

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO PLANNING COMMISSION
DECEMBER 1, 2016**

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

Commission members present:

Vince Jarboe, Chair
Marilyn Lewis, Vice Chair
Jeff Brown
Lula Howard
Emma Smith
Rob Peterson
Rich Carlson
David Tomes
Marshall Gazaway

Commission members absent:

Robert Kirchdorfer

Staff Members present:

Brian Davis, Planning Manager
Emily Liu, Planning Director
Ken Baker, Planning Manager
Julia Williams, Planning Supervisor
Brian Mabry, Planning Supervisor
Beth Jones, Planner II
John Carroll, Legal Counsel
Jonathan Baker, Legal Counsel
Sue Reid, Management Assistant

The following matters were considered:

**PLANNING COMMISSION MINUTES
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APPROVAL OF MINUTES

**NOVEMBER 14, 2016 PLANNING COMMISSION PUBLIC HEARING MINUTES
(NIGHT HEARING)**

NOTE: Commissioner Peterson arrived at approximately 1:07 p.m., therefore, did not vote on the Approval of Minutes from the November 14, 2016 Planning Commission Night Hearing.

00:03:04 On a motion by Vice Chair Lewis, seconded by Commissioner Smith, the following resolution was adopted:

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the minutes of the Planning Commission Public Hearing (Night Hearing) conducted on November 14, 2016.

The vote was as follows:

Yes: Commissioners Brown, Howard, Smith, Carlson, Gazaway, Vice Chair Lewis and Chair Jarboe

Abstain: Commissioner Tomes

Not Present: Commissioners Kirchdorfer and Peterson

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APPROVAL OF MINUTES

NOVEMBER 17, 2016 PLANNING COMMISSION PUBLIC HEARING MINUTES

00:04:44 On a motion by Commissioner Howard, seconded by Commissioner Carlson, the following resolution was adopted:

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the minutes of the Planning Commission Public Hearing conducted on November 17, 2016.

The vote was as follows:

Yes: Commissioners Brown, Howard, Smith, Carlson, Gazaway, Tomes and Chair Jarboe

Abstain: Commissioner Peterson and Vice Chair Lewis

Not Present: Commissioner Kirchdorfer

**PLANNING COMMISSION MINUTES
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PUBLIC HEARING

CASE NO. 16NEIGHPLAN1007 & 1008

Request:	Adoption of the Deer Park Neighborhood Plan and Executive Summary
Project Name:	Deer Park Neighborhood Plan
Location:	Deer Park Neighborhood
Owner:	Multiple
Applicant:	Louisville Metro
Representative:	Louisville Metro
Jurisdiction:	Louisville Metro
Council District:	8-Tom Owen
Case Manager:	Ken Baker, AICP, Planning Manager

00:37:09 NOTE: This case was heard out of order, as the second Public Hearing item. This case was an IMMEDIATE TRANSMITTAL, therefore, the minutes for THIS CASE ONLY was transcribed in a separate document which 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.

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

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PUBLIC HEARING

CASE NO. 16NEIGHPLAN1005

Request:	Adoption of the Oakdale Neighborhood Plan and Executive Summary
Project Name:	Oakdale Neighborhood Plan
Location:	Oakdale Neighborhood
Owner:	Multiple
Applicant:	Louisville Metro
Representative:	Louisville Metro
Jurisdiction:	Louisville Metro
Council District:	15-Marianne Butler
Case Manager:	Ken Baker, AICP, Planning Manager

NOTE: This case was heard out of order, as the first Public Hearing item.

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

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

Agency Testimony:

00:05:30 Ken Baker presented the case and showed a Powerpoint presentation (see recording for detailed presentation).

The following spoke in favor of the request:

Tom Stephens, 507 S. 3rd Street, Louisville, KY 40202
Marianne Butler, Louisville Metro Council, Louisville, KY
Pauletta Feldman, 906 W. Evelyn, Louisville, KY 40215
Vicki Brezinski, 4401 Gatewood Ave., Louisville, KY 40215

Summary of testimony of those in favor:

00:07:53 Tom Stephens spoke in favor of the request and showed a Powerpoint presentation. Mr. Stephens responded to questions from the Commissioners (see recording for detailed presentation).

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CASE NO. 16NEIGHPLAN1005

00:20:48 Ken Baker concluded his presentation of the case (see recording for detailed presentation).

00:22:09 Marianne Butler spoke in favor of the request (see recording for detailed presentation).

00:23:00 Pauletta Feldman spoke in favor of the request (see recording for detailed presentation).

00:25:30 Vicki Brezinski spoke in favor of the request (see recording for detailed presentation).

00:27:44 Councilwoman Butler responded to a question by Chair Jarboe (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

00:30:16 Commissioners' deliberation

00:32:00 Councilwoman Butler responded to a question from Commissioner Gazaway (see recording for detailed presentation).

00:32:44 Commissioners' deliberation

00:35:06 On a motion by Commissioner Carlson, seconded by Commissioner Howard, the following resolution was adopted:

Neighborhood Plan

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the intents of **Guideline 1, Community Form**. The proposed Land Use/Community Form recommendations in the Oakdale Neighborhood Plan promote new/infill development that will be designed to be compatible with the scale, rhythm, form and function of the existing development as well as with the pattern of uses. The proposed recommendations support existing land uses and patterns of the Traditional Neighborhood Form, and preserves the traditional neighborhood character; and

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WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 2, Centers**. The focus on encouraging investment/reinvestment at Taylor and Berry Boulevards, targeted for neighborhood-friendly commercial, promotes efficient use of land and investment in existing infrastructure and encourages vitality and a sense of place in the neighborhood and community; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 3, Compatibility**. The plan proposes recommendations for expanding commercial opportunities while maintaining the existing residential character of the neighborhood. The proposed development locations will minimize impacts to existing residences, schools and other sensitive areas in the neighborhood; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 4, Open Space**. The plan proposes recommendations for maintaining Wyandotte Park and existing open spaces and enhancing neighborhood access to these community assets. The proposed recommendations seek to enhance existing open spaces serving the neighborhood; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 5, Natural Areas and Scenic and Historic Resources**. The plan recommendations support and encourage the preservation of distinctive natural, scenic and historic resources in the Oakdale Neighborhood; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 6, Economic Development and Sustainability**. The Land Use/Community Form recommendations propose strengthening the commercial node at Taylor and Berry Boulevards. These recommendations encourage redevelopment and reinvestment opportunities that will be compatible with and stabilize the residential land uses; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 7, Circulation**. The proposed Mobility recommendations in the Oakdale Plan provide for adequate services to support existing uses and promote growth. Implementation of the mobility recommendations will provide walking and bicycling opportunities that will decrease the use of single-occupant vehicles and improve safety; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 9, Bicycle, Pedestrian and Transit**. The Mobility recommendations place an emphasis on making improvements to the current street and sidewalk networks to support access to community facilities via walking and biking. The recommendations also would provide for safer access to public transit. The Land Use/Community Form

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recommendations support expanding opportunities neighborhood-serving commercial uses, which could lead to a reduction in vehicle trips for retail goods and services; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 10, Flooding and Stormwater**. Land Use/Community Form recommendations identify drainage and flooding issues in the neighborhood and seek to address these concerns. The proposed recommendations will not exacerbate drainage conditions in the neighborhood or surrounding area; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 12, Air Quality**. The proposed Oakdale Neighborhood Plan recommendations reduce the impacts of pollution caused by vehicular traffic and land uses and encourages alternative modes of transportation by improving bicycle and pedestrian access in the neighborhood; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 15, Community Facilities**. The Plan recommends enhancing connections to Oakdale neighborhood parks via walking and biking. As such, the plan supports the guideline's goals to have community facilities that are accessible to the adjacent neighborhoods; and

WHEREAS, the Commission further finds that, based on the staff report and the evidence and testimony presented, that all of the applicable Guidelines of Cornerstone 2020 and the Comprehensive Plan are being met; now, therefore be it

RESOLVED, that the Louisville Metro Planning Commission in Case Number 16NEIGHPLAN1005 & 16NEIGHPLAN1006, Oakdale Neighborhood Plan, does hereby **RECOMMEND APPROVAL** to Louisville Metro Council of the requested Neighborhood Plan.

The vote was as follows:

Yes: Commissioners Brown, Howard, Smith, Carlson, Gazaway, Peterson, Tomes, Vice Chair Lewis and Chair Jarboe

Not Present: Commissioner Kirchdorfer

00:36:07 On a motion by Commissioner Carlson, seconded by Commissioner Smith, the following resolution was adopted:

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CASE NO. 16NEIGHPLAN1005

Executive Summary of Plan to be an Amendment to Cornerstone 2020

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the intents of **Guideline 1, Community Form**. The proposed Land Use/Community Form recommendations in the Oakdale Neighborhood Plan promote new/infill development that will be designed to be compatible with the scale, rhythm, form and function of the existing development as well as with the pattern of uses. The proposed recommendations support existing land uses and patterns of the Traditional Neighborhood Form, and preserves the traditional neighborhood character; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 2, Centers**. The focus on encouraging investment/reinvestment at Taylor and Berry Boulevards, targeted for neighborhood-friendly commercial, promotes efficient use of land and investment in existing infrastructure and encourages vitality and a sense of place in the neighborhood and community; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 3, Compatibility**. The plan proposes recommendations for expanding commercial opportunities while maintaining the existing residential character of the neighborhood. The proposed development locations will minimize impacts to existing residences, schools and other sensitive areas in the neighborhood; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 4, Open Space**. The plan proposes recommendations for maintaining Wyandotte Park and existing open spaces and enhancing neighborhood access to these community assets. The proposed recommendations seek to enhance existing open spaces serving the neighborhood; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 5, Natural Areas and Scenic and Historic Resources**. The plan recommendations support and encourage the preservation of distinctive natural, scenic and historic resources in the Oakdale Neighborhood; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 6, Economic Development and Sustainability**. The Land Use/Community Form recommendations propose strengthening the commercial node at Taylor and Berry Boulevards. These recommendations encourage redevelopment and reinvestment opportunities that will be compatible with and stabilize the residential land uses; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 7, Circulation**. The proposed Mobility recommendations in the Oakdale

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Plan provide for adequate services to support existing uses and promote growth. Implementation of the mobility recommendations will provide walking and bicycling opportunities that will decrease the use of single-occupant vehicles and improve safety; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 9 Bicycle, Pedestrian and Transit**. The Mobility recommendations place an emphasis on making improvements to the current street and sidewalk networks to support access to community facilities via walking and biking. The recommendations also would provide for safer access to public transit. The Land Use/Community Form recommendations support expanding opportunities neighborhood-serving commercial uses, which could lead to a reduction in vehicle trips for retail goods and services; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 10, Flooding and Stormwater**. Land Use/Community Form recommendations identify drainage and flooding issues in the neighborhood and seek to address these concerns. The proposed recommendations will not exacerbate drainage conditions in the neighborhood or surrounding area; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 12, Air Quality**. The proposed Oakdale Neighborhood Plan recommendations reduce the impacts of pollution caused by vehicular traffic and land uses and encourages alternative modes of transportation by improving bicycle and pedestrian access in the neighborhood; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 15, Community Facilities**. The Plan recommends enhancing connections to Oakdale neighborhood parks via walking and biking. As such, the plan supports the guideline's goals to have community facilities that are accessible to the adjacent neighborhoods; and

WHEREAS, the Commission further finds that, based on the staff report and the evidence and testimony presented, that all of the applicable Guidelines of Cornerstone 2020 and the Comprehensive Plan are being met; now, therefore be it

RESOLVED, that the Louisville Metro Planning Commission in Case Number 16NEIGHPLAN1005 & 16NEIGHPLAN1006, does hereby **RECOMMEND APPROVAL** to Louisville Metro Council the Executive Summary of the Plan as an Amendment to Cornerstone 2020.

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The vote was as follows:

**Yes: Commissioners Brown, Howard, Smith, Carlson, Gazaway, Peterson,
Tomes, Vice Chair Lewis and Chair Jarboe**

Not Present: Commissioner Kirchdorfer

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PUBLIC HEARING

CASE NO. 16AREA1002

Request:	Area Wide Change in Zoning from R-4, M-1, and M-2 to PEC for multiple properties in the Jeffersontown Commerce Park
Project Name:	Jeffersontown PEC Rezoning
Location:	Multiple Properties
Owner:	Multiple Owners
Applicant:	City of Jeffersontown
Representative:	City of Jeffersontown
Jurisdiction:	City of Jeffersontown
Council District:	11-Kevin Kramer and 20- Stuart Benson
Case Manager:	Brian Mabry, 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. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

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

Agency Testimony:

01:19:10 Brian Mabry presented the case and showed a Powerpoint presentation. Mr. Mabry responded to questions from the Commissioners (see staff report and recording for detailed presentation).

The following spoke in favor of this request:

Stephen Rusie, Land Use Planner with City of Jeffersontown, 10416 Watterson Trail, Jeffersontown, KY 40299

Summary of testimony of those in favor:

01:25:30 Stephen Rusie spoke in favor of the request and showed a Powerpoint presentation. Mr. Rusie responded to questions from the Commissioners (see recording for detailed presentation).

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The following spoke in opposition to the request:

No one spoke.

01:29:13 Commissioners' deliberation

01:30:39 On a motion by Commissioner Carlson, seconded by Vice Chair Lewis, the following resolution was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the area wide rezoning complies with the applicable guidelines and policies of Cornerstone 2020; and

WHEREAS, the Commission further finds that the area wide rezoning request complies with **Guideline 1, Community Form**, which recommends that new development be designed to be compatible with the scale, rhythm, form and function of existing development as well as with the pattern of uses. By virtue of their location within the existing industrial park, the parcels are suited for the requested zoning district; and

WHEREAS, the Commission further finds that the proposed area wide rezoning request complies with **Guideline 3, Compatibility**, which recommends the prohibition of the location of sensitive land uses in areas where accepted standards for noise, lighting, odors, or similar nuisances are violated or visual quality is significantly diminished. The area wide rezoning will encourage industries to locate in a designated industrial park and will allow appropriate transitions to occur at the edge of the form district rather than within the form district, if the existing zoning designations were to remain in place. In addition, the proposed area wide rezoning would eventually remove the existing sensitive residential uses from the middle of a growing industrial park; and

WHEREAS, the Commission further finds that the proposed area wide rezoning request complies with **Guideline 6, Economic Growth and Stability**, which recommends that regional scale workplaces and industrial land uses have access to people, goods, services and appropriate locations needed for them to conduct business . The rezoning of the subject properties will preserve workplaces and allow new industrial uses adjacent to existing industrial uses within a reasonable proximity to population centers and transportation facilities such as railways and highways; and

WHEREAS, the Commission further finds that the proposed area wide rezoning request complies with **Guideline 8**, which recommends an efficient, safe and attractive system of roadways, transit routes, sidewalks and other pathways for the timely movement of

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people and goods. The subject area has a network of roadways and a hierarchy of streets to provide appropriate access to the lots being rezoned; and

WHEREAS, the Commission further finds that the existing zoning classification is inappropriate and the proposed classification is appropriate. The subject properties are within or adjacent to the existing industrial park and surrounded by industrial zoned properties; now, therefore be it

RESOLVED, that the Louisville Metro Planning Commission in Case Number 16AREA1002 does hereby **RECOMMEND APPROVAL** to the City of Jeffersontown the Area Wide Change in Zoning from R-4, M-1, and M-2 to PEC for multiple properties in the Jeffersontown Commerce Park, based on the Staff Report and the testimony heard today.

The vote was as follows:

Yes: Commissioners Brown, Howard, Smith, Carlson, Gazaway, Peterson, Tomes, Vice Chair Lewis and Chair Jarboe
Not Present: Commissioner Kirchdorfer

01:31:45 Meeting was recessed.

01:32:07 Meeting was reconvened.

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PUBLIC HEARING

CASE NO. 16ZONE1054

Request: Change in zoning from C-1 to C-2
Project Name: JATC Training Facility
Location: 1206 Durrett Lane
Owner: Trustees for the Louisville Electricians Union
Applicant: Steve Willinghurst, Trustee
Representative: Ashley Bartley, Qk4
Jurisdiction: Louisville Metro
Council District: 21 – Dan Johnson
Case Manager: Beth Jones, AICP, Planner II

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

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

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.

Agency testimony:

01:32:33 Beth Jones presented the case and showed a Powerpoint presentation. Ms. Jones responded to questions from the Commissioners (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Ashley Bartley, QK4, 1046 E. Chestnut Street, Louisville, KY 40204

Summary of testimony of those in favor:

01:39:01 Ashley Bartley spoke on behalf of the applicant in favor of the request and referred to a Powerpoint presentation (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

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PUBLIC HEARING

CASE NO. 16ZONE1054

01:43:02 **NOTE:** Brian Davis, Planning Manager, advised of the typical language used for an additional Binding Element regarding elevations (see recording for detailed presentation).

01:43:23 **Commissioners' deliberation**

01:46:10 On a motion by Commissioner Carlson, seconded by Commissioner Smith, the following resolution was adopted:

Change in Zoning from C-1 to C-2

WHEREAS, the Louisville Metro Planning Commission finds that all of the applicable Guidelines and Policies of Cornerstone 2020 and the Comprehensive Plan are being met; now, therefore be it

RESOLVED, that the Louisville Metro Planning Commission in Case Number 16ZONE1054 does hereby **RECOMMEND APPROVAL** to Louisville Metro Council the Change in Zoning from C-1 to C-2, based on the Staff Report and the testimony heard today.

The vote was as follows:

Yes: Commissioners Brown, Howard, Smith, Carlson, Gazaway, Peterson, Tomes, Vice Chair Lewis and Chair Jarboe
Not Present: Commissioner Kirchdorfer

01:47:18 On a motion by Commissioner Carlson, seconded by Vice Chair Lewis, the following resolution was adopted:

Detailed District Development Plan

WHEREAS, the Louisville Metro Planning Commission finds that LOJIC shows no environmental constraints within the property; and

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WHEREAS, the Commission further finds that the proposed development includes bike and pedestrian facilities, both connecting to existing and potential development to the east and west; and

WHEREAS, the Commission further finds that no scenic or recreational open space is required; and

WHEREAS, the Commission further finds that MSD has reviewed and approved the proposed development; and

WHEREAS, the Commission further finds that the development of the site is nearly identical to the site adjoining to the west, which is used for the same purposes by the same owner; and

WHEREAS, the Commission further finds that the proposal conforms to all applicable Comprehensive Plan and LDC requirements; now, therefore be it

RESOLVED, that the Louisville Metro Planning Commission in Case Number 16ZONE1054 does hereby **APPROVE** the Detailed District Development Plan, based on the Staff Report and testimony heard today, and **SUBJECT** to the following Binding Elements:

Proposed Binding Elements

1. All development on the site shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed-upon binding element(s) unless amended pursuant to the LDC. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or its designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. No outdoor advertising signs, small free-standing 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.

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4. Before any permit is requested, including but not limited to building, parking lot, change of use and/or site disturbance:
 - 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(s)/developer(s) must obtain approval of a detailed plan for screening, buffering and landscaping as described in LDC Chapter 10. Such plan shall be implemented prior to occupancy of the site and continually maintained thereafter.
5. If a building permit, parking lot permit or site disturbance permit is not issued within two years of the date of approval of the plan, the proposed expansion shall not be used in any manner unless a revised district development plan is approved or an extension is granted by the Planning Commission.
6. No live, piped, radio or amplified outdoor music, outdoor entertainment or outdoor PA system shall be permitted on the site.
7. The applicant, developer or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of their content. These binding elements shall run with the land and the owner(s) and occupant(s) of the property shall at all times be responsible for compliance with them. 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. **Elevations shall be submitted for Staff approval prior to obtaining construction permits.**

The vote was as follows:

Yes: Commissioners Brown, Howard, Smith, Carlson, Gazaway, Peterson, Tomes, Vice Chair Lewis and Chair Jarboe
Not Present: Commissioner Kirchdorfer

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PUBLIC HEARING

CASE NO. 16ZONE1025

Request: Change in zoning from R-4 to C-2 on approximately 1.36 acres with a waiver and variance
Project Name: 436-452 Roberts Avenue
Location: 436-452 Roberts Avenue
Owner: Jacob Thompson, Tom Lago, & Pauline Vittitoe
Applicant: Thompson Brothers Plumbing, Lago's Logos, & Jesse's Lawn Service
Representative: Miller Wihry
Jurisdiction: Louisville Metro
Council District: 13-Vicki Aubrey Welch
Case Manager: Julia Williams, RLA (IN), AICP, Planning Supervisor

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

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

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.

Agency testimony:

01:49:18 Julia Williams presented the case and showed a Powerpoint presentation. Ms. Williams responded to questions from the Commissioners (see recording for detailed presentation).

The following spoke in favor of the request:

John Miller, 1387 S. 4th Street, Louisville, KY 40208
Tom Lago, 448 Roberts Ave., Louisville, KY 40214

Summary of testimony of those in favor:

02:04:15 John Miller spoke in favor of the request and showed a Powerpoint presentation (see recording for detailed presentation).

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02:09:30 Tom Lago spoke in favor of the request (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

02:10:30 Commissioners' deliberation

02:12:07 On a motion by Commissioner Peterson, seconded by Commissioner Howard, the following resolution was adopted:

Change in zoning from R-4 to C-2

WHEREAS, the Louisville Metro Planning Commission finds that all of the applicable Guidelines and Policies of Cornerstone 2020 and the Comprehensive Plan are being met; now, therefore be it

RESOLVED, that the Louisville Metro Planning Commission in Case Number 16zone1025 does hereby **RECOMMEND APPROVAL** to Louisville Metro Council the Change in Zoning from R-4 to C-2, based on the Staff Report and the testimony heard today.

The vote was as follows:

Yes: Commissioners Brown, Howard, Smith, Carlson, Gazaway, Peterson, Tomes, Vice Chair Lewis and Chair Jarboe

Not Present: Commissioner Kirchdorfer

02:14:20 On a motion by Commissioner Peterson, seconded by Commissioner Carlson, the following resolution was adopted:

Variance from 5.1.12.A.2 to permit the proposed buildings to be set back further than the range of the two closest principal structures

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WHEREAS, the Louisville Metro Planning Commission finds that the requested variance will not adversely affect public health safety or welfare since the proposed buildings are located at the rear of the property and will be used as a shop/storage; and

WHEREAS, the Commission further finds that the requested variance will not alter the essential character of the general vicinity since the building is being located behind the residential looking structure will maintain the residential/industrial character of the area; and

WHEREAS, the Commission further finds that the requested variance will not cause a hazard or nuisance to the public since the building is located behind the office structure in the front of the site; and

WHEREAS, the Commission further finds that the requested variance will not allow an unreasonable circumvention of zoning regulations since the structures act as accessory structures even though it is larger than the main office structures in the front of the site; 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 since metal storage structures are not generally located on residentially zoned lots and the proposal to build a new shop structure is only reflective of the existing storage structure; and

WHEREAS, the Commission further finds that the strict application of the provisions of the regulation would deprive the applicant of reasonable use of the land since the area is changing with a mix of non-residential uses occupying lots along the roadway. Industrial uses are already located in the vicinity; and

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

Waiver from Chapter 10.2.4 to permit an existing building to encroach into a 15' LBA along the south and west property line where the proposed C-2 zoned site is adjacent to M-2 zoning as shown on the development plan

WHEREAS, the Louisville Metro Planning Commission finds that the waiver will not adversely affect adjacent property owners since the screening and buffering requirements will still be met in the buffers; and

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WHEREAS, the Commission further finds that Guideline 3, Policy 9 of Cornerstone 2020 calls for protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigation when appropriate. Guideline 3, Policies 21 and 22 call for appropriate transitions between uses that are substantially different in scale and intensity or density, and mitigation of the impact caused when incompatible developments occur adjacent to one another through the use of landscaped buffer yards, vegetative berms and setback requirements to address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances. Guideline 3, Policy 24 states that parking, loading and delivery areas located adjacent to residential areas should be designed to minimize impacts from noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered. Guideline 13, Policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. Guideline 13, Policy 6 calls for screening and buffering to mitigate adjacent incompatible uses. The intent of landscape buffer areas is to create suitable transitions where varying forms of development adjoin, to minimize the negative impacts resulting from adjoining incompatible land uses, to decrease storm water runoff volumes and velocities associated with impervious surfaces, and to filter airborne and waterborne pollutants. The landscape buffers are being reduced but the screening and planting requirements will still be met making the site compatible with the surrounding properties; and

WHEREAS, the Commission further finds that the waiver is the minimum to give relief to the applicant because much of the site is an existing condition due to the existing residential character of the lot but also with the existing contractors shop; and

WHEREAS, the Commission further finds that the strict application would deprive the applicant of reasonable use of the land because the area is changing with a mix of non-residential uses occupying lots along the roadway. Industrial uses are already located in the vicinity; and

General and Detailed Development Plan

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

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community has been provided, and Metro Public Works has approved the preliminary development plan; and

WHEREAS, the Commission further finds that there are no open space requirements pertinent to the current proposal. The open space provided on the site is in the form of the buffers provided as well as the front yard; 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; 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, that the Louisville Metro Planning Commission in Case Number 16ZONE1025 does hereby **APPROVE** Variance from 5.1.12.A.2 to permit the proposed buildings to be set back further than the range of the two closest principal structures, Waiver from Chapter 10.2.4 to permit an existing building to encroach into a 15' LBA along the south and west property line where the proposed C-2 zoned site is adjacent to M-2 zoning as shown on the development plan and the General and Detailed Development Plan, based on the Staff Report and testimony heard today and **SUBJECT** to the following Binding Elements, noting that the rendering for Binding Element Number 9 was shown here today:

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 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.

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2. The development shall not exceed 5,350 square feet of gross floor area for 436/438 Roberts Ave. The development shall not exceed 6,400 square feet of gross floor area for 440/448/450 Roberts Ave. The development shall not exceed 2,350 square feet of gross floor area for 452 Roberts Ave.
3. No pennants, balloons, or banners shall be permitted on the site.
4. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
5. Before any permit (including but not limited to building, parking lot, change of use, site disturbance) is requested:
 - a) The development plan must receive full construction approval from Develop Louisville, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b) The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit.
 - c) A minor plat or legal instrument shall be recorded consolidating 436/438 Roberts Avenue into one lot and 440/448/450 Roberts Avenue into one lot. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of the approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
 - 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 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.

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6. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
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. No idling of trucks shall take place within 200 feet of single-family residences. No overnight idling of trucks shall be permitted on-site.
9. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the December 1, 2016 Planning Commission meeting.

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APPROVAL OF MINUTES

December 1, 2016 Planning Commission Public Hearing Minutes (Case Number 16NEIGHPLAN1007 ONLY)

00:04:44 On a motion by Commissioner Howard, seconded by Commissioner Carlson, the following resolution was adopted:

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the minutes of the Planning Commission Public Hearing (**Case Number 16NEIGHPLAN1007 ONLY**), conducted on December 1, 2016, with a change noted to Page 2 as follows: “Paula Wahl (was called but declined to go to the podium; said she was available to answer questions)”.

The vote was as follows:

Yes: Commissioners Brown, Howard, Smith, Carlson, Gazaway, Tomes, Peterson, Vice Chair Lewis and Chair Jarboe
Not Present: Commissioner Kirchdorfer

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STANDING COMMITTEE REPORTS

Land Development and Transportation Committee

No report given.

Site Inspection Committee

No report given.

Planning Committee

No report given.

Development Review Committee

No report given.

Policy and Procedures Committee

No report given.

CHAIRPERSON/DIRECTOR'S REPORT

Emily Liu, Planning & Design Services Director, advised the Commissioners of upcoming trainings. Ms. Liu requested the Commissioners put these trainings on their calendars early so they can all attend. Ms. Liu stated the Planning Commission is always encouraged to get involved in the Planning profession, trainings and organizations. Ms. Liu stated she thinks some of the Commissioners are members of the American Planning Association Kentucky Chapter, but if anyone is interested she can help them sign up and we'll pay for that. Ms. Liu stated there are other organizations if anyone is interested we can help them sign up as well. Ms. Liu stated as we are updating our Comprehensive Plan some of these trainings are probably very valuable. Chair Jarboe asked if there was a go to person for the Commissioners to know how much CE training they have. Ms. Liu stated she looked at this a couple of weeks ago and everyone appears to be in good shape. Ms. Liu stated everyone will be provided with their training for the year at the next meeting on the 15th. Commissioner Lewis inquired about scheduled meetings for the remainder of the month. Brian Davis stated we will let everyone know officially. Ms. Liu stated Commissioner Gazaway has been assigned to LD&T (see recording for detailed presentation).

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ADJOURNMENT

The meeting adjourned at approximately 3:37 p.m.

Chair

Planning Director