall be in accordance with the approved Preliminary Subdivision Plan. No further subdivision of the land into a greater number of lots than originally approved shall occur without approval of the Planning Commission.
4. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
5. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
6. Before any permit (including but not limited to building, parking lot, change of use, site disturbance) is requested:
  - a. The development plan must receive full construction approval from Develop Louisville, Louisville Metro Public Works and the Metropolitan Sewer District.
  - b. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 for each lot prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
  - c. An 80' access and public utility easement will be dedicated with the first plat. All roads shall be dedicated and recorded to Public R/W on a major subdivision plat once 80% of the lots are developed.



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- d. A reciprocal access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be created between the adjoining property owners and recorded.
7. 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.
8. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
9. 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.
10. The property owner shall provide a cross over access easement to the property to the east (Jewish Hospital property) if it is developed for a nonresidential use. A copy of the signed easement agreement shall be provided to Planning Commission staff upon request.
11. The materials and design of proposed structures shall be substantially the same as depicted in the exhibits as presented at the January 19, 2017 Planning Commission meeting.
12. No idling of trucks between the site and adjacent residential uses. No overnight idling of trucks shall be permitted on-site.
13. All street name signs shall be installed prior to requesting a certificate of occupancy for any structure. The address number shall be displayed on a structure prior to requesting a certificate of occupancy for that structure.
14. A note shall be placed on the preliminary plan, construction plan and the record plat that states, "Construction fencing shall be erected prior to any grading or construction activities – preventing compaction of root systems of trees to be preserved. The fencing shall enclose the area beneath the dripline of the tree

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

15. Threshold for road improvements detailed within shall be based on current ITE trip generation peak hour rates and calculated prior to construction approval for each site. Construction plans, bond and encroachment permit shall be required from the developer prior to construction plan approval of each site as the trip generation thresholds are met, and improvements shall be constructed and operational prior to issuance of Certificate of Occupancy for the site. A stable containing approved sites and trips generated shall be maintained by Transportation Planning.
  - a. Prior to issuance of a building permit for a site-generated 100th peak hour trip from the entire development, a stabilized road bed connecting Factory Lane and Old Henry Road shall be provided. Prior to the issuance of a certificate of occupancy (CO) for this site-generated 100th peak hour trip, the roadway connecting Factory Lane and Old Henry Road shall be completed.
  - b. Prior to issuance of the building permit for the 150th site generated peak hour trip, construction plans for the dual right turn from the I-265 north bound ramp to Old Henry Rd. shall be submitted to KYTC. The turn lane shall be operational before the issuance of a Certificate of Occupancy related to this 300th site generated peak hour trip or a bond for the amount of the construction will be posted.
  - c. Prior to the issuance of a building permit for the site generating the 225th peak hour trip of the entire development, a traffic signal shall be present at the I-265 southbound at Old Henry Rd intersection. Traffic signal shall be operational prior to the issuance of Certificate of Occupancy.
  - d. Prior to the issuance of a building permit for the site generating the 500th peak hour trip of the entire development, a dual left turn lane and signalization shall be provided at the Old Henry and Terra Crossing intersection. Signal and left turn lanes shall be operational prior to the issuance of Certificate of Occupancy. Implementation of this binding element is conditioned on KTC approval.
16. A Uniform signage plan in compliance with LDC 5.12.1 shall be submitted with or prior to approval of the first Detailed District Development Plan of this GDDP.

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**The vote was as follows:**

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

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**PUBLIC HEARING**

**CASE NO. 19AMEND1003**

Request: THIS CASE WILL BE CONTINUED TO THE JUNE 20, 2019  
PLANNING COMMISSION HEARING – Amendment to the  
Land Development Code Related to Trees and Tree Canopy

Project Name: Tree Canopy LDC Amendment

Location: Louisville Metro

Applicant: Louisville Metro

Jurisdiction: Louisville Metro

Council District: All Council Districts

**Case Manager: Julia Williams, AICP, Planning & Design 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. (The staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

**Agency Testimony:**

00:06:41 Julia Williams said the Planning Committee has recently completed its review of the proposed amendments. The case is being continued to allow the public and the Commissioners time to review before it is addressed in the Planning Commission. She added that staff has requested that this case not be heard before 3:00 p.m.

**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.**

00:08:42 On a motion by Commissioner Carlson, seconded by Commissioner Peterson, the following resolution was adopted:

**RESOLVED**, the Louisville Metro Planning Commission does hereby **CONTINUE** this case to the **June 20, 2019 Planning Commission** public hearing, and will not be heard before 3:00 p.m.

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**PUBLIC HEARING**

**CASE NO. 19AMEND1003**

**The vote was as follows:**

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

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**CASE NO. 18DEVPLAN1182**

Request: CONTINUED FROM THE 06/05/19 DRC MEETING –  
Revised Development Plan with Binding Element  
Amendments and Waivers

Project Name: Airport Industrial Center

Location: 114 Rochester Drive

Owner: Louisville & Jefferson County Redevelopment

Applicant: Louisville & Jefferson County Redevelopment

Representative: John McLaren – Titan Research & Development

Jurisdiction: Louisville Metro

Council District: 21 – Nicole George

**Case Manager: Lacey Gabbard, 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:**

00:09:23 Lacey Gabbard presented the case. She noted that this was heard yesterday at the June 5, 2019 DRC meeting; however, DRC lost their quorum and could not take final action on the case. She said the applicant has spoken with her clients since yesterday, and has come to some conclusions that may make the two originally-requested waivers unnecessary (see staff report and recording for detailed presentation.)

**The following spoke in support of this request:**

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

**Summary of testimony of those in support:**

00:11:54 Before Ashley Bartley, the applicant's representative, made her presentation, Commissioner Brown briefly recapped what had been presented at the June 5, 2019 DRC meeting (see recording.)

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00:13:16 Ms. Bartley said the applicant has requested a variance, which will be going to be heard at the Board of Zoning Adjustment (BOZA). Regarding the waivers, she said that Commissioner Brown had requested a landscaped strip and a defined entrance to the parking lot on Rochester Drive. However, she noticed that there is a sidewalk in this area. She suggested a 6 ½ foot wide curbed sidewalk with ramps on either side, so it would provide a physical barrier (pedestrian and vehicle safety.) She said the applicant would still need the waivers for the LBA. She requested the removal of the formerly-requested waiver for the amenity area, since this can be provided.

**The following spoke in opposition to this request:**

No one spoke.

**Deliberation:**

00:15:20 Commissioners' deliberation. In response to Commissioner Carlson's question, Ms. Gabbard confirmed that the applicant is withdrawing the waiver request for the outdoor amenity area. She said the applicant will submit a revised development plan to staff which reflects this.

**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.**

**Waiver of Section 10.2.4 to allow parking areas to encroach into the LBAs on the north and south property lines and to eliminate the LBAs**

00:16:43 On a motion by Commissioner Brown, seconded by Commissioner Robinson, the following resolution, based on the Standard of Review and Staff Analysis, and the evidence and testimony heard today and at the June 5, 2019 DRC meeting, was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that the waiver will not adversely affect adjacent property owners since there is currently no landscaping or plantings in the LBAs on either the north or south property lines. There is existing parking on the south property line, and the north property line has a green grassy space but there do not appear to be any plantings. The applicant is requesting to fulfill tree

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canopy requirements by planting off-site, at a nearby Metro-owned baseball field on Rochester Drive; and

**WHEREAS**, the Commission further finds that Land Use & Development Goal 1, Policy 4 calls for the proposal to ensure new development and redevelopment are compatible with the scale and site design of nearby existing development and with the desired pattern of development within the Form District. Land Use & Development Goal 1, Policy 12 calls for proposals to ensure that parking, loading and delivery is adequate and convenient for motorists and does not negatively impact nearby residents or pedestrians. Parking and circulation areas adjacent to the street shall be screened or buffered. Use landscaping, trees, walls, colonnades or other design features to fill gaps along the street and sidewalk created by surface parking lots. Land Use & Development Goal 1, Policy 20 calls for mitigation of adverse visual intrusions when there are impacts to residential areas, roadway corridors, and public spaces. The subject site is interior to the Airport Industrial Center development, which does not appear to have any plantings along Rochester Drive or Technology South Drive, both of which are private roads. Additionally, this is an industrial area with no residential structures. The subject site is surrounded by private streets; and

**WHEREAS**, the Commission further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since nearby sites in the vicinity of the subject site do not appear to provide the minimum plantings. Additionally, the subject site is internal to the Airport Industrial Center as a whole, and nearby sites within the Center do not appear to be providing plantings; and

**WHEREAS**, the Commission further finds that the applicant has compensated for non-compliance by proposing Interior Landscape Areas in excess of the square footage required. Also, the applicant has requested that tree canopy plantings be located off-site at a nearby Metro-owned park, Beechmont Baseball Fields on Rochester Drive; now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Waiver of Section 10.2.4 to allow parking areas to encroach into the LBAs on the north and south property lines and to eliminate the LBAs.

**The vote was as follows:**

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



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**Revised Development Plan with Binding Element Amendments**

00:17:35 On a motion by Commissioner Brown, seconded by Commissioner Robinson, the following resolution, based on the Standard of Review and Staff Analysis, and the evidence and testimony heard today and at the June 5, 2019 DRC meeting, was adopted:

**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Revised Development Plan with Binding Element Amendments, **ON CONDITION** that the plan is updated to show the 6 ½ foot sidewalk along the northern side and the outdoor amenity area/s, and **SUBJECT** to the following binding elements:

**General Plan 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's designees for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. Prior to development (includes clearing and grading) of each site or phase of this project, the applicant, developer, or property owner shall obtain approval of a detailed district development plan in accordance with Chapter 11, Part 6. Each plan shall be in adequate detail and subject to additional binding elements.
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) permit is requested:
  - a. The development plan must receive full construction approval from Louisville Metro Department of Inspections, Permits and Licenses, Louisville Metro

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Public Works and the Metropolitan Sewer District.

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. All street name signs shall be installed prior to requesting a certificate of occupancy for any structure. The address number shall be displayed on a structure prior to requesting a certificate of occupancy for that structure.

**Site Binding Elements**

All binding elements from the approved General Development Plan are applicable to this site, in addition to the following:

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. Prior to development (includes clearing and grading) of each site or phase of this project, the applicant, developer, or property owner shall obtain approval of a detailed district development plan in accordance with Chapter 11, Part 6. Each plan shall be in adequate detail and subject to additional binding elements.
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

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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, or site disturbance is requested:
  - a. The development plan must receive full construction approval from Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.
  - b. The appropriate variance(s) shall be obtained from the Board of Zoning Adjustment to allow the development as shown on the approved district development plan.
  - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
  - d. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
  - e. Final elevations/renderings shall be submitted for review and approval by Planning Commission staff. A copy of the approved rendering shall be available in the case file on record in the offices of the Louisville Metro Planning Commission.
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,

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contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.

**The vote was as follows:**

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

**PLANNING COMMISSION MINUTES**  
**June 6, 2019**

**PUBLIC HEARING**

**CASE NO. 19DEVPLAN1074**

Request: CONTINUED FROM THE 06/05/19 DRC MEETING –  
Revised Detailed District Development Plan and Binding  
Element Amendments

Project Name: Assumption High School Additions

Location: 2170 Tyler Lane

Owner: Assumption High School, Inc.

Applicant: Assumption High School, Inc.

Representative: Ann Richard – Land Design & Development, Inc.

Jurisdiction: Louisville Metro

Council District: 8 – Brandon Coan

**Case Manager: Jon E. Crumbie, Planning & Design Coordinator**

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:**

00:18:26 Jon Crumbie noted that this case was heard at DRC on June 5, 2019 but had to be continued due to the loss of the DRC quorum. He said there had been some concerns at yesterday's meeting about some binding elements, and also about adding some notes to the plan (see staff report and recording for detailed presentation.)

**The following spoke in support of this request:**

Kevin Young, Land Design & Development, 503 Washburn Avenue, Louisville, KY 40222

**Summary of testimony of those in support:**

00:19:18 Kevin Young, the applicant's representative, read all of the binding elements into the record (see recording for his verbatim presentation.)

00:24:15 Commissioner Carlson asked Kevin Young about the proposal to monitor Bardstown Road queuing traffic for 60 days. What happens if the problem comes back? Mr. Young said the applicant will work with staff to eliminate queuing traffic on Bardstown Road.

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**The following spoke in opposition to this request:**

No one spoke.

**The following spoke neither for nor against the request (“Other”):**

Billy Ralls, 9719 Third Street Road, Louisville, KY 40272 (signed in but did not speak)

Leslie Cissell, 2156 Gladstone Avenue, Louisville, KY 40205

**Summary of testimony of those neither for nor against:**

00:26:29 Leslie Cissell asked about binding element #10 which prohibits music being audible beyond the property line. Why only music? Mr. Young said the concerns seemed to be loud radios or PA systems. Ms. Cissel said she supports the original BE language, as presented at yesterday's DRC.

**Deliberation:**

00:28:44 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.**

**Revised Detailed District Development Plan and Binding Element Amendments**

00:31:05 On a motion by Commissioner Brown, seconded by Commissioner Robinson, the following resolution, based on the Standard of Review and Staff Analysis, and the evidence and testimony heard today and at the June 5, 2019 DRC meeting, was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that 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**, the Commission further finds that provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community has been provided. Public Works' and MSD has provided preliminary approval; and

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**WHEREAS**, the Commission further finds that open space is not required for this proposal; and

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

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

**WHEREAS**, the Commission further finds that the development plan conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code; now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Revised Detailed District Development Plan and Binding Element Amendments, **SUBJECT** to the following binding elements:

**Proposed Site Plan Binding Elements**

- ~~1. The development shall be in accordance with the approved district development plan and agreed upon binding elements unless amended pursuant to the Zoning District Regulations. No further development shall occur without prior approval from the Planning Commission. No additional land use or change in use of the property (other than the uses permitted on the approved Development Plan) shall be permitted without the prior approval of the Land Development \* Transportation (“D&T”) Committee or Planning Commission. The LD&T Committee or the Planning commission may require a public hearing on the request to amend this Binding element.~~
- ~~(b) The applicant shall provide written notice of any LD&T meeting or Planning Commission hearing at which a proposed additional land use or change in use is to be considered. Such notice shall be mailed to all first and second tier adjacent property owners and to the President of the Upper Highlands Neighborhood Association at least fourteen (14) days prior to any such LD&T meeting or Planning Commission hearing. Certification of such notice shall be provided, by the applicant, to Planning and Development Services prior to docketing of any land use or change in use.~~

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- ~~2. The development (all buildings) shall not exceed 127,506 square feet of gross floor area, which includes 48,974 square feet for the gymnasium (including classrooms, cafeteria and school book store).~~
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 only permitted freestanding ~~sign~~ signs shall be the ~~existing sign~~ existing and proposed signs as shown on the approved detailed district development plan. The proposed signs are to be up lit only.
3. (a) No outdoor advertising signs (billboards) or small-free standing (temporary) signs shall be permitted on site.  
  
(b) Pennants, banners and balloons may be permitted on site for special school-related events ("events"). Not more than 12 events may occur during each calendar year. For each such event, a display of pennants, banners and/or balloons shall not last longer than 24 hours.  
  
(c) The existing banner stating "~~Triple Crown Blue Ribbon School of Excellence~~" may remain at its present location on the southern façade of the main school building and may be replaced with a banner similar in size when necessary for a change in message or due to deterioration.
4. There shall be no outdoor storage on the site.
5. Outdoor lighting shall be directed down and away from surrounding residential properties. Lighting fixtures shall have a 90 degree cutoff so that no light source is visible off-site. Lighting levels attributable to the fixtures located on the subject site shall not exceed two foot candles at the property line.
- 6a. 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



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

- 6b. The applicant shall identify and submit for approval by designated DPDS staff, a plan showing the location of Tree Preservation Areas on site (exclusive of areas dedicated as public right-of-way) prior to beginning any construction procedure (i.e., clearing, grading, demolition). All construction shall be conducted in accordance with the approved Tree Preservation Plan. A partial plan may be submitted to delineate clearing necessary for preliminary site investigation. All Tree preservation Plans must be prepared in accordance with the standards set forth in DPDS.
  
7. 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 the City of Louisville, Department of Inspections, Permits and Licenses (617 W. Jefferson Street) and the Metropolitan Sewer District (700 West Liberty).~~
  
  - b. ~~The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Article 12 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.~~
  
  - a. The development plan must receive full construction approval from Develop Louisville, Louisville Metro Public Works and the Metropolitan Sewer District.
  
  - 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.
  
8. If a building permit is not issued within one year of the date of approval of the plan or rezoning, whichever is later, the property shall not be used in any manner unless a revised district development plan is approved or an extension is granted by the Planning Commission.
  
9. A certificate of occupancy must be received from the appropriate code enforcement office prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented

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prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.

10. **Following issuance of a Certificate of Occupancy for the new gymnasium building,** There shall be no school sponsored outdoor music (live, piped, radio or amplified), outdoor entertainment, or outdoor PA system permitted on the site. *[Note: Presently school pep rallies are conducted outdoors. Following the opening of the gymnasium building all pep rallies will be held indoors, eliminating the need for sound amplification.]* There shall be no outdoor music audible beyond the property lines.
11. The property owner/developer shall provide copies of these binding elements to tenants, contractors and other parties engaged in development of this project, and shall inform them of the content of these binding elements. Further, the property owner/developer shall require contractors to similarly notify all of their subcontractors whose duties relate to the binding elements. The property owner/developer shall ensure their compliance with the binding elements.
- ~~13. Assumption High School (“Assumption”) shall construct a left turn lane on Tyler Lane adjacent to the High School. The storage and taper of the turning lane should be as described in the Traffic Analysis of Travel and Traffic Associates, Inc., dated July 25, 2000 and as shown on the approved Detailed Development Plan. Assumption shall be responsible for all costs associated with the installation of the turning lane. Additionally, Assumption shall dedicate the required right-of-way for the construction of the turning lane,~~
- ~~14. Assumption High School shall be responsible for the installation of a left turn phase modification on the eastbound approach of Tyler Lane, to the existing traffic signal if warranted by the standards in the Manual of Uniform Traffic Control Devices and the Kentucky Transportation Cabinet Guidelines.~~
12. Assumption High School shall publish the following provisions in each edition of its Student/Parent handbook. (Neither Planning and Development Services Develop Louisville Staff nor Inspection, Permits, and Licenses staff shall be responsible for enforcing the rules set forth below).

**Parking**

Parking on campus or in a school-provided parking space is a privilege. During the school day, any student who is not assigned parking spaces shall not park on campus.

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~~Seniors and juniors~~ Students who register by the deadline may be assigned a parking space.

Only those students who register for a parking permit, pay the specified fee, and fulfill all applicable school requirements may be issued a parking space.

If a student has not been assigned a parking space, she may not park in Assumption's lot or in spaces arranged for by the school.

At no time may any student park in fire lanes, construction areas, faculty spaces, visitor parking areas or on residential streets, including Tyler Lane, Eleanor Avenue, Lancashire Avenue, Gladstone Avenue, Hock Avenue and other residential streets near Assumption High School.

Priority for issuing spaces will be given to students who car pool.

Careful driving (not to exceed 10 mph) is expected at all times in the parking lot.

Students shall not park in the following areas (violators parking illegally are subject to having their vehicles towed):

- (1) parking spaces reserved for St. Raphael's Church;
- (3) parking spaces intended for patrons of local businesses;
- (4) on private property without the express permission of the owner(s) of such private property;

All school rules and regulations are in effect in all student parking areas, including those off campus.

Students will receive a packet containing rules and regulations regarding driving and parking on school property when they apply for a permit.

Failure to abide by any rules, regulations, and school policies pertaining to Parking will result in disciplinary consequences, and in addition may result in the suspension or cancellation of parking privileges.

A signed copy of the student's agreement to abide by the driving and parking regulations shall be kept on file in the school office.

Students may not go to the parking lot at any time during the school day without permission from the dean of students. Students may not go to their cars parked in designated areas off-campus without special permission from their parents and the dean of students.

13. At no time shall Assumption High School enroll more than 975 students.

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- ~~17. Subject to the approval of the City of Louisville Department of Public Works, traffic signs shall be placed at the Bardstown road/Assumption access and the Bardstown road/St. Raphael access, stating "Right Turn Only – School Days Only – 1:30 PM – 3:30PM." The exact location of these signs shall be determined in conjunction with the Department of Public Works.~~
14. The proposed gymnasium building shall be predominantly brick, and shall be substantially similar in design to the drawings submitted at public hearing on ~~September 7, 2000~~ June 6, 2019. Any further reduction in the height of the gymnasium building may be approved by DPDS Staff without further approval of the Land Development and Transportation Committee or the Planning Commission.
- ~~19. Prior to requesting a Certificate of Occupancy, Assumption shall provide to Planning and Development Services an executed copy of an agreement with the Upper Highlands neighborhood Association addressing at a minimum, enforcement of the following issues:~~
- 15a. The gymnasium shall not be leased (a) to sports clubs or league conducting volleyball games, basketball games or other sports activities which are not associated with Assumption High School, or (b) to for-profit or not-for-profit organizations conducting activities not connected with Assumption High School. Assumption may use the facilities for school-related functions, and may allow the use of the facility by St. Raphael for athletic purposes; and
- 15b. No drop-off/pick up of students shall be permitted on the Tyler lane right-of-way; and,
- 15c. Assumption High School will have personnel on-site to direct traffic.
- ~~20. Prior to Planning and Development Services transmittal of the plans to the building department, Assumption shall provide a letter from the Louisville Development Authority (LDA) certifying that LDA has reviewed and is in concurrence with the building mass, height and color scheme.~~
16. Assumption shall ~~replace any trees along Tyler Avenue damaged during construction of the parking in this area. Replacement trees shall be a minimum of four inch caliper.~~ Assumption shall implement the Tyler Lane Frontage Plan approved at the June 6, 2019-Planning Commission meeting.

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17. The lighting for the proposed atrium will be dimmed when the school is not in use.
18. After the site construction is completed and school is in session Assumption High School will monitor for 60 days the Bardstown Road paved shoulder along their frontage to determine if cars are continuing to queue on it. If cars are queuing Assumption High School will develop an alternative plan with Develop Louisville staff to eliminate the queuing on the shoulder.

**Additional Binding Elements Agreed to By the Applicant Before the Louisville Board of Alderman on October 17, 2000**

- ~~1. Applicant shall file with the Division of Planning and Development Services an as-built survey indicating that detention facilities have been constructed in accordance with Metropolitan Sewer District requirements and the Development Plan.~~
1. Prior to the commencement of construction Assumption High School shall furnish to all first tier property owners and to the President of the Upper Highlands Neighborhood Association the name(s) and phone number(s) of a person or persons to contact in the event of concerns or questions relating to construction activities on-site.
2. When construction begins on the school expansion Assumption High School shall furnish to all first tier property owners and to the President of the Upper Highlands Neighborhood Association and to the property owners on Gladstone Avenue west of Bardstown Road and Hock Avenue between Tyler Lane and Lancashire Avenue the name(s) and phone number(s) of a person or persons to contact in the event of concerns, issues, or questions relating to traffic or parking issues or problems on-site. *[Assumption High School shall comply with this Binding Element within 30 days of final and unappealable approval of this zone change application, or in the event of a judicial appeal, within 30 days of final judgement or order in favor of Applicant by a court of competent jurisdiction, together with all time remaining for further appeal having expired.]*

**The vote was as follows:**

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

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**PUBLIC HEARING**

**CASE NO. 18ZONE1004**

Request: CONTINUED FROM THE 05/23/19 PLANNING COMMISSION HEARING - Change in zoning from R-4 Single-Family to R-6 Multi-Family with a Detailed Plan, Landscape Waivers, and a 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: Daniel O’Gara - Dinsmore & Shohl, LLP  
Jurisdiction: City of Jeffersontown/Louisville Metro  
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:**

00:32:00 Joel Dock presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.) He noted that this case was continued from the May 23, 2019 Planning Commission public hearing, and he briefly reviewed the original presentation. He said the primary concerns, which the applicant should answer today, are: fire department approval; the width of the gravel drive and the easement; privacy concerns from the rooftop decks; and creating a place from the adjacent property owner on Locust Lane to set out his trash for collection at the end of the private drive.

**The following spoke in support of this request:**

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

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

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#### **Summary of testimony of those in support:**

00:35:05 Daniel O’Gara, the applicant’s representative, discussed concerns that were raised at the May 23, 2019 Planning Commission public hearing (see recording.) He said the Jeffersontown Fire Department has confirmed via e-mail that they have no issue with the proposal as long as the applicant does not impede the current width of the drive. He said the applicant is proposing planters along the east rooftop edges to address privacy concerns by adding additional screening. He handed out a proposed binding element regarding these planters to the Commissioners. Regarding the garbage cans for the residents of 9600 Locust Lane, he said the applicant is willing to allow the residents to place his garbage cans at the end of the drive.

00:38:23 Ashley Bartley, an applicant’s representative, showed the new renderings and talked about the work she did to address concerns raised at the May 23, 2019 Planning Commission hearing.

#### **The following spoke in opposition to this request:**

Kent and Michele Craig, 9600 Locust Lane, Louisville, KY 40299

#### **Summary of testimony of those in opposition:**

00:44:16 Michele Craig said she is still concerned about the utilities – will they be above ground, or buried? Ms. Bartley pointed out the location of an overhead utility line on a photo of the site, and said that if any relocation is necessary the applicant will try to minimize the impact (try for a weekend relocation, etc.) She added that this depends on the utility company and when they are willing to do the work. She said the new utilities for the community interior will all be underground.

00:46:04 Ms. Craig said she is still concerned about traffic on Watterson Trail and the way the new units will impact the flow. She said that, currently, it is “nearly impossible” to pull out of Locust Lane and make a left turn onto Watterson Trail. She said that she has to sit and wait for about 10-15 minutes to make a left turn there.

00:48:09 Kent Craig said he had noticed a “narrowing-down” on the northeast corner, where the stream goes through. Is erosion being caused here? He discussed gravel causing problems in his lawnmower, and if trees are impeding the driveway.

#### **Rebuttal**

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00:51:21 Mr. O’Gara addressed Mr. Craig’s questions about the garbage collection. He said there are no plans to pave the gravel drive; this will be left as-is.

**Deliberation:**

00:52”49 Commissioners’ deliberation.

00:55:27 Commissioner Jarboe asked how many units would be permitted under R-5A instead of R-6. Mr. Dock referred the Commissioners to the Technical Review on page 2 of the staff report and discussed density and Floor Area Ratio (FAR).

01:00:15 Commissioner Brown discussed more details about road connectivity and a stub 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.**

**Zoning**

01:03:27 Commissioner Brown, seconded by Commissioner Carlson, made a motion to recommend to the City of Jeffersontown that the requested rezoning be **denied** based on the testimony heard today:

**WHEREAS**, the Louisville Metro Planning Commission finds that as the increase in intensity for the area is not comparable to the surrounding land uses.

The motion failed.

**The vote was as follows:**

**YES: Commissioners Brown and Carlson.**

**NO: Commissioners Robinson, Peterson, Daniels, and Jarboe.**

**NOT PRESENT: Commissioners Smith, Lewis, Howard, and Tomes**



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01:04:52 On a motion by Commissioner Peterson, seconded by Commissioner Robinson, the following resolution, based on the Plan 2040 Staff Analysis, the applicant's justification, and evidence and testimony heard today, was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the intents of Community Form: Goal 1 because The proposed higher density use is located near major transportation facilities and transit corridors, employment centers, in or near activity centers and other areas where demand and adequate infrastructure exists or is planned as the subject site is located along a primary collector containing a shared use path that will provide direct access to the center of the City of Jeffersontown and to TARC route #40; the proposed district ensures appropriate transitions between uses of different scales and densities as the site is appropriately located to transition from a lower density single family and multi-family district. The subject property abuts a limited number of low density residential properties and provides access directly from a primary collector roadway. Landscape transitions have been provided as required to adjacent residential uses; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Community Form: Goal 2 because a single residence will be removed to accommodate a greater diversity of housing in the area; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Community Form: Goal 3 because development within the proposed district will follow all applicable regulations as set forth by the Louisville Metropolitan Sewer District. The site is not located within the 100-yr floodplain and does not appear to contain hydric soils or wetlands; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Community Form: Goal 4 because The subject property contains and/or adjoins portions of an undefined stream that flows north/south across Waterson Trail. The stream does not appear to be impacted by the proposed district; Demolition of the existing structure on site appears to require review by the historic preservation officer prior to construction plan approval due to its age; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Mobility: Goal 1 because The proposed higher density district is located near activity and employment centers as well as public transportation as a shared use path along Watterson Trail provides direct access to the City center within 0.5 miles of the subject property; and

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**WHEREAS**, the Commission further finds that the proposal meets the intents of Mobility: Goal 2 because Access to the subject site is obtained directly from a primary collector and no access is provided from local roads serving lower density residential; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Mobility: Goal 3 because The proposed district encourages a mixture of land uses that are easily accessible by bicycle, car, transit, pedestrians and people with disabilities as the site is within close proximity to TARC routes, employment, services, and amenities. Each being served by the subject site via shared use path. The district supports housing near employment centers; the proposal has a limited impact on the transportation network as Spruce Grove Drive dead ends where there is multi-family development. This existing development provides adequate means for maneuvering back out of the dead end. Pedestrian connectivity will be maintained through the site for the public from Spruce Grove to Watterson Trail. The connection of Spruce Grove to Waterson Trail would limit the multi-family capabilities of the property; the proposal will bear or share in rough proportionality the costs of transportation facilities and services made necessary by development; the proposal will provide necessary transportation or infrastructure improvements; the proposal will provide necessary transportation or infrastructure improvements in accordance with long-range transportation plans and level of mobility criteria for all modes of travel; access will be provided for multiple units to a collector level roadway and no individual units will have direct access; and

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

**WHEREAS**, the Commission further finds that the proposal meets the intents of Livability: Goal 1 because Tree canopy and landscaping will be provided in accordance with Ch. 10 of the Land Development code. There do not appear to be any significant landscape characteristic associated with the site as it is primarily cleared of tree masses; all development on the subject site will occur in accordance with applicable building, health, and MSD regulations; the subject property is not located within the regulatory floodplain; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Housing: Goal 1 because the proposed district encourages a variety of housing types in the area which are supported by adjacent centers and transportation options; the

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proposed district allows for increased flexibility in provisioning for housing options and environments that support aging in place; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Housing: Goal 2 because the proposed districts supports inter- generational, mixed-income and mixed-use options that are connected to the neighborhood and nearby centers; the proposal is located within proximity to multi-modal transportation corridors providing safe and convenient access to employment opportunities, as well as being within close proximity to amenities providing neighborhood goods and services. The site is connected to the City center of Jeffersontown by shared use path. The district is accessible by multi-modal transportation as the shared use path provides connectivity to TARC route #40; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Housing: Goal 3 because the proposed district allows for flexibility in provisioning fair and affordable housing. The district provides options for variably priced housing in an area within proximity to services and amenities; a single residential structure will be replaced by multiple units resulting in a net increase in housing units; the proposed district allows for a greater variety of housing styles and living arrangement then is currently present in the underlying zoning district; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 1-Community Form because the subject property is located in the Neighborhood Form District and the neighboring property to the west is a multi-family patio-home development known as the Gardens of Monticello. The proposed townhomes are compatible with the scale and function of the Gardens of Monticello development and the surrounding single-family neighborhoods. The proposed townhomes will support a mix of residential choices, and will add to the diversity of opportunity for potential home owners or tenants in the area. The proposal will not be substantially more intense in terms of traffic, lighting, and impact on the surrounding neighborhoods than the neighboring Gardens of Monticello development; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 2-Centers because the subject property sits squarely within the large single- and multi-family residential district on either side of Watterson Trail less than a mile to the south of downtown Jeffersontown. The proposed development will connect directly to Watterson Trail. The subject property is served by the activity center in downtown Jeffersontown at the intersection of Watterson Trail and Taylorsville Road. The applicant proposes a pedestrian sidewalk connection between the development and Watterson Trail that will connect to a future paved trail.

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The applicant also proposes a pedestrian connection between the subject property and Spruce Grove Drive to the north; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 3-Compatibility because the proposed townhomes will be compatible with the surrounding single- and multi-family residential uses, including the neighboring patio-home development the Gardens of Monticello. The proposed re-zoning will allow for greater diversity of opportunity for potential home owners or tenants in Jeffersontown while preserving the overall residential character of the surrounding area; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guidelines 4-Open Space and 5-Open Space and Scenic and Historic Resources because over 23,000 square feet of open space is being provided. There are no known sensitive natural features or cultural or historic resources on the subject property; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guidelines 7-Circulation, 8-Transportation Facility, and 9-Bicycle, Pedestrian and Transit because the proposal provides for 89 total parking spaces, including 64 garage spaces (2 per unit) and 25 surface spaces. The proposed connection between the subject property and Watterson Trail will connect the development to the surrounding neighborhoods and provide access to the activity center less than a mile away in downtown Jeffersontown. The applicant proposes a pedestrian sidewalk connection between the development and Watterson Trail that will connect to a future paved trail. The applicant also proposes a pedestrian connection between the subject property and Spruce Grove Drive to the north; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guidelines 10-Flooding and Stormwater and 11-Water Quality because it will comply with all MSD regulations concerning water quantity and quality from the site. The property located at 9801 Watterson Trail will contain a stormwater basin and 12,000 square feet of open area to mitigate any increase in impervious area; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 13-Landscape Character because the subject property will be landscaped consistent with the surrounding residential area and will provide tree canopy as required by the Land Development Code; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 14-Infrastructure because the subject property has existing access to utilities

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and water. The health department has indicated it has no issues with the proposal; now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the City of Jeffersontown that the proposed Change-in-Zoning from R-4, Single-Family Residential to R-6, Multi-Family Residential on property described in the attached legal description be **APPROVED**.

**The vote was as follows:**

**YES: Commissioners Robinson, Peterson, Daniels, and Jarboe.**

**NO: Commissioners Brown and Carlson.**

**NOT PRESENT: Commissioners Smith, Lewis, Howard, and Tomes**

- **Waiver #1 - Waiver of Land Development Code, section 10.2 to omit the 15' VUA LBA adjacent to proposed private access easement**
- **Waiver #2 - Waiver of Land Development Code, section 10.2 to omit the 15' LBA for proposed access lane from Watterson Trail**

01:06:00 On a motion by Commissioner Peterson, seconded by Commissioner Robinson, the following resolution, based on the Standard of Review and Staff Analysis, the applicant's justification and evidence and testimony heard today, was adopted:

**(Waiver #1) WHEREAS**, the Louisville Metro Planning Commission finds that the waiver will not adversely affect adjacent property owners as the existing gravel drive that is not correctly located in the current easement is being placed within an easement on the subject property to maintain rights of access which necessitates the requested relief. The encroachment maintains the developer's vision while providing rights of access; and

**WHEREAS**, the Commission further finds that Plan 2040 calls for a mixture of densities as long as their designs are compatible. When incompatible developments unavoidably occur adjacent to one another impacts are to be mitigated. Appropriate transitions are to be provided between uses that are substantially different in scale and intensity or density of development. Examples include vegetative buffers of variable designs, open spaces, landscaping and/or a transition of densities, site design, building heights, building design, materials and orientation that is compatible with those of nearby residences. Buffers should address issues such as out-door lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other

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noxious smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances. The encroachment impacts a single user who is being granted continued rights of access through the subject site for a narrow gravel driveway. The relief does not impact public roadways or residential properties; and

**WHEREAS**, the Commission further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as rights of access have been granted for a single user which created the need to apply a VUA LBA; and

**WHEREAS**, the Commission further finds that the strict application of the regulation would deprive the applicant of the reasonable use of the land as the developers vision for the property and adjacent users rights of access to their property form Waterson Trail are being accommodated; and

**WHEREAS**, the Commission further finds that the proposed waiver to allow the existing Locust Lane to remain will not adversely affect adjacent property owners. Locust Lane serves as access to one or more properties. It is currently a narrow gravel lane that is proposed to remain. Locust Lane, as constructed, is not within a granted access easement, which easement is to the south of the constructed path. However, there are mature trees in the area of the granted easement. Allowing Locust Lane to remain and allowing it to encroach into the required Landscape Buffer Area will maintain both access and tree canopy, benefiting the adjacent property owners; and

**WHEREAS**, the Commission further finds that the proposed waiver will not violate the Plan 2040 Comprehensive Plan. The preservation of tree canopy is a key part of the Livability plan element, and allowing Locust Lane to remain will allow for the preservation of trees that would be removed if Locust Lane was relocated; and

**WHEREAS**, the Commission further finds that the extent of the waiver is the minimum necessary to allow the applicant's proposed development to proceed. Shifting Locust Lane to the south would cause a hardship on the adjacent property owners to the south while providing little if any benefit to the community; and

**WHEREAS**, the Commission further finds that the strict application of the provisions of the regulation would cause an unreasonable hardship for the applicant and the property owners to the south of Locust Lane. The property owners to the south of Locust Lane would be forced to remove trees to allow for the relocation of the lane, and the applicant would be forced to relocate it, a significant burden to both parties; and

**(Waiver #2) WHEREAS**, the Commission further finds that the waiver will not adversely affect adjacent property owners as current facilities encroach upon an adjacent property

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owner and these will be removed to install a new paved access lane, detention facilities, and pedestrian ways; and

**WHEREAS**, the Commission further finds that Plan 2040 calls for a mixture of densities as long as their designs are compatible. When incompatible developments unavoidably occur adjacent to one another impacts are to be mitigated. Appropriate transitions are to be provided between uses that are substantially different in scale and intensity or density of development. Examples include vegetative buffers of variable designs, open spaces, landscaping and/or a transition of densities, site design, building heights, building design, materials and orientation that is compatible with those of nearby residences. Buffers should address issues such as out-door 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. The request complies with aforementioned policy as the overall site design is an improvement from current facilities which impact adjacent owners; and

**WHEREAS**, the Commission further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as current encroachments of a driveway will be removed and replaced with a new paved access drive with an amenity/detention on its eastern side; and

**WHEREAS**, the Commission further finds that the strict application of the regulation would deprive the applicant of the reasonable use of the land as detention facilities having amenities are proposed on the eastern side of the driveway which also serves a residential property to the west for the development; now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission **RECOMMENDS** to the City of Jeffersontown that the proposed Waiver of Land Development Code, section 10.2 to omit the 15' VUA LBA adjacent to proposed private access easement (Waiver #1) and the proposed Waiver of Land Development Code, section 10.2 to omit the 15' LBA for proposed access lane from Watterson Trail (Waiver #2) be **APPROVED**.

**The vote was as follows:**

**YES: Commissioners Robinson, Peterson, Daniels, and Jarboe.**

**NO: Commissioners Brown and Carlson.**

**NOT PRESENT: Commissioners Smith, Lewis, Howard, and Tomes**

- **Waiver #3 - 3. Waiver of Land Development Code, section 5.9.2 to not extend existing stub streets to serve the development**

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01:07:20 On a motion by Commissioner Peterson, seconded by Commissioner Robinson, the following resolution, based on the Standard of Review and Staff Analysis, the applicant's justification and evidence and testimony heard today, was proposed:

**WHEREAS**, the Louisville Metro Planning Commission finds that the waiver will not adversely affect adjacent property owners as vehicular connectivity to lower density residential areas is provided from multiple routes having access from Watterson Trail via Stony Brook Drive and San Marcos Road to the west and Walnutwood Way to the east. The subject site provides form pedestrian connectivity from Spruce Grove to Waterson Trail to facilitate the use of the share use path and connectivity to the City center; and

**WHEREAS**, the Commission further finds that Plan 2040 calls for developments to be evaluated for their impact on the transportation network (including the street, pedestrian, transit, freight movement and bike facilities and services) and air quality. The proposal has a limited impact on the transportation network as Spruce Grove Drive dead ends where there is multi-family development. This existing development provides adequate means for maneuvering back out of the dead end. Pedestrian connectivity will be maintained through the site for the public from Spruce Grove to Watterson Trail. The connection of Spruce Grove to Watterson Trail would limit the multi-family capabilities of the property; and

**WHEREAS**, the Commission further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as a fully constructed public roadway would limit the multi-family capabilities of the property; and

**WHEREAS**, the Commission further finds that the strict application of the regulation would deprive the applicant of the reasonable use of the land as a fully constructed public roadway would limit the multi-family capabilities of the property; and

**WHEREAS**, the Commission further finds that the proposed waiver to allow the existing Locust Lane to remain will not adversely affect adjacent property pwners. Locust Lane serves as access to one or more properties. It is currently a narrow gravel lane that is proposed to remain. Locust Lane, as constructed, is not within a granted access easement, which easement is to he south of the constructed path. However, there are mature trees in the area of the granted easement. Allowing Locust Lane to remain and allowing it to encroach into the required Landscape Buffer Area will maintain both access and tree canopy, benefiting the adjacent property owners; and



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**WHEREAS**, the Commission further finds that the proposed waiver will not violate the Plan 2040 Comprehensive Plan. The preservation of tree canopy is a key part of the Livability plan element, and allowing Locust Lane to remain will allow for the preservation of trees that would be removed if Locust Lane was relocated; and

**WHEREAS**, the Commission further finds that the extent of the waiver is the minimum necessary to allow the applicant's proposed development to proceed. Shifting Locust Lane to the south would cause a hardship on the adjacent property owners to the south while providing little if any benefit to the community; and

**WHEREAS**, the Commission further finds that the strict application of the provisions of the regulation would cause an unreasonable hardship for the applicant and the property owners to the south of Locust Lane. The property owners to the south of Locust Lane would be forced to remove trees to allow for the relocation of the lane, and the applicant would be forced to relocate it, a significant burden to both parties.

Due to a tie vote, the requested Waiver will be sent to the City of Jeffersontown with **NO RECOMMENDATION**.

**The vote was as follows:**

**YES: Commissioners Robinson, Peterson, and Jarboe.**

**NO: Commissioners Brown, Carlson, and Daniels.**

**NOT PRESENT: Commissioners Smith, Lewis, Howard, and Tomes**

- **Variance #1 - Variance from Land Development Code, section 5.3.1 to eliminate the 25' rear yard adjacent to the proposed private access easement**
- **Variance #2 - Variance from Land Development Code, section 5.3.1 to exceed the maximum height of 35' and be 43', a variance of 9'.**

01:08:27 On a motion by Commissioner Peterson, seconded by Commissioner Robinson, the following resolution, based on the Standard of Review and Staff Analysis, the applicant's justification and evidence and testimony heard today, was proposed:

**(Variance #1) WHEREAS**, the Louisville Metro Planning Commission finds that the requested variance will not adversely affect the public health, safety or welfare as the

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use to the site does not contain a true rear yard and the relief is not being requested in areas that abut residentially used property; and

**WHEREAS**, the Commission further finds that the requested variance will not alter the essential character of the general vicinity as the site is being developed with greater orientation to Waterson Trail or internally and the area of encroachment is the result of granting rights of access to a residential property to the west; and

**WHEREAS**, the Commission further finds that the requested variance will not cause a hazard or nuisance to the public as it does not obstruct the safe movement of pedestrians or vehicles; and

**WHEREAS**, the Commission further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the site does not contain a true front yard and the relief is not being requested in areas that abut residentially used property; and

**WHEREAS**, the Commission further finds that the requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone as the rear yard setback was requested by the City of Jeffersontown after a determination that the front yard should be provided as measured from Spruce Grove Drive; and

**WHEREAS**, the Commission further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as the site does not contain a true front yard and the relief is not being requested in areas that abut residentially used property; and

**WHEREAS**, the Commission further finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as no development has occurred; and

**(Variance #2) WHEREAS**, the Commission further finds that the requested variance will not adversely affect the public health, safety or welfare as the additional height requested does not impact the safe movement of vehicles or pedestrians and it is located at the edge of a neighborhood adjacent to a collector roadway; and

**WHEREAS**, the Commission further finds that the requested variance will not alter the essential character of the general vicinity as the maximum height allowed within the district is being exceeded only by a partition wall that separates rooftop amenity areas; and

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**WHEREAS**, the Commission further finds that the requested variance will not cause a hazard or nuisance to the public as the additional height requested does not impact the safe movement of vehicles or pedestrian; and

**WHEREAS**, the Commission further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the maximum height allowed within the district is being exceeded only by a partition wall that separates rooftop amenity areas; and

**WHEREAS**, the Commission further finds that the requested variance does not arise from special circumstances which do not generally apply to land in the general vicinity or the same zone as the height within the district is applied to all properties within the district; and

**WHEREAS**, the Commission further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as the variance request allows only a partition wall to exceed the standards and separate rooftop amenities; and

**WHEREAS**, the Commission further finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as no development has occurred; and

**WHEREAS**, the Commission further finds that the proposed variances, which will allow the applicant's proposed three-story townhome buildings to exceed the maximum height by 8'7" and encroach into the rear yard setback will not adversely affect the public health, safety or welfare. The reason for the building height variance is to allow the applicant to build an 8'7" roof deck separator atop each of the eight 35' three-story townhome buildings in the proposed development, for a total building height of 43'7" for each building. The reason for the rear yard setback variance is to permit four of the proposed townhome buildings to encroach into the rear setback near Locust Lane, an existing private gravel drive. The roof deck separators will have no impact on public health, safety or welfare, but will enhance the safety of the proposed roof-top decks by providing a tall barrier between neighboring decks. The rear yard setback encroachment will also have no impact on the public health, safety or welfare as a fence will separate the proposed development from Locust Lane and a minimum five feet of buffer will remain between the development and Locust Lane; and

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**WHEREAS**, the Commission further finds that the variances will not alter the essential character of the general vicinity as the proposed three-story townhomes are compatible with the scale and function of the neighborhood, including the adjacent Gardens of Monticello multi-family development and the surrounding single-family neighborhoods. The height of the proposed buildings is consistent with the proposed R-6 Multi-family Residential zoning, and other large multi-family developments in the area, such as the three-story Boulder Creek of Vantage apartment buildings less than a mile to the north in downtown Jeffersontown. The proposed encroachment into the rear yard setback is also similar to the setback of the adjacent Gardens of Monticello from Locust Lane; and

**WHEREAS**, the Commission further finds that the variances will not cause a hazard or nuisance to the public. As stated above, the requested variances will permit the applicant to construct three-story townhome buildings with an 8'7" roof deck separator and encroach into the rear yard setback. The roof deck separators will have no impact on the public, but will enhance the safety of the proposed roof-top decks by providing a tall barrier between neighboring decks. The rear yard setback encroachment will also have no impact on the public health, safety or welfare as a fence will separate the proposed development from Locust Lane and a minimum five feet of buffer will remain between the development and Locust Lane; and

**WHEREAS**, the Commission further finds that the variances will not allow an unreasonable circumvention of the requirements of the zoning regulations. The proposed three-story townhome buildings will bring a mix of residential choices, and will add to the diversity of opportunity for potential homeowners or tenants in the area. The proposal will not be substantially more intense in terms of traffic, lighting, and impact on the surrounding neighborhoods than the neighboring Gardens of Monticello development. The impacts from the proposed buildings' height will be minimal given that the encroachment is to permit roof deck separator walls, not additional townhomes; and

**WHEREAS**, the Commission further finds that the variances arise from special circumstances that do not generally apply to land in the vicinity of the project. The proposal is to redevelop the subject property into eight three-story townhome buildings with 8'7" roof deck separators. The proposed development is compatible with scale and function of the neighborhood, but the proposed roof-top decks are a unique feature for residential developments in the area. Furthermore, the presence of the private gravel drive Locust Lane requires variance from the rear yard setback. Accordingly, the variances requested arises from special circumstances that do not generally apply to land in the vicinity; and

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**WHEREAS**, the Commission further finds that the strict application of the regulations would create an unnecessary hardship because it would require the applicant to alter its plans for the proposed roof-top decks and the four townhome buildings near Locust Lane. Strict application of the regulations would force the applicant to potentially re-design the proposed townhomes in a manner that will not provide any additional public benefit; and

**WHEREAS**, the Commission further finds that the circumstances are not the result of actions taken by the applicant subsequent to the adoption of the zoning ordinance as no development has occurred.

**The motion failed due to a tie vote.**

**The vote was as follows:**

**YES: Commissioners Robinson, Peterson, and Jarboe.**

**NO: Commissioners Brown, Carlson, and Daniels.**

**NOT PRESENT: Commissioners Smith, Lewis, Howard, and Tomes**

01:09:41 Commissioners' discussion about the Variances.

- **Variance #1 - Variance from Land Development Code, section 5.3.1 to eliminate the 25' rear yard adjacent to the proposed private access easement**

01:10:58 On a motion by Commissioner Peterson, seconded by Commissioner Robinson, the following resolution, based on the Standard of Review and Staff Analysis, the applicant's justification and evidence and testimony heard today, was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that the requested variance will not adversely affect the public health, safety or welfare as the use to the site does not contain a true rear yard and the relief is not being requested in areas that abut residentially used property; and

**WHEREAS**, the Commission further finds that the requested variance will not alter the essential character of the general vicinity as the site is being developed with greater orientation to Waterson Trail or internally and the area of encroachment is the result of granting rights of access to a residential property to the west; and

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**WHEREAS**, the Commission further finds that the requested variance will not cause a hazard or nuisance to the public as it does not obstruct the safe movement of pedestrians or vehicles; and

**WHEREAS**, the Commission further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the site does not contain a true front yard and the relief is not being requested in areas that abut residentially used property; and

**WHEREAS**, the Commission further finds that the requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone as the rear yard setback was requested by the City of Jeffersontown after a determination that the front yard should be provided as measured from Spruce Grove Drive; and

**WHEREAS**, the Commission further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as the site does not contain a true front yard and the relief is not being requested in areas that abut residentially used property; and

**WHEREAS**, the Commission further finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as no development has occurred; and

**WHEREAS**, the Commission further finds that the proposed variances, which will allow the applicant's proposed three-story townhome buildings to exceed the maximum height by 8'7" and encroach into the rear yard setback will not adversely affect the public health, safety or welfare. The reason for the building height variance is to allow the applicant to build an 8'7" roof deck separator atop each of the eight 35' three-story townhome buildings in the proposed development, for a total building height of 43'7" for each building. The reason for the rear yard setback variance is to permit four of the proposed townhome buildings to encroach into the rear setback near Locust Lane, an existing private gravel drive. The roof deck separators will have no impact on public health, safety or welfare, but will enhance the safety of the proposed roof-top decks by providing a tall barrier between neighboring decks. The rear yard setback encroachment will also have no impact on the public health, safety or welfare as a fence will separate the proposed development from Locust Lane and a minimum five feet of buffer will remain between the development and Locust Lane; and

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**WHEREAS**, the Commission further finds that the variances will not alter the essential character of the general vicinity as the proposed three-story townhomes are compatible with the scale and function of the neighborhood, including the adjacent Gardens of Monticello multi-family development and the surrounding single-family neighborhoods. The height of the proposed buildings is consistent with the proposed R-6 Multi-family Residential zoning, and other large multi-family developments in the area, such as the three-story Boulder Creek of Vantage apartment buildings less than a mile to the north in downtown Jeffersontown. The proposed encroachment into the rear yard setback is also similar to the setback of the adjacent Gardens of Monticello from Locust Lane; and

**WHEREAS**, the Commission further finds that the variances will not cause a hazard or nuisance to the public. As stated above, the requested variances will permit the applicant to construct three-story townhome buildings with an 8' 7" roof deck separator and encroach into the rear yard setback. The roof deck separators will have no impact on the public, but will enhance the safety of the proposed roof-top decks by providing a tall barrier between neighboring decks. The rear yard setback encroachment will also have no impact on the public health, safety or welfare as a fence will separate the proposed development from Locust Lane and a minimum five feet of buffer will remain between the development and Locust Lane; and

**WHEREAS**, the Commission further finds that the variances will not allow an unreasonable circumvention of the requirements of the zoning regulations. The proposed three-story townhome buildings will bring a mix of residential choices, and will add to the diversity of opportunity for potential homeowners or tenants in the area. The proposal will not be substantially more intense in terms of traffic, lighting, and impact on the surrounding neighborhoods than the neighboring Gardens of Monticello development. The impacts from the proposed buildings' height will be minimal given that the encroachment is to permit roof deck separator walls, not additional townhomes; and

**WHEREAS**, the Commission further finds that the variances arise from special circumstances that do not generally apply to land in the vicinity of the project. The proposal is to redevelop the subject property into eight three-story townhome buildings with 8' 7" roof deck separators. The proposed development is compatible with scale and function of the neighborhood, but the proposed roof-top decks are a unique feature for residential developments in the area. Furthermore, the presence of the private gravel drive Locust Lane requires variance from the rear yard setback. Accordingly, the variances requested arises from special circumstances that do not generally apply to land in the vicinity; and

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**WHEREAS**, the Commission further finds that the strict application of the regulations would create an unnecessary hardship because it would require the applicant to alter its plans for the proposed roof-top decks and the four townhome buildings near Locust Lane. Strict application of the regulations would force the applicant to potentially re-design the proposed townhomes in a manner that will not provide any additional public benefit; and

**WHEREAS**, the Commission further finds that the circumstances are not the result of actions taken by the applicant subsequent to the adoption of the zoning ordinance as no development has occurred; now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Variance from Land Development Code, section 5.3.1 to eliminate the 25' rear yard adjacent to the proposed private access easement.

**The vote was as follows:**

**YES: Commissioners Robinson, Peterson, Daniels, and Jarboe.**

**NO: Commissioners Brown and Carlson.**

**NOT PRESENT: Commissioners Smith, Lewis, Howard, and Tomes**

**Variance #2 - 2. Variance from Land Development Code, section 5.3.1 to exceed the maximum height of 35' and be 44', a variance of 9'.**

01:11:47 The Commissioners and Mr. Dock discussed the actual height and how many feet the variance was for. The Commissioners also discussed the need for the variance.

01:14:17 On a motion by Commissioner Peterson, seconded by Commissioner Robinson, the following resolution, based on the Standard of Review and Staff Analysis, the applicant's justification and evidence and testimony heard today, was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that the requested variance will not adversely affect the public health, safety or welfare as the additional height requested does not impact the safe movement of vehicles or pedestrians and it is located at the edge of a neighborhood adjacent to a collector roadway; and

**WHEREAS**, the Commission further finds that the requested variance will not alter the essential character of the general vicinity as the maximum height allowed within the



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district is being exceeded only by a partition wall that separates rooftop amenity areas; and

**WHEREAS**, the Commission further finds that the requested variance will not cause a hazard or nuisance to the public as the additional height requested does not impact the safe movement of vehicles or pedestrians; and

**WHEREAS**, the Commission further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the maximum height allowed within the district is being exceeded only by a partition wall that separates rooftop amenity areas; and

**WHEREAS**, the Commission further finds that the requested variance does not arise from special circumstances which do not generally apply to land in the general vicinity or the same zone as the height within the district is applied to all properties within the district; and

**WHEREAS**, the Commission further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as the variance request allows only a partition wall to exceed the standards and separate rooftop amenities; and

**WHEREAS**, the Commission further finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as no development has occurred; and

**WHEREAS**, the Commission further finds that the proposed variances, which will allow the applicant's proposed three-story townhome buildings to exceed the maximum height by 8'7" and encroach into the rear yard setback will not adversely affect the public health, safety or welfare. The reason for the building height variance is to allow the applicant to build an 8'7" roof deck separator atop each of the eight 35' three-story townhome buildings in the proposed development, for a total building height of 43'7" for each building. The reason for the rear yard setback variance is to permit four of the proposed townhome buildings to encroach into the rear setback near Locust Lane, an existing private gravel drive. The roof deck separators will have no impact on public health, safety or welfare, but will enhance the safety of the proposed roof-top decks by providing a tall barrier between neighboring decks. The rear yard setback encroachment will also have no impact on the public health, safety or welfare as a fence will separate the proposed development from Locust Lane and a minimum five feet of buffer will remain between the development and Locust Lane; and

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**WHEREAS**, the Commission further finds that the variances will not alter the essential character of the general vicinity as the proposed three-story townhomes are compatible with the scale and function of the neighborhood, including the adjacent Gardens of Monticello multi-family development and the surrounding single-family neighborhoods. The height of the proposed buildings is consistent with the proposed R-6 Multi-family Residential zoning, and other large multi-family developments in the area, such as the three-story Boulder Creek of Vantage apartment buildings less than a mile to the north in downtown Jeffersontown. The proposed encroachment into the rear yard setback is also similar to the setback of the adjacent Gardens of Monticello from Locust Lane; and

**WHEREAS**, the Commission further finds that the variances will not cause a hazard or nuisance to the public. As stated above, the requested variances will permit the applicant to construct three-story townhome buildings with an 8' 7" roof deck separator and encroach into the rear yard setback. The roof deck separators will have no impact on the public, but will enhance the safety of the proposed roof-top decks by providing a tall barrier between neighboring decks. The rear yard setback encroachment will also have no impact on the public health, safety or welfare as a fence will separate the proposed development from Locust Lane and a minimum five feet of buffer will remain between the development and Locust Lane; and

**WHEREAS**, the Commission further finds that the variances will not allow an unreasonable circumvention of the requirements of the zoning regulations. The proposed three-story townhome buildings will bring a mix of residential choices, and will add to the diversity of opportunity for potential homeowners or tenants in the area. The proposal will not be substantially more intense in terms of traffic, lighting, and impact on the surrounding neighborhoods than the neighboring Gardens of Monticello development. The impacts from the proposed buildings' height will be minimal given that the encroachment is to permit roof deck separator walls, not additional townhomes; and

**WHEREAS**, the Commission further finds that the variances arise from special circumstances that do not generally apply to land in the vicinity of the project. The proposal is to redevelop the subject property into eight three-story townhome buildings with 8' 7" roof deck separators. The proposed development is compatible with scale and function of the neighborhood, but the proposed roof-top decks are a unique feature for residential developments in the area. Furthermore, the presence of the private gravel drive Locust Lane requires variance from the rear yard setback. Accordingly, the variances requested arises from special circumstances that do not generally apply to land in the vicinity; and

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**WHEREAS**, the Commission further finds that the strict application of the regulations would create an unnecessary hardship because it would require the applicant to alter its plans for the proposed roof-top decks and the four townhome buildings near Locust Lane. Strict application of the regulations would force the applicant to potentially re-design the proposed townhomes in a manner that will not provide any additional public benefit; and

**WHEREAS**, the Commission further finds that the circumstances are not the result of actions taken by the applicant subsequent to the adoption of the zoning ordinance as no development has occurred; now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Variance from Land Development Code, section 5.3.1 to exceed the maximum height of 35' and be 44', a variance of 9'.

#### The vote was as follows:

**YES: Commissioners Robinson, Peterson, Daniels, and Jarboe.**

**NO: Commissioners Brown and Carlson.**

**NOT PRESENT: Commissioners Smith, Lewis, Howard, and Tomes**

#### Detailed District Development Plan

01:18:24 On a motion by Commissioner Peterson, seconded by Commissioner Robinson, the following resolution, based on the Standard of Review and Staff Analysis, the applicant's justification and evidence and testimony heard today, was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposed development will conserve natural resources as tree canopy will be provided and an undefined stream along the eastern boundary does not appear to be impacted; and

**WHEREAS**, the Commission further finds that provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community are provided as a single entrance is being provided for multiple units to a collector level roadway. This roadway also provided for access to the City center via shared use path and the development site provides for pedestrian connectivity form adjacent residential areas through the site and to this shared use path; and

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**WHEREAS**, the Commission further finds that open space has been provided as an amenity area is being provided around the detention facilities and rooftop amenities for each unit are provided; and

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

**WHEREAS**, the Commission further finds that the site design is compatible with future development along Watterson Trail which is capable of handling higher densities and is well connected to the City center of Jeffersontown via shared use path; and

**WHEREAS**, the Commission further finds that the development plan complies with the policies of Plan 2040. Development will follow all applicable regulations as set forth by the Louisville Metropolitan Sewer District. The site is not located within the 100-yr floodplain and does not appear to contain hydric soils or wetlands. The subject property contains and/or adjoins portions of an undefined stream that flows north/south across Waterson Trail. The stream does not appear to be impacted by the proposed district. Demolition of the existing structure on site appears to require review by the historic preservation officer prior to construction plan approval due to its age; and

**WHEREAS**, the Commission further finds that the proposed higher density use is located near major transportation facilities and transit corridors, employment centers, in or near activity centers and other areas where demand and adequate infrastructure exists or is planned as the subject site is located along a primary collector containing a shared use path that will provide direct access to the center of the City of Jeffersontown and to TARC route #40; and

**WHEREAS**, the Commission further finds that the proposal provides for design elements that increase the variety of housing available within proximity to services, amenities, and employment; now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the City of Jeffersontown that the proposed Detailed District Development Plan and binding elements be **APPROVED**, subject to the following binding elements:

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land

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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 Jeffersontown 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 Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.
  - b. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
  - c. A minor plat or legal instrument shall be recorded to create the lot lines and access easements as shown on the approved development plan. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services prior to obtaining a building permit.
  - d. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the **June 6, 2019** Planning Commission meeting. A copy of the approved rendering is available in the case file on record in the offices of the Louisville Metro Planning Commission.
5. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be

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implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission

6. 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.
7. ADA compliant pedestrian access through the subject site shall be provided from Spruce Grove Drive to Watterson Trail to connect with the Jeffersontown shared use path. This access shall be maintained in perpetuity. Wayfinding signage shall be provided at Spruce Grove Drive and Watterson Trail to indicate that the walks are open to the public. Additional wayfinding signage shall be provided to direct traffic through designated walks.
8. Gated vehicular access shall be in accordance with applicable ordinances, unless otherwise approved by the Jeffersontown Fire District. No gates shall be provided which restrict pedestrian access.
9. The applicant shall submit confirmation that the rooftop planters as presented at the **June 6, 2019** Planning Commission public hearing on Buildings 4 and 8 have been constructed prior to issuance of Certificates of Occupancy for Buildings 4 and 8.

**The vote was as follows:**

**YES: Commissioners Robinson, Peterson, Daniels, and Jarboe.**

**NO: Commissioners Brown and Carlson.**

**NOT PRESENT: Commissioners Smith, Lewis, Howard, and Tomes**

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**CASE NO. 18ZONE1067**

Request: Change in zoning from R-5 to C-1 and C-2 with detailed plan, setback variance, and design & connectivity waivers  
Project Name: Southside Drive  
Location: 7382 Southside Drive  
Owner: DP Rentals, LLC  
Applicant: DP Rentals, LLC  
Representative: John Talbott - Bardenwerper, Talbott & Roberts PLLC  
Jurisdiction: Louisville Metro  
Council District: 25 – David Yates

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

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

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

**Agency Testimony:**

01:19:56 Joel Dock presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.) He also handed out opposition comments to the Commissioners.

**The following spoke in support of this request:**

John Talbott, Bardenwerper Talbott & Roberts PLLC, 1000 North Hurstbourne Parkway, Louisville, KY 40222

Mike Hill, Land Design & Development, 503 Washburn Avenue Suite 101, Louisville, KY 40222

David Parks (the applicant), 295 North Hubbards Lane, Louisville, KY 40207

Ken Thieneman, 833 Valley College Drive, Louisville, KY 40272

**Summary of testimony of those in support:**



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01:27:21 John Talbott, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.) As part of his presentation, he discussed his responses to some of those in opposition.

01:44:13 Ken Thieneman spoke in support. He explained the critical need for these smaller contractor's workshops and businesses.

01:46:10 In response to a question from Commissioner Carlson, Mr. Talbott said there will be no outside storage (contractor's equipment) on the site. Mr. Dock added that outdoor storage is not permitted within the district.

01:47:08 In response to another question from Commissioner Carlson, Mr. Talbott said the applicant would agree to a binding element regarding running equipment outdoors only during specific hours: "No machines will be run /operated between the hours of 10:00 p.m. and 6:00 a.m."

01:49:11 Commissioner Jarboe asked what kind of responses the applicant received during the neighborhood meeting.

**The following spoke in opposition to this request:**

No one spoke.

**Deliberation:**

01:50:28 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.**

**Zoning**

01:52:34 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:

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the intents of **Land Use & Development Goal 1: Community Form** because the

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proposal does not constitute a non-residential expansion into existing residential area as the site abuts commercial and office zoning districts, and where residential is present the district does not expand beyond current limits of non-residential uses; the site is located along a minor arterial level roadway with direct access to a major arterial having interstate access and TARC route #6. New Cut Road serves as a primary activity center and properties fronting New Cut adjoin the rear of this property; the proposed district, as a whole, does not allow for industrial operation which requires or necessitates the need to be located within a workplace form. The minimal semi-industrial uses such as contractor's shop allow for the location of professionals to locate at appropriate locations within proximity to neighborhoods; the proposed district allows expanded commercial services to serve nearby residential populations. Hazardous or nuisance uses are not typical of the proposed district and design regulations establish appropriate transitions; potentially hazardous uses as defined by the LDC are not permitted within the proposed district; the classification of the roadway fronting the property is intended to serve higher volumes of traffic and connect to other high speed roadways; the C-2 district requires that most operations be contained inside buildings. It should be noted, however, that outdoor music is permitted within the district. Outdoor activities should be appropriately mitigated in the event they occur on site as the site is adjacent to a residential development; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of **Land Use & Development Goal 2: Community Form** because the district has been appropriately located based on surrounding districts and geometry of the existing lot; sufficient population appears to be available to support a wide range of uses; the concentration of commercial uses within a Town Center form district helps to prevent inappropriate expansions elsewhere in the Metropolitan area; the area contains a mixture of non-residential districts. The proposal will add to the existing mixture of uses; the proposed district does not limit residential activities on site; an existing structure on site will be retained; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of **Land Use & Development Goal 3: Community Form** because the site does not appear to contain significant natural features. Trees will be preserved where possible by the proposed development; the site does not appear to contain wet or highly permeable soils, severe, steep or unstable slopes; the proposal does not appear to be located in a flood-prone area and the site is not in a Karst prone area; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of **Land Use & Development Goal 4: Community Form** because an existing structure on site will be retained. There does not appear to be any historical significance of this structure; and there do not appear to be any distinctive cultural features on site; and

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**WHEREAS**, the Commission further finds that the proposal meets the intents of **Land Use & Development Goal 1: Mobility** because the proposal is located within a town center form district where a target market area may serve a population of between 25,000 to 75,000. Intensities permitted allow the area to reach this market. Existing patterns of development in the area vary significantly; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of **Land Use & Development Goal 2: Mobility** because access is along an arterial roadway which is sufficient to serve the development and should not provide for individual residential access; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of **Land Use & Development Goal 3: Mobility** because the proposed district allows for a mixture of compatible uses that may be made accessible bicycle, car, transit, pedestrians and people with disabilities; the district does not hinder mobility or options for mobility; the district does not prevent development of walkable centers to connect different modes of travel; the proposed district does not significantly impact the transportation network as it is along an arterial level roadway within proximity to TARC routes; development of the site will bear or share in rough proportionality the costs of transportation facilities and services made necessary by development; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of **Land Use & Development Goal 2: Community Facilities** because the proposal will be served by existing utilities or capable of being served by public or private utility extensions; the proposal will have an adequate supply of potable water and water for fire-fighting purposes; the proposal will have adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams as determined by the Metropolitan Sewer District (MSD); and

**WHEREAS**, the Commission further finds that the proposal meets the intents of **Land Use & Development Goal 1: Economic Development** because the district is located on an arterial roadway; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of **Land Use & Development Goal 1: Livability** because the site is not located in the regulatory floodplain; and

**WHEREAS**, the Commission further finds that the proposed zone change complies with all of the applicable, Objectives and Policies 3.1.5, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 17, 18, 19, 20, 23, 27 & 28 of Community Form Goal 1, because as stated in the Goal 1,

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Policy 3.1.5, the Town Center form typically has a compact mixture of moderately intense uses including offices, a high level of pedestrian, roadway, transit and bicycle access, a connected street pattern, shared parking and pedestrian amenities and more intense uses should be located in close proximity to the major thoroughfare, all of which is satisfied in this development plan; and

**WHEREAS**, the Commission further finds that the proposed use complies with Goal 1 because this development will take a blighted, neglected R-5 use that is completely out of place in a Town Center, much of which is currently used for dumping and which has created a refuge for crime, and re-purposed the property for an office use and contractor's workshop, consistent with the Town Center goal; and

**WHEREAS**, the Commission further finds that the shape of the lot is atypical for a Town Center, largely created by the fact that this area between New Cut Road and Southside Drive creates a triangle shape, with long, irregular shaped lots, making orientation towards the street difficult; and

**WHEREAS**, the Commission further finds that the office use is consistent with the Town Center purpose and will bring this property much closer to the goals of the Town Center form than the property currently provides; the contractor's shop will also enhance the Town Center even though it is not a more traditional Town Center use because it will occupy the long, unused part of the lot away from the street utilizing otherwise wasted areas; it will clean up the lot, eliminate the draw for criminal elements and thereby dramatically improve the area with appropriate lighting; further, it will facilitate and assist the entire area and surrounding lots near New Cut Road and Southside Drive by repurposing it more consistent with the Town Center purpose; the office and the contractor's shop will have connected and shared parking utilizing a shared access agreement consistent with the Town Center goal, along with sidewalks promoting pedestrian bicycle use; and

**WHEREAS**, the Commission further finds that the property will further ensure new development and redevelopment that is compatible with the scale and site design of nearby existing development; it will allow a mixture of densities with the use of appropriate buffers and will not cause an expansion of non-residential use into residential areas; the office and contractor's workshop will locate higher density and intensity near the major thoroughfares of New Cut Road and Southside Drive and place the employment uses near existing infrastructure and transportation; the potential adverse impacts, such as noise, lighting and traffic will be mitigated through the use of buffers and compliance with the Land Development Code; finally, the use of the office and contractor's workshop promote mixed use development and utilization and density

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with a long, irregular lot located in the Town Center responding to the distinctive physical, historic, and cultural qualities; and

**WHEREAS**, the Commission further finds that the proposed zone change complies with all of the applicable, Objectives and Policies 1, 2, 5, 6, 7, 9, 12 13, 14, 15, 16, & 17 of Community Form Goal 2, because the proposed use will encourage sustainable growth and density around mixed-use centers and corridors by placing density compatible with desired form and existing infrastructure; the design and density are appropriate with adjacent uses that will serve the needs of the surrounding community; the development will be compact in an activity center resulting in efficient land use and cost effective infrastructure investment; the mixture of compatible uses will reduce traffic and limit trips; the development will rehabilitate the deteriorating home on the property for office use; the plan will provide neighborhood serving uses for the property and the two uses will share an entrance and parking facilities reducing the number of curb cuts; and the site will be easily accessible by pedestrian and bicycle traffic and provide green spaces; and

**WHEREAS**, the Commission further finds that the proposed zone change complies with all of the applicable, Objectives and Policies 2, 3, 6, 7, 8, 9 & 12 of Community Form Goal 3, because the proposed development plan will enhance the surrounding neighborhoods by protecting the open space and natural resources by creating detention basins and protecting natural resources; and the open space is compatible with the Form District in that it provides open space that can be visually enjoyed by the community and ensures transitions between the various surrounding properties; and

**WHEREAS**, the Commission further finds that the detention basins being added will improve the issues with standing water and the problems associated with standing water, while respecting the natural features of the property; and these changes will protect the health, safety and welfare of future uses of the development; and

**WHEREAS**, the Commission further finds that the proposed zone change complies with all of the applicable, Objectives and Policies 1, 3, 4, 7 & 14 of Mobility Goal 1, because the development plan implements an accessible system of alternative transportation modes by providing sidewalks and walkway connections between the uses for bicycles and pedestrian traffic, in addition to vehicles; the site is close to public transportation; the office use is located close to the roadway to minimize distances of travel and encourages bicycle use in an activity center; the plan places higher density and intensity near existing corridors and along the minor arterial of Southside Drive and close to the major arterial of New Cut Road and the TARC service available there; and

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**WHEREAS**, the Commission further finds that the proposed zone change complies with all of the applicable, Objectives and Policies 1, 2, 4, 5, 6, 7, & 8 of Mobility Goal 2, because the development plan promotes a safe, accessible and efficient transportation system by accommodating pedestrian, bicycle and vehicular access through the connected lots and accessible rights of way between the two lots being created; the site distances for the curb cut are adequate for the area; the internal circulation of pedestrian and vehicular traffic is appropriate with the connected walkways and shared access, parking, etc.; and the entrance is compatible with surrounding development and aesthetically pleasing to adjacent areas; and

**WHEREAS**, the Commission further finds that the proposed zone change complies with all of the applicable, Objectives and Policies 1, 2, 3, 4, 5, 7, 10, 11, 12, 14, 17, 18, 20, 24, & 27 of Mobility Goal 3, by providing walking and bicycling opportunities with the sidewalks and interconnected walkways and by providing a mix of complimentary neighborhood serving businesses and services and thereby reducing miles travelled by car; the plan will not burden the transportation network, but will enhance it with developing the lot in a way that is closer to the purpose for the Town Center than the site currently provides and by introducing uses that will not create a lot of peak travel traffic, consistent with long range transportation plans; the parking requirements of the site consider the density of the use and the character and pattern of the Form District in that it converts a residence to office use by the street; the two differing uses will share a curb cut reducing access points to Southside Drive fulfilling the policy of joint access for development sites; the plan also satisfies the policy of infill development opportunities supporting biking and pedestrian travel; and

**WHEREAS**, the Commission further finds that the proposed zone change complies with all of the applicable, Objectives and Policies 1, 2, & 3 of Community Facilities Goal 2, because this development plan is not a community facilities plan, but it does locate development in areas currently served by existing infrastructure, it has adequate water supply and access to sewers so as to not burden existing or future community facilities; and

**WHEREAS**, the Commission further finds that the proposed zone change complies with all of the applicable, Objectives and Policies 3, 7, & 9 of Economic Development Goal 1, as this development plan benefits and supports the economic climate that improves growth, innovation, and investment opportunity for all by reusing and redeveloping a deteriorated and blighted property in southwest Louisville; it locates the office and contractor's shop in an area with existing infrastructure in an efficient manner increasing economic opportunities in the area; it will provide opportunities to underserved small businesses in the area increasing economic opportunity to business

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owners and employment; and while the development will not create high traffic, the traffic will be directed on a minor arterial; and

**WHEREAS**, the Commission further finds that the proposed zone change complies with all of the applicable, Objectives and Policies 1, 3, 4, 5, & 7 of Economic Development Goal 2, because this development plan enhances the quality of life in the area by reusing and readapting a current less desirable use, while at the same time protecting and improving the economic value of the surrounding areas; it satisfies the goal and policy of infill development to take advantage of the existing infrastructure; and the design elements being used will limit the heat island effect through the use of green detention basins; and

**WHEREAS**, the Commission further finds that the proposed zone change complies with all of the applicable, Objectives and Policies 2, 4, 5, 7, 12, 23, 25, 26, 27, 28, 31, 35, 36, & 39 of Livability Goal 1, because the development plan provides pedestrian and bicycle connectivity while not creating much in new traffic for the area; it also will improve the current drainage problems associated with the site where water puddles on the area, through the use of a detention basin greatly reducing the effects of an impervious surface; trees will be preserved where they can, particularly on the property boundaries, and landscaping will be added to reduce the impacts of the site to nearby multi- family housing; and

**WHEREAS**, the Commission further finds that the proposed zone change complies with all of the applicable, Objectives and Policy 8 of Livability Goal 2, because the development plan dramatically improves a blighted site which will be a benefit to the residences and businesses in the immediate vicinity, particularly the adjacent properties; and

**WHEREAS**, the Commission further finds that the proposed zone change complies with all of the applicable, Objectives and Policies 1, 2, & 4 of Livability Goal 3, because equitable access to the land use planning and policy resources has been provided to surrounding residents and property owners with notice of all public meetings, by providing the neighborhood meeting, and by encouraging and providing an opportunity for area involvement in the plan design; and

**WHEREAS**, the Commission further finds that the proposed zone change complies with all of the applicable, Objectives and Policies 1, 2, & 8 of Livability Goal 4, because the development plan enhances choices for mobility choices, encourages clean air by reducing miles driven by providing needed services to an underserved area; and also provides needed office and contractor services in and along high capacity transit corridors of Southside Drive and next to New Cut Road; and

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**WHEREAS**, the Commission further finds that the proposed zone change and development plan complies with all of the applicable; Objectives and Policies of Housing Goal 1, 2, & 3 as it creates and locates necessary services and employment opportunities in an existing activity center near residential areas, thereby strengthening and supporting the housing in the area; this use will facilitate connected and mixed use areas and ensure long term affordability and living options for all in the community; 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 R-5, Single-Family residential to C-1 & C-2, commercial on property described in the attached legal description be **APPROVED**.

**The vote was as follows:**

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

- **Waiver #1 - Waiver of Land Development Code (LDC), section 5.5.1.A.1.a to allow principle entrance on Tract 2 to not face Southside Drive**
- **Waiver #2 - Waiver of LDC, section 5.5.1.A.3 to allow parking between the principle structure on Tract 2 and Southside Drive**
- **Waiver #3 - Waiver of LDC, section 5.5.1.A.3.d/5.9.2.A.1.b.ii to not provide pedestrian and vehicular connectivity to adjacent sites**

01:53:33 On a motion by Commissioner Carlson, seconded by Commissioner Peterson the following resolution based on Standard of Review and Staff Analysis, the applicant's justification, and evidence and testimony heard today, was adopted:

**(Waiver #1) WHEREAS**, the Louisville Metro Planning Commission finds that the waiver will not adversely affect adjacent property owners as the structure is located towards the rear of the property and to the rear of an existing structure; and

**WHEREAS**, the Commission further finds that Plan 2040 calls for the appropriate placement, design and scale of centers in Traditional Neighborhood, Neighborhood and



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Village Form Districts to ensure compatibility with nearby residences. The proposed orientation does not pose a significant concern related to the overall character or compatibility of the development within the area as it is located to the rear of the site. The intended user requires certain spacing element to allow for maneuverability and this does not negatively impact the frontage; and

**WHEREAS**, the Commission further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the intended design and user requires additional space for external and internal maneuvering within parking areas and the structure; and

**WHEREAS**, the Commission further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as the site has been laid out to accommodate a specific user. Any future use of the property should reconsider orientation and pedestrian interaction along the frontage; and

**(Waiver #2) WHEREAS**, the Commission further finds that the waiver will not adversely affect adjacent property owners as parking areas are currently located along the frontage and parking in front of structures is common in the area; and

**WHEREAS**, the Commission further finds that Plan 2040 calls for parking in activity centers to reflect the area's associated Form District standards to balance safety, traffic, transit, pedestrian, environmental and aesthetic considerations. The parking area reflects patterns in the area and the needs of the user with respect to user needs and geometry of the lots; and

**WHEREAS**, the Commission further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the structure as proposed would not appropriately accommodate access and parking to the rear while being located at the front of the tract; and

**WHEREAS**, the Commission further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as the site has been laid out to accommodate a specific user. Any future use of the property should reconsider orientation and pedestrian interaction along the frontage; and

**(Waiver #3) WHEREAS**, the Commission further finds that the waiver will not adversely affect adjacent property owners as existing facilities adjacent to the site are built out; and

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**WHEREAS**, the Commission further finds that Plan 2040 calls for internal circulation pattern for streets within a development be designed with an appropriate functional hierarchy of streets and appropriate linkages with existing and future development. The user on Tract requires a certain level of security from the general public due to its use as a contractor's shop. Any future use of the site should be strongly encouraged to fully comply with connectivity with adjacent users as retail serving uses and neighborhood or regional services should be interconnected to promote visiting multiple establishments; and

**WHEREAS**, the Commission further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as a contractor's shop requires certain levels of security from the public; and

**WHEREAS**, the Commission further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as the specific user require certain limited interaction Any future use of the site should be strongly encouraged to fully comply with connectivity with adjacent users as retail serving uses and neighborhood or regional services should be interconnected to promote visiting multiple establishments; and

**WHEREAS**, the Commission further finds that Waiver #1 will not adversely affect adjacent property owners or the public because there would be few if any customers of the applicant since this property will be used primarily as a "contractor's workshop". The adjoining properties' uses on Southside Drive are completely different types than the applicant as one is a multi-family apartment use and the other use is a funeral home making vehicular connections inappropriate. The adjoining properties on New Cut Road already have a connection to allow commercial users access to Southside Drive so the necessity of a connection for those properties is already provided; and

**WHEREAS**, the Commission further finds that the waiver will not violate the Comprehensive Plan for all the reasons set forth in the Detailed Statement of Compliance with all applicable Goals, Objectives and Policies of the Plan 2040 Comprehensive Plan filed with the original rezoning application; and

**WHEREAS**, the Commission further finds that the extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because the connection would not serve any purpose and it would promote crime by providing pedestrian access behind the buildings on New Cut Road and Southside Drive; and

**WHEREAS**, the Commission further finds that strict application of the provisions of the regulation would deprive the applicant of a reasonable use of the land or would create

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an unnecessary hardship on the applicant because it would lose valuable/necessary parking, it would serve no useful purpose, and would likely promote criminal activity by providing vehicular and pedestrian access at the back side of several businesses; and

**WHEREAS**, the Commission further finds that Waiver #2 will not adversely affect adjacent property owners because they are commercial users and multi-family that have far less in common with either Cornerstone 2020 Land Development Code or Plan 2040 than this proposed project because those were developed before this area was designated as a Town Center Form District. Furthermore, the site will have a detention basin and have existing landscaping that mitigate the potential adverse consequences of parking located in the front of the building than the LDC otherwise technically permits; and

**WHEREAS**, the Commission further finds that the waiver will not violate the Comprehensive Plan for all the reasons set forth in the Detailed Statement of Compliance with all applicable Goals, Objectives and Policies of the Plan 2040 Comprehensive Plan filed with the original rezoning application; and

**WHEREAS**, the Commission further finds that the extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because this involves an existing, as-built condition in on a relatively minor lot where parking is situated in order to accommodate the plan for this mixed use in the area's activity center; and

**WHEREAS**, the Commission further finds that strict application of the provisions of the regulation would deprive the applicant of a reasonable use of the land or would create an unnecessary hardship on the applicant because it would lose valuable/necessary parking in an area where, as noted, there are no negative resulting impacts; and

**WHEREAS**, the Commission further finds that Waiver #3 will not adversely affect adjacent property owners because they are all commercial and temporary, multi-family users that have far less in common with the Cornerstone 2020 Land Development Code and Plan 2040 than this proposed project because those were developed before this area was designated as a Town Center Form District; and

**WHEREAS**, the Commission further finds that the waiver will not violate the Comprehensive Plan for all the reasons set forth in the Detailed Statement of Compliance with all applicable Objectives and Policies of the Cornerstone 2040 Plan filed with the original rezoning application; and

**WHEREAS**, the Commission further finds that the extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because of one of the buildings

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needs to face inward because of the long, irregular shape to the lot, while the existing home, being reused as an office will continue to face Southside Drive; and

**WHEREAS**, the Commission further finds that strict application of the provisions of the regulation would deprive the applicant of a reasonable use of the land or would create an unnecessary hardship on the applicant because it would otherwise not be able to develop the back part of the site which is currently vacant, overgrown, and attracting dumping and criminal elements; now therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Waiver #1 of the Land Development Code (LDC), section 5.5.1.A.1.a to allow principle entrance on Tract 2 to not face Southside Drive; **AND** Waiver #2 of the LDC, section 5.5.1.A.3 to allow parking between the principle structure on Tract 2 and Southside Drive; **AND** Waiver #3 of the LDC, section 5.5.1.A.3.d/5.9.2.A.1.b.ii to not provide pedestrian and vehicular connectivity to adjacent sites.

**The vote was as follows:**

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

**Variance from LDC, section 5.2.4.C.3.a to exceed the maximum setback of 15' on Tract 2**

01:55:05 On a motion by Commissioner Carlson, seconded by Commissioner Peterson the following resolution based on Standard of Review and Staff Analysis, the applicant's justification, and evidence and testimony heard today, was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that the requested variance will not adversely affect the public health, safety or welfare as sight lines for pedestrians and motorists are not impacted; and

**WHEREAS**, the Commission further finds that the requested variance will not alter the essential character of the area as the area contains a wide variety of setback, orientation, and placement; and

**WHEREAS**, the Commission further finds that the requested variance will not cause a hazard or nuisance to the public as sight lines for the movement of pedestrians and motorists are not impacted; and

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**WHEREAS**, the Commission further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the setback is not able to be met given the design of the structure and need for parking and access to serve each site of the development; and

**WHEREAS**, the Commission further finds that the requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone as the site is narrower than most sites found in the immediate area and larger more intense users such as the one proposed may locate on site; and

**WHEREAS**, the Commission further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as the user may not be able to accommodate the proposed use is made to fully comply with the setback; and

**WHEREAS**, the Commission further finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as no development has occurred; and

**WHEREAS**, the Commission further finds that the variance will not adversely affect the public health, safety or welfare because these are aesthetic issues only; and

**WHEREAS**, the Commission further finds that the variance will not alter the essential character of the general vicinity because, if anything, the general character of the area is one of buildings set back significantly already from the public street, as all buildings in this area were originally located on their respective sites before this was designated as a Town Center Form District; moreover this overall plan brings the site much closer to the intent in the Form District by changing the use of the current building to an office from residential and improving the building with substantial investment to rehabilitate it; regardless, the building's present location is an as-built condition which will not move further from Southside Drive; the contractor's shop will sit further away from the road, but it is a use which will be designed to fit in the area's design and is necessary because of the long, narrow and irregular shape of the overall property relative to building sizes and shapes; and

**WHEREAS**, the Commission further finds that the variance will not cause a hazard or a nuisance to the public because again this is an aesthetic not hazard or nuisance issue; and

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**WHEREAS**, the Commission further finds that the variance will not allow an unreasonable circumvention of the requirements of the zoning regulations because of all that is said above include the fact that the office building is a reuse of an existing structure that is not being moved at all and the second building placement is necessitated by the irregular lot size; and

**WHEREAS**, the Commission further finds that the variance arises from special circumstances, which do not generally apply to land in the general vicinity because, as noted above, the building closest to Southside Drive will not be moved from its current location; and

**WHEREAS**, the Commission further finds that strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create unnecessary hardship because the applicant wouldn't be able to fit most of its normal-shaped buildings on this overall irregularly shaped and narrow site; and

**WHEREAS**, the Commission further finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the regulation but rather are the result of the shape of the buildings the overall site and the present as-built condition of the property; now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Variance from LDC, section 5.2.4.C.3.a to exceed the maximum setback of 15' on Tract 2.

**The vote was as follows:**

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

**Detailed District Development Plan**

01:55:52 On a motion by Commissioner Carlson, seconded by Commissioner Peterson the following resolution based on Standard of Review and Staff Analysis, and evidence and testimony heard today, was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that the conservation of natural resources on the property proposed for development, including: trees and other

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living vegetation, steep slopes, water courses, flood plains, soils, air quality, scenic views, and historic sites will be provided. The site does not appear to contain significant natural features. Trees will be preserved where possible by the proposed development. The site does not appear to contain wet or highly permeable soils, severe, steep or unstable slopes. The proposal does not appear to be located in a flood-prone area and the site is not in a Karst prone area; and

**WHEREAS**, the Commission further finds that provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community has been provided as pedestrian connections have been provided to each building on the development and sidewalks are present. Any future use of the property should be strongly encourage to fully comply with the connectivity standards to adjacent users as required by the Land Development Code; and

**WHEREAS**, the Commission further finds that the proposal provides open space in a detention area to handle run-off and through drainage; and

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

**WHEREAS**, the Commission further finds that the proposed use and development is compatible with the area the area contains a wide variety of setback, orientation, and placement; and

**WHEREAS**, the Commission further finds that the development plan with the current uses proposed conforms to the Comprehensive Plan the site is located along an arterial road with direct connection to an activity center and TARC service. Sidewalks and pedestrian connectivity are provided. Design and materials increase the development compatibility. The area contains a wide variety of orientation, setback, and placement of structures and parking facilities. Current users require a certain level of security form the public. However, any future use of the property should be strongly encourage to fully comply with the connectivity standards to adjacent users as required by the Land Development Code. Appropriate transitions have bene provided to abutting uses; now, therefore be it

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

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1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
  
2. Before any permit (including but not limited to building, parking lot, change of use, site disturbance) is requested:
  - a. The development plan must receive full construction approval from Louisville Metro Department of Inspections, Permits and Licenses, Louisville Metro Public Works and the Metropolitan Sewer District.
  
  - b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
  
  - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a certificate of occupancy or building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
  
  - d. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
  
  - e. A crossover easement and shared parking agreement in a form acceptable to the Planning Commission legal counsel shall be created between the adjoining property owners and recorded. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services.
  
  - f. A minor subdivision plat or legal instrument shall be recorded creating the lot lines as shown on the development plan & dedicating additional right-of-way as required by the Department of Public Works and shown on the approved development plan.
  
  - g. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the June 6, 2019 Planning Commission meeting. A copy of the approved rendering is



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available in the case file on record in the offices of the Louisville Metro Planning Commission.

3. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
4. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
5. No power equipment that will cause a noise disturbance will be run between the hours of 10:00 p.m. and 6:00 a.m.

**The vote was as follows:**

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

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**CASE NO. 19STREETS1001**

Request:	Street Closure
Project Name:	Springwood Lane Street Closure
Location:	Terminus of Springwood Lane
Owner:	City of St. Matthews
Applicant:	Leslie R. Shell & David A. White
Representative:	Dennis L. Kraus – Sabak Wilson & Lingo
Jurisdiction:	City of St. Matthews
Council District:	7 – Paula McCraney

**Case Manager:**                   **Lacey Gabbard, 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:**

01:57:45     Lacey Gabbard 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:**

Leslie Shell and David White, 417 Springwood Lane, Louisville, KY 40207

**Summary of testimony of those in support:**

01:59:57     Leslie Shell, the applicant, said she was available for any questions.

**The following spoke in opposition to this request:**

No one spoke.

**Deliberation:**

02:01:06     Commissioners' deliberation.

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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.**

**Street Closure**

02:01:40 On a motion by Commissioner Carlson, seconded by Commissioner Robinson, 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 adequate public facilities are available to serve existing and future needs of the community. The proposed closures do not result in an increase in demand on public facilities or services. No property adjacent or abutting the rights-of-way to be closed will be left absent of public facilities or services, or be dispossessed of public access to their property; and

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

**WHEREAS**, the Commission further finds that Plan 2040 calls for developments to be evaluated for their impact on the transportation network (including the street, pedestrian, transit, freight movement and bike facilities and services) and air quality. The closure does not result in an increased level of connectivity as the paved street currently dead ends at a cul-de-sac and the land included in the street closure will be divided between two property owners. No pedestrian facilities are provided in the area or are warranted; and

**WHEREAS**, the Commission further finds that there are no other relevant matters to be considered by the Planning Commission; now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the City of St. Matthews that the proposed street closure on property described in the attached legal description be **APPROVED**.

**The vote was as follows:**

**YES: Commissioners Robinson, Peterson, Daniels, Brown, Carlson, and Jarboe.**

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**NOT PRESENT: Commissioners Smith, Lewis, Howard, and Tomes**

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**CASE NO. 19AMEND1004**

Request: Amendment to the Land Development Code Related to Health Clubs and Similar Uses  
Project Name: Health Club LDC Amendment  
Location: Louisville Metro  
Applicant: Louisville Metro  
Jurisdiction: Louisville Metro  
Council District: All Council Districts

**Case Manager: Chris French, AICP, Planning & Design 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. (The staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

**Agency Testimony:**

02:02:37 Christopher French presented the case (see staff report and recording for detailed presentation.)

02:05:56 Commissioner Brown asked if there will be different parking requirements for urban vs. suburban locations? Mr. French explained why the Planning Committee agreed not to do a traditional vs. suburban approach to this amendment.

02:06:59 Mr. French added that he spoke with Cliff Ashburner, with Dinsmore & Shohl, regarding some concerns he (Mr. Ashburner) had about the parking.

**The following spoke in support of this request:**

No one spoke.

**The following spoke in opposition to this request:**

No one spoke.

**The following spoke neither for nor against the request (“Other”):**

Daniel O’Gara, Dinsmore & Shohl, 101 South Fifth Street Suite 2500, Louisville, KY 402020

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#### **Summary of testimony of those neither for nor against:**

02:07:20 Daniel O’Gara, filling in for Mr. Ashburner, discussed the creation of a distinction between the Traditional form districts and Suburban form districts in terms of the parking ratio. He said he would encourage the Planning Commission to adopt a reduced parking requirement for the Traditional form districts.

02:09:03 Mr. French reviewed what is being proposed in more detail (see recording.)

02:10:32 In response to a question from Commissioner Jarboe, Mr. O’Gara gave some examples of where he thought his suggested parking ratios may be needed. Commissioner Brown and Mr. O’Gara discussed permissible parking reductions for the circumstances Mr. O’Gara’s had described (transit route, historical reuse, etc.)

02:13:03 John Carroll, legal counsel for the Planning Commission, asked Mr. French if the “groundwater drainage basin” definition was used often. Mr. French said he believed it was rare to use that particular definition in the Code, but that it had been used before.

02:14:54 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.**

02:16:44 On a motion by Commissioner Carlson, seconded by Commissioner Peterson, the following resolution was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposed amendments to Sections 1.2.2, 2.3.4, 2.3.5, 2.4.1, 2.4.2, 2.4.3, and Table 9.1.2F of the LDC comply with the applicable policies of Plan 2040; and.

**WHEREAS**, the Commission further finds that the proposed LDC text amendments comply with Community Form policy 2.18 because the proposed text amendments are based on a review of the LDC and will encourage reuse and redevelopment of vacant and underused properties within Louisville Metro; and

**WHEREAS**, the Commission further finds that the proposed LDC text amendments comply with Economic Development policy 2.2 because the amendments will provide

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opportunities for adaptive reuse of older development and encourage infill development;  
and.

**WHEREAS**, the Commission further finds that the proposed LDC text amendments comply with Economic Development policy 2.18 because these amendments will encourage development and redevelopment in certain zoning districts such as the Neighborhood Commercial and Commercial Residential Districts; now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the **Louisville Metro Council and all Cities with zoning authority** that the requested Amended Sections 1.2.2, 2.3.4, 2.3.5, 2.4.1, 2.4.2, 2.4.3, and Table 9.1.2F of the Land Development Code (LDC) regarding health clubs/fitness centers and related uses be **APPROVED**.

**The vote was as follows:**

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

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**CASE NO. 19ZONE1011**

Request: Change in zoning from C-1 to C-2 with associated Detailed District Development Plan with Binding Elements and removal of General Plan Binding Elements

Project Name: Townfair Center Rezoning

Location: 1915 South Hurstbourne Parkway

Owner: Hurstbourne Townfair Station LLC

Applicant: Hurstbourne Townfair Station LLC

Representative: Nick Pregliasco - Bardenwerper Talbott & Roberts PLLC

Jurisdiction: Louisville Metro

Council District: 18 – Marilyn Parker

**Case Manager: Dante St. Germain, AICP, Planner II**

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

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

**Agency Testimony:**

02:18:02 Dante St. Germain 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:**

Nick Pregliasco, Bardenwerper Talbott & Roberts PLLC, 1000 North Hurstbourne Parkway 2<sup>nd</sup> Floor, Louisville, KY 40223

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

Greg Clow (sp), 8289 Houston Lane, Peewee Valley, KY 40056

**Summary of testimony of those in support:**

02:23:19 Nick Pregliasco, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.) He discussed some proposed binding elements, both from the applicant and from Mr. Jim Lynch, a nearby resident in opposition.



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**The following spoke in opposition to this request:**

Jim Lynch, 1903 Hurstbourne Circle, Louisville, KY 40220

**Summary of testimony of those in opposition:**

02:34:14 Jim Lynch, a nearby resident, spoke in opposition. He said his main concerns are limiting or preventing noise and outdoor speakers; also, limiting or preventing car sales. He said there are already several major car dealerships in this neighborhood. He discussed a list of six potential binding elements which were submitted prior to today's meeting. He asked that no alcohol sales be permitted after 2:00 a.m.

His list of proposed prohibited uses are:

- No dance halls or restaurants where dancing or entertainment or music is allowed outside. No outside speakers.
- No Tavern, Bar, Saloon. No 4:00 a.m. liquor license.
- No Public Passenger Transportation Terminals.
- No boat sales with outside storage.
- No automobile rental agencies, repair agencies, sales agencies (there are already 40 of them on the next street. Swope Car Sales, Bachman Chevy, Volkswagon, Car Max, etc.
- Bingo Halls and Parlors.

02:41:26 Commissioner Carlson, Ms. St. Germain, and Mr. Lynch discussed some of his binding element requests.

02:42:31 Commissioner Robinson and Mr. Lynch discussed the liquor license procedure.

**Rebuttal:**

02:43:39 Mr. Pregliasco addressed Mr. Lynch's concerns about noise and sight-lines. He said there is no request for a 4:00 a.m. liquor license, and there are no plans for any type of auto dealerships.

02:46:56 Greg Clow (sp), the property owner, discussed some of the possible tenants/types of tenants that could go here under the rezoning. He said all of the activity/s planned will be inside, nothing outside.

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02:48:15 In response to a question from Commissioner Peterson, Mr. Pregliasco said he was okay with the restrictions Mr. Lynch was proposing.

02:48:38 Commissioner Brown is in favor of “binding out” automobile sales, service, rental, storage, etc. He said those uses should not be allowed without a traffic impact study to support them. He said this site is constrained and Hurstbourne Parkway is a very busy roadway. Mr. Pregliasco, Mr. Clow, and Commissioner Brown discussed the possibility of a binding element requiring any auto-centric uses to have a traffic impact study and go to a hearing.

#### **Deliberation:**

02:54:38 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.**

#### **Zoning**

02:28:00 On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution based on the Plan 2040 Staff Analysis, and evidence and testimony heard today, was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the intents of **Land Use & Development Goal 1: Community Form** because the subject site is already zoned commercially and the proposed zoning district would increase the potential commercial uses. The proposed zoning district change would not expand the commercial use into a non- residential area; the subject site is located on a transit corridor and a major arterial road. The proposed zoning district is a higher density and intensity district; the proposal is not for industrial zoning; the proposed zoning district change would allow for higher intensity commercial uses than the uses currently allowed. The subject site is not located in a historically disadvantaged area; the proposed commercial zoning would permit higher density and intensity uses than currently permitted under the existing commercial zone. The subject site is not located in an area that is historically disproportionately affected by adverse impacts. Traffic for the uses allowed under the proposed zoning would be similar to the traffic currently generated by the uses allowed by the existing zone. Traffic will be routed to S Hurstbourne Parkway, a major arterial, or Bunsen Parkway, a primary collector; noise

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from the site must comply with Louisville Metro Ordinances; and the proposed zoning district would not permit junkyards, landfills, quarries, or similar uses; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of **Land Use & Development Goal 2: Community Form** because the proposed zoning district change would allow for an increased intensity of use on the subject site, which is located in an activity center; the subject site is located in an activity center, and is currently being used partially for retail uses. The existing retail uses can be anticipated to continue indefinitely; the proposed zoning district change would increase the intensity of permitted uses on property that is currently already used commercially, resulting in a more compact and efficient land use pattern in an existing activity center; the proposed zoning district change would permit a broader mix of uses than is currently allowed under the existing zone; the proposed zoning district would allow for a mix of residential and retail or office uses; the proposal would reuse existing structures; and the existing development has two outlots developed as restaurants; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Land Use & Development Goal 3: Community Form because no natural features are evident on the subject site; no wet or highly permeable soils, or severe, steep or unstable slopes appear to exist on the subject site; the subject site is not located in the Ohio River Corridor; and the subject site is not located in a flood-prone area or an area vulnerable to sinkholes or landslides; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of **Land Use & Development Goal 4: Community Form** because no historic assets are evident on the subject site; and no landscapes or natural elements are evident on the subject site. The built features as currently exist are proposed to remain; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of **Land Use & Development Goal 1: Mobility** because the proposed zoning district is for a higher density and intensity district. The subject site is located within an existing marketplace corridor, an existing activity center, and an employment center; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of **Land Use & Development Goal 3: Mobility** because the subject site is not located in a neighborhood or village center; the proposed zoning district would allow for a mix of compatible land uses and traffic will be directed down a major arterial road. Housing exists near the existing center; two transit stops are located near the subject site. The existing transit stops will reduce the need for multiple automobile trips; the subject site is near two existing transit stops and sidewalks are available to assist pedestrians and users of transit in utilizing the site; and Transportation Planning has approved the proposal; and

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**WHEREAS**, the Commission further finds that the proposal meets the intents of **Land Use & Development Goal 2: Community Facilities** because the relevant utilities have approved the proposal; Louisville Water Company has approved the proposal; and MSD has approved the proposal; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of **Land Use & Development Goal 1: Economic Development** because the proposal is not for industrial zoning; and the subject site is located on a major arterial street; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of **Land Use & Development Goal 1: Livability** because the subject site is located on karst topography. No karst features were located on the site; and the subject site is not located in the regulatory floodplain; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of **Land Use & Development Goal 1: Housing** because the proposed zoning district would allow for residential or commercial development that would support aging in place for nearby residents; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of **Land Use & Development Goal 2: Housing** because the proposed zoning district would allow for mixed-income and mixed-use development; and the subject site is located on a major arterial road with two transit stops nearby. The proposed zoning district change would permit high density residential development in the future. The proposed zoning district change would also permit more amenities close to the existing residential neighborhoods abutting the development site; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of **Land Use & Development Goal 3: Housing** because The subject site is not residential in nature and increasing the intensity of allowed uses would not displaced any existing residents; and the proposed zoning district would allow innovative methods of housing to be developed; now, therefore be it

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

**The vote was as follows:**

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

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03:00:32 Before the binding elements were voted on, Commissioner Brown read the binding elements proposed at today's hearing into the record, as follows:

9. A change of use to auto rental, repair service, or sales shall require a traffic impact study to be reviewed and approved by Develop Louisville. Road improvements and traffic mitigation identified in the traffic impact study shall be constructed prior to the issuance of certificate of occupancy.
10. The site shall not be used for the following uses:
  - a. Public Passenger Transportation Terminals.
  - b. Boat sales with outside storage.
  - c. Bingo Halls and Parlors.

**Detailed District Development Plan with Binding Elements**

03:01:37 On a motion by Commissioner Brown, seconded by Commissioner Carlson, 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 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**, the Commission further finds that provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community has been provided, and Metro Public Works and the Kentucky Transportation Cabinet have approved the preliminary development plan; and

**WHEREAS**, the Commission further finds that there are no open space requirements pertinent to the current proposal; and

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

**WHEREAS**, the Commission further finds that the overall site design and land uses are compatible with the existing and future development of the area. The proposed site plan reuses an existing vacant building for an entertainment complex; and

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**WHEREAS**, the Commission further finds that the development plan conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code; now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Detailed District Development Plan with the removal of the existing General Plan Binding Elements, and **SUBJECT** to the following binding elements:

#### General Plan Binding Elements (proposed to be removed)

1. ~~Prior to development of each phase of the project, a detailed district development plan shall be submitted to the Planning Commission for approval. The plan shall be in adequate detail for the Commission to assess the impact of the development in the surrounding area. Each development plan shall be subject to additional binding elements.~~
2. ~~The gross square footage for the portion of the development southwardly of the proposed road bisecting the property shall be 235,685 square feet including no more than 10,785 square feet for out parcels one and two. The total square footage for the portion of the property lying northwardly of the proposed road bisecting the property shall be 146,500 square feet.~~
3. ~~No additional development or expansion shall take place unless additional parking is provided.~~
4. ~~Any change in use of the building space shall receive certificate of occupancy permits only if no great deficit in parking is created.~~
5. ~~Before a building permit is issued:
  - a) ~~The development plan must be reapproved by the Jefferson County Department of Public Works and Transportation and the Metropolitan Sewer District.~~
  - b) ~~The property owners or developers must obtain approval from the Planning Commission, in business session, of a screening, buffering and landscaping plan for the site. Landscape along Hurstbourne Parkway shall include berms, and sufficient plantings to establish a "park way character" in the area zoned C-1 and sufficient plantings to establish a compatible "park way character" in the area zoned C-2. The buffer to be constructed along the southwest and southeast property lines shall provide a substantial and solid barrier between the residential uses to the south and the commercial uses on the site.~~~~

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- ~~6. There shall be no direct access to Hurstbourne Lane except as shown on the approved district development plan. Primary access will be via the new public street constructed to serve this site.~~
- ~~7. The developer shall construct and dedicate to public use the roadway shown on the approved district development plan and preliminary subdivision plan (Docket 10-5-85) prior to occupancy of any structure on this site.~~
- ~~8. Off-site traffic improvements shown on the approved district development plan shall be constructed prior to occupancy of any structure on this site.~~
- ~~9. No freestanding signs shall be erected until a plan showing their location, height, and size has been submitted to and approved by the Planning Commission.~~
- ~~10. The screening (buffering/landscaping) shown on the approved district development plan shall be implemented prior to occupancy and maintained thereafter. Detailed planting plans shall be submitted prior to construction.~~
- ~~11. If a building permit is not issued within one year of the date of approval of the plan or rezoning, the property shall not be used in any manner unless a revised district development plan is approved or an extension is granted by the Planning Commission.~~
- ~~12. A certificate of occupancy must be received from the appropriate code enforcement office 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.~~
- ~~13. The applicant guarantees payment of the cost of constructing the portion of the proposed new roadway crossing the first tract located easterly of the subject property as shown on Sheet 2 of the proposed road plan entitled "Preliminary Council Crest Drive Extension from Bunsen Way to Hurstbourne Lane" that is part of the record in this case. Payment of such cost will be paid as construction of that portion of the proposed new roadway progresses.~~
- ~~14. On the portion of the subject property located northerly of the proposed new road that divides the subject property, that is the auto sales part, the applicant will not place pennants nor will the applicant utilize outdoor loud speakers in connection with the auto sales agencies.~~

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15. ~~The following uses are prohibited on the portion of the subject property located southerly of the proposed new road that divides the subject property:~~

- ~~a) Restaurants of the type known as “fast food” restaurants, characterized by freestanding buildings with drive-in facilities or drive-through windows to allow food and drink to be sold outside the building. This restriction shall not prohibit a café with sidewalk seating used in conjunction with indoor food service nor shall it prohibit a food court located within the shopping center where food may be served by a variety of vendors~~
- ~~b) Automobile service stations~~
- ~~c) Beer depots~~
- ~~d) Bowling alleys~~
- ~~e) Business schools, but not to be construed to prevent teaching activities related to the products sold in retail stores~~
- ~~f) Car washes~~
- ~~g) Exceptional residential uses~~
- ~~h) Funeral homes~~
- ~~i) Retail nurseries, but this restriction is not intended to prohibit the sale of items such as potted plants in connection with a florist shop~~
- ~~j) Towers (radio/TV receiving or transmitting)~~

~~16. A landscaping plan must be submitted for approval by the full Commission in business session which meets Article 12.~~

17. ~~The above binding elements may be amended as provided for in the Zoning District Regulations.~~

**Proposed Binding Elements**

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be



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- 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 Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.
    - b. Encroachment permits must be obtained from the Kentucky Transportation Cabinet.
    - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a certificate of occupancy. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
    - d. A reciprocal access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be created between the adjoining property owners and recorded. 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.
  5. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
  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.

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7. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
8. Outdoor lighting shall be directed down and away from surrounding residential properties. Lighting fixtures shall have a 90-degree cutoff and height of the light standard shall be set so that no light source is visible off-site. Light levels due to lighting on the subject site shall not exceed .5 foot candles measured at the property line. The applicant shall obtain certification by a qualified expert in measurement of lighting levels prior to requesting a certificate of occupancy. Such certification shall be maintained on site at all times thereafter.
9. A change of use to auto rental, repair service, or sales shall require a traffic impact study to be reviewed and approved by Develop Louisville. Road improvements and traffic mitigation identified in the traffic impact study shall be constructed prior to the issuance of certificate of occupancy.
10. The site shall not be used for the following uses:
  - a. Public Passenger Transportation Terminals.
  - b. Boat sales with outside storage.
  - c. Bingo Halls and Parlors.

#### The vote was as follows:

**YES: Commissioners Robinson, Peterson, Daniels, Brown, Carlson, and Jarboe.**

**NOT PRESENT: Commissioners Smith, Lewis, Howard, and Tomes**

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**CASE NO. 19ZONE1015**

Request: Change in zoning from R-5 to R-6 with a District Development Plan with Binding Elements  
Project Name: Swiss Hall Residential  
Location: 719 Lynn Street  
Owner: Swiss Village LLC  
Applicant: Swiss Village LLC  
Representative: Nick Pregliasco - Bardenwerper, Talbott & Roberts PLLC  
Heritage Engineering  
Jurisdiction: Louisville Metro  
Council District: 15 – Kevin Triplett

**Case Manager: Julia Williams, AICP, Planning Supervisor**

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

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

**Agency Testimony:**

03:03:10 Julia Williams 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:**

Nick Pregliasco, Bardenwerper Talbott & Roberts PLLC, 1000 North Hurstbourne Parkway 2<sup>nd</sup> Floor, Louisville, KY 40223

Scott Hannah, Heritage Engineering, 642 South Fourth Street, Louisville, KY 40202

Moseley Putney, AIA, 402 Mockingbird Valley Road, Louisville, KY 40207

**Summary of testimony of those in support:**

03:09:58 Nick Pregliasco, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.)

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03:22:55 Commissioner Daniels asked why the applicant is requesting a reduction of the buffer, when a 15-foot buffer would reduce noise? Mr. Pregliasco said the reason is to allow the townhomes to fit. He gave a more detailed explanation using the site plan. Ms. Williams added that there is a large range of setbacks in this neighborhood.

03:25:56 Commissioner Carlson asked about alley width and fire department comments; he also asked if the alley going around the property will be one-way or two-way. Mr. Pregliasco said that alley will be widened to 18 feet and will be two-way.

03:26:45 Commissioner Brown asked about trash disposal for the development. Mr. Pregliasco said each home would have its own roll-out can, which would be collected from the alley. The dumpster will be for the condo units in the Swiss Hall building.

03:27:32 In response to a question from Commissioner Brown, Mr. Pregliasco discussed the alleys, and utilities/utility relocation.

#### **The following spoke in opposition to this request:**

No one spoke.

#### **The following spoke as neither for nor against the request (“Other”):**

Harley Blankenship, 2622 Valetta Road, Louisville, KY 40205 (was called but declined to speak)

Sherman Blankenship, 1122 Ash Street, Louisville, KY 40217

#### **Summary of testimony of those neither for nor against:**

03:28:39 Sherman Blankenship said there are no two-way alleys in Germantown that he knows of. They are all one-way. The new proposed alley will be directly behind his back yard. He is concerned that the applicant will remove an existing fence; he asked that if the applicant removes the chain-link fence, that they replace it with a privacy fence. This would also help with light and noise from the development. Concerned about the easement. The neighborhood is opposed to having access from Barbee to this development.

#### **Rebuttal:**

03:31:16 Mr. Pregliasco said the applicant agrees to not have access from Barbee into the development. He also discussed the alleys (width; one-way vs. two-way; etc.); fence and lighting;

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03:33:51 Scott Hannah, an applicant's representative, discussed the fence. He said the applicant was not going to remove the fence and there are no plans to replace it.

**Deliberation:**

03:36:48 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.**

**Zoning**

03:40:05 On a motion by Commissioner Brown, seconded by Commissioner Robinson, the following resolution based on the Plan 2040 Staff Analysis, and evidence and testimony heard today, was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the intents of **Community Form: Goal 1** because the proposal is for high density development located along a transit route and within walking distance of a commercial corridor and activity center that has been created along Preston Street; and the site is separated from the adjacent single family residential and office zoning by existing and proposed ROW. The ROW provides sufficient transition between zoning; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of **Community Form: Goal 2** because the proposal is for the rehabilitation and repurposing of the Swiss Hall building for residential use; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of **Community Form: Goal 3** because soils are not an issue with the proposal; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of **Community Form: Goal 4** because Historic Preservation staff has no issues with the proposal as the existing building is being preserved; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of **Mobility: Goal 1** because the proposal is for high density located near an existing commercial activity corridor that has been created along Preston Street. Transit is

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available along Lynn Street. The Intersection of Preston and Lynn begins the Traditional Marketplace Corridor; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of **Mobility: Goal 2** because access to the development is from Lynn Street which is a minor arterial level roadway; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of **Mobility: Goal 3** because the proposal is for multi-family located within walking distance is a commercial corridor. While the proposal does not permit mixed use, high density in this area promotes walking and using other forms of mobility to reduce vehicle miles traveled due to the commercial in the area; the proposed high density zoning is located along a transit route and is connected to a larger sidewalk system in the area. Transportation Review and APCD do not have any concerns with the proposal; Transportation Planning is not requiring any roadway improvements; and there is no direct access to a high speed roadway; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of **Community Facilities: Goal 2** because the current site is served by existing utilities. Utility expansion will be necessary to serve the entire site; an adequate water supply is available in the area; and MSD has no issues with the proposal; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of **Livability: Goal 1** because the proposal will meet LDC requirements for any plantings on the site. The proposal is not located on a forest site or is otherwise generally known for significant plant species; and MSD has no issues with the proposal; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of **Housing: Goal 1** because the proposal is for multi-family zoning located near single family residential zoning as well as commercial and office zoning. R-6 zoning allows for a variety of housing types with the exception of mixed use; and the proposal provides high density zoning near single family zoning which would allow the aging population to stay in the same neighborhood by providing another housing type in the neighborhood that is close to commercial and located along a transit route for greater mobility to a variety of services in the community; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of **Housing: Goal 2** because The proposal is not for mixed use zoning but is for high density zoning located near a commercial corridor and along a transit route which further connects the proposal to the neighborhood. The proposal allows for a housing type that could serve inter-generational and mixed income populations; and the proposal is located along a transit route. There are sidewalks along the site and within

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the well-connected neighborhood to link the residents of the proposal to the nearby commercial corridor; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of **Housing: Goal 3** because the proposal provides a different housing option for this area which encourages existing residents to have another option should they want to stay in the area; and the proposal is not for mixed use zoning but is located near a commercial corridor and is along a transit route. R-6 zoning allows for single family and multi-family which could increase the production of fair and affordable housing; now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that Change in zoning from R-5 to R-6 on property described in the attached legal description be **APPROVED**.

**The vote was as follows:**

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

- **Variance from Chapter 5.5.2.C.2 to reduce the 15 setback along Lynn Street to 10' (5' Variance)**
- **District Development plan/Subdivision plan and binding elements**

03:40:42 On a motion by Commissioner Brown, seconded by Commissioner Robinson, the following resolution based on Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

**(Variance) WHEREAS**, the Louisville Metro Planning Commission finds that the variance will not adversely affect the public health, safety or welfare because the proposed 5' encroachment is for the porches facing the roadway and for covered parking near the alley. 10' is a common setback for homes in the area; and

**WHEREAS**, the Commission further finds that the requested variance will not alter the essential character of the general vicinity because 10' is a common setback for homes in the area; and

**WHEREAS**, the Commission further finds that the requested variance will not cause a hazard or nuisance to the public because the proposed setback is common for the area and will not affect the sidewalk or public areas; and

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**WHEREAS**, the Commission further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations because there are a variety of front setbacks in the area and 10' is common; and

**WHEREAS**, the Commission further finds that the requested variance does not arise from any special circumstances. The applicant is expanding into the required front yard which is a common in the area as the area has a variety of setbacks; and

**WHEREAS**, the Commission further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant because it would reduce the size of the multi-family unit but also reduce the usable space on the site because a 10' setback is common for the area; and

**WHEREAS**, the Commission further finds that the circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought. The applicant is not responsible for common setbacks in the area and are trying to create a product that fits with the variety of setbacks in the area; and

**(Development Plan) WHEREAS**, the Commission further finds that 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**, the Commission further finds that provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community has been provided, and Metro Public Works has approved the preliminary development plan; and

**WHEREAS**, the Commission further finds that open space requirements are being met on the site; and

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

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



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**WHEREAS**, the Commission further finds that the development plan conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code; now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby APPROVE the requested Variance from Chapter 5.5.2.C.2 to reduce the 15 setback along Lynn Street to 10' (5' Variance) **AND** the requested District Development plan/Subdivision plan, **SUBJECT** to the following binding elements:

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. 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) is requested:
  - a. The development plan must receive full construction approval from Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.
  - b. Encroachment permits must be obtained from the Kentucky Transportation Cabinet.
  - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.

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- d. A major subdivision plat creating the lots and roadways as shown on the approved district development plan shall be recorded prior to issuance of any certificates of occupancy.
  - e. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
  - f. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the June 6, 2019 Planning Commission hearing. A copy of the approved rendering is available in the case file on record in the offices of the Louisville Metro Planning Commission.
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.

**The vote was as follows:**

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

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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 4:50 p.m.

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Chairman

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Division Director