

**MINUTES OF THE MEETING  
OF THE  
LOUISVILLE METRO PLANNING COMMISSION  
December 3, 2015**

A meeting of the Louisville Metro Planning Commission was held on December 3, 2015 at 1:00 p.m. at the Old Jail Building, located at 514 W. Liberty Street, Louisville, Kentucky.

**Commission members present:**

Donnie Blake, Chair  
David Proffitt, Vice Chair  
Jeff Brown  
Vince Jarboe  
David Tomes (Arrived at approximately 1:32 p.m.)  
Robert Kirchdorfer  
Rob Peterson  
Clifford Turner

**Commission members absent:**

Marilyn Lewis  
Chip White

**Staff Members present:**

Emily Liu, Director, Planning and Design Services  
Joe Reverman, Assistant Director, Planning and Design Services  
Steve Hendrix, Planning Supervisor  
Brian Davis, Planning Supervisor  
Chris Brown, Planner II  
Julia Williams, Planner II  
John G. Carroll, Legal Counsel  
Jonathan Baker, Legal Counsel  
Sue Reid, Management Assistant

The following matters were considered:

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**APPROVAL OF MINUTES**

**NOVEMBER 19, 2015 PLANNING COMMISSION PUBLIC HEARING MINUTES**

**NOTE: Commissioner Tomes was not present, therefore, did not vote on the Approval of Minutes**

On a motion by Vice Chair Proffitt, seconded by Commissioner Jarboe, 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 19, 2015.

**The vote was as follows:**

**YES: Commissioners Peterson, Jarboe, Turner, Brown, and Vice Chair Proffitt**

**NO: No one**

**NOT PRESENT: Commissioners White, Lewis and Tomes**

**ABSTAINING: Commissioner Kirchdorfer and Chair Person Blake**

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**PUBLIC HEARING**

**CASE NO. 15WAIVER1020**

**NOTE: Commissioner Tomes was not present, therefore, did not vote on this case**

Request: Appeal of DRC's 9.16.15 decision denying the request to not require sidewalks along Collins Lane

Project Name: Ford - Kentucky Truck Plant

Location: 3001 Chamberlain Lane

Owner: Ford Motor Land Development Corp.

Applicant: Owner

Representative: Phil Gambrell, Lockett & Farley

Jurisdiction: Louisville Metro

Council District: 17 – Glen Stuckel

**Case Manager: Steve Hendrix, 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:**

**00:04:38** Steve Hendrix presented the case and showed a Powerpoint presentation (see recording and staff report for detailed presentation).

**The following spoke in favor of the request:**

Phil Gambrell, Lockett & Farley, 737 South Third Street, Louisville, KY

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**Summary of testimony of those in favor:**

**00:08:49** Phil Gambrell spoke on behalf of the applicant (see recording for detailed presentation).

**00:16:23 Commissioners' deliberation**

**00:21:25** On a motion by Vice Chair Proffitt, seconded by Commissioner Turner, the following resolution was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that the waiver will not adversely affect adjacent property owners since there are no sidewalks on this side of the street on properties located in the vicinity. The applicant is providing internal sidewalk connection within the subject property, and

**WHEREAS**, the Commission further finds that Guideline 7, Policy 1 states that developments should be evaluated for their impact on the street and roadway system and to ensure that those who propose new developments bear or reasonably share in the costs of the public facilities and services made necessary by development. Guideline 9, Policy 1 states that new development should provide, where appropriate, for the movement of pedestrians, bicyclists and transit users with sidewalks along the streets of all developments where appropriate. The waiver request does not violate the comprehensive plan since there are no sidewalks on this side of the street and there is no transit stop close to the subject property, and

**WHEREAS**, the Commission further finds that the extent of waiver of the regulation is the minimum necessary to afford relief to the applicant since there is pedestrian connections being provided in the interior of the parking lot to the subject site facilities, and

**WHEREAS**, the Commission further finds that a strict application of the provision of the regulation would create a hardship due to the physical restraints of the topography because of the stream location. To construct the sidewalk would be very costly; now, therefore be it

**RESOLVED**, that the Louisville Metro Planning Commission in Case Number 15WAIVER1020 does hereby **GRANT** the Appeal by the Applicant, based on the original justification by the staff report, and finding that the reasoning for DRC's primary concern was a left-hand turn lane which would have required or necessitated the

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addition of a sidewalk that has now been removed, the mitigating factors that Ford is planning on extending existing sidewalks to adjacent neighborhoods and to existing sidewalks, one sidewalk being across from this new parking lot, so the connectivity is there at least to the Lagrange Road side and they have provided internal pathways on their property to other sidewalks located around the property.

**The vote was as follows:**

**YES: Commissioners Peterson, Jarboe, Turner, Kirchdorfer, Vice Chair Proffitt and Chair Person Blake**

**NO: Commissioner Brown**

**NOT PRESENT: Commissioners White, Lewis and Tomes**

**ABSTAINING: No one**

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Request: Change in Zoning from C-1 to C-2; Land Development Code Waiver and Detailed District Development Plan; General Plan Binding Element Amendment for Middletown Commons

Project Name: Tire Discounters

Location: 13319 Shelbyville Road

Owner: Middletown Investment Partners LLC

Applicant: Middletown Investment Partners LLC

Representative: Bardenwerper, Talbott & Roberts, PLLC

Jurisdiction: Middletown

Council District: 19 – Julie Denton

**Case Manager: Christopher Brown, 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:**

**00:24:14** Christopher Brown presented the case and showed a Powerpoint presentation (see recording and staff report for detailed presentation).

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

Bill Bardenwerper, 1000 N. Hurstbourne Parkway, Louisville, KY 40222

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Jon Henney, 101 S. 5<sup>th</sup> Street, Suite 1400, Louisville, KY 40202

**Summary of testimony of those in favor:**

**00:29:18** Bill Bardenwerper spoke on behalf of the applicant and showed a Powerpoint presentation (see recording for detailed presentation).

**00:39:12** Jon Henney spoke on behalf of the applicant (see recording for detailed presentation).

**00:42:00** Vice Chair Proffitt asked where the HVAC unit was going to be located.

**00:42:14** Jon Henney stated it was a roof unit, but the specific location he could not answer that.

**00:42:17** Vice Chair Proffitt asked Mr. Bardenwerper if his client would be open to a Condition of Approval to require screening around that unit on the roof. Vice Chair Proffitt stated that the drive from the Gene Snyder you can see the top of the roofs of these buildings and he thinks that is appropriate.

**00:44:51** Bill Bardenwerper and Jon Henney stated they would be open to doing that.

**00:44:57** Chair Person Blake stated that would be a Binding Element that would be added.

**00:45:25** Commissioner Brown referred to the Powerpoint slide, and stated that has the pedestrian connectivity they were looking for from the previous meeting, and he asked if this was based on the current development plan.

**00:45:43** Bill Bardenwerper said yes that is the current development plan.

**00:46:00** Jon Henney stated the earlier rendering showed where they had originally proposed it and Commissioner Brown asked them to move it so you didn't have to cross behind that one parked car, so they made that change in the revised plan that was submitted for today's hearing.

**The following spoke neither for nor against this request:**

Glenn Price, 400 W. Market Street, Louisville, KY 40202

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

**00:50:34** Glenn Price spoke on behalf of 211 LLC in regard to Binding Element Number 15. Mr. Price stated after reviewing the situation, he believes it's fair to say they don't have a right to object to the Planning Commission making a recommendation on this case or the City of Middletown voting on this case provided that they do so with this Binding Element remaining in effect because that is their guarantee that this road that benefits their client will be built (see recording for detailed presentation).

**00:53:16** The Commissioners, Legal Counsel, staff and applicant's representative discussed the Binding Elements for this case.

**01:02:55 Commissioners' deliberation**

**01:04:45** On a motion by Vice Chair Proffitt, seconded by Commissioner Peterson, the following resolution was adopted:

**Change in Zoning from C-1 to C-2;**

**WHEREAS**, the Louisville Metro Planning Commission finds that the planned tire and auto care store complies with the Intents and Applicable Policies of Guideline 1 because it is of an appropriate design and intensity for this small infill parcel along the nearly fully developed Shelbyville Road corridor in the Suburban Marketplace District. Its design and this specific use match almost exactly the elements of the Suburban Marketplace Form District, especially the section where it states that a Suburban Marketplace Corridor is a medium to high intensity district, with a mixture of commercial uses. Tire Discounters will be surrounded by other commercial uses, located on a major arterial, adding to the mix of uses in this new Middletown Commons Shopping Center. Indeed, this use fits well among the others because of the all-brick design and the fact that its users can drop their vehicles at this store while walking to other shops and restaurants while they wait, and

**WHEREAS**, the Commission further finds that the planned tire and auto care store complies with the Intents of Guideline 2 and specifically with Policies 1, 2, 3, 4, 5, 7, and 11-15 thereof because the proposed use is to be located within the Suburban Marketplace Form District in an existing mixed use shopping center with businesses that support one another and those nearby. This use is especially appropriate



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in this center because it is bringing the lowest of the low traffic generators possible to this site, and

**WHEREAS**, the Commission further finds that the planned tire and auto care store complies with the Intents of Guideline 3 and specifically with the applicable Policies 1, 2, 4-9, 12, 20-24 and 28 thereof for all the reasons described above and because the layout respects the pattern and existing design of development in the existing center. It will be an all brick building, oriented sideways to US 60, in order that overhead doors are not evident to the street. Odor impacts and lighting will be mitigated by enclosing dumpsters and directing lighting down and away from adjoining properties in accordance with LDC regulations. Hours of operation are normal, not late business hours. Noise will be mitigated by virtue of the fact that the building is fully enclosed, and overhead doors will be closed so that any possible negative impacts of vehicle repairs are kept fully inside. Traffic will be minimal considering the planned tire and auto center use, compared to many other potential uses like restaurants, which are heavy peak hour traffic generators. Building scale, materials and designs are suitable for the size and location of this small outlot, and so will be compatible with other center commercial uses. The proposed tire and auto care store is also connected to surrounding commercial uses by sidewalks. Like many infill sites, utilities are available at the site, thus reducing public cost for infrastructure, and

**WHEREAS**, the Commission further finds that the planned tire and auto care store complies with the overall Intents of Guideline 6 and specifically with applicable Policies 3 and 6 thereof because it will add to the mix of commercial corridor serving uses. This area of Louisville Metro is one of the most rapidly developing areas within the community, and developments along the US 60 corridor have served the burgeoning residential population in the area and the population moving out US 60 where new housing growth continues to occur, and

**WHEREAS**, the Commission further finds that the planned tire and auto care store complies with the overall Intents and specifically with applicable Policies 1, 2, 6, 9, 10, 11, 13, 14 and 18 of Guideline 7 thereof because it is located as described hereinabove, along an arterial roadway near a significant support population and adjoining and near other commercial and institutional uses. Internal sidewalks allow shoppers to park at the tire and auto care center and walk to nearby shops and restaurants while their vehicles are being serviced. The planned tire and auto care store complies with the Intents of Guidelines 8 and 9 and all applicable Policies for all the reasons described above and because access is shared among all the center's uses, and turning movements to and from this site will not interfere with existing traffic patterns. In this way, especially with shared access, traffic flows will be efficient to and through the center, and no adverse impacts on internal or external streets are created. The Detailed District Development Plan (DDDP) will also require and obtain the preliminary

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stamp of approval prior to LD&T review from Louisville Metro Transportation Planning and Public Works, thus demonstrating those agencies' view that the DDDP complies with all agency design requirements, and

**WHEREAS**, the Commission further finds that the planned tire and auto care store complies with the Intents and Applicable Policies of these Guidelines for reasons evident on the accompanying DDDP and because surface water drainage is addressed through existing approved on-site detention. No portion of the site lies within the 100-year floodplain. The user will connect to existing sewer and water lines available at the site at the applicant's expense, which will eliminate public costs for such infrastructure. Prior to LD&T, the DDDP will require and obtain the preliminary stamp of approval from MSD, thus demonstrating compliance with this agency's stormwater management and water quality requirements, and

**WHEREAS**, the Commission further finds that the planned tire and auto care store complies with the Intents and Applicable Policies of Guideline 12 for all the reasons explained above and because a compact neighborhood center of mixed uses helps reduce travel time from one shopping and service use to another. Further, traffic flow to and through the site will be efficient and controlled through good access and internal traffic circulation design. Plus, this user is a low, instead of high, traffic generator, especially at the peak hours, and

**WHEREAS**, the Commission further finds that the planned tire and auto care store complies with the Intents of this Guideline and specifically with applicable Policies 1, 2, 5 and 6 thereof because LDC landscaping requirements will be fully met, as shown on the accompanying DDDP with concept landscaping; now, therefore be it

**RESOLVED**, that the Louisville Metro Planning Commission in Case Number 15ZONE1041 does hereby **RECOMMEND APPROVAL** to the City of Middletown a Change in Zoning from C-1 to C-2 based on the staff report and testimony heard today.

**The vote was as follows:**

**YES: Commissioners Peterson, Jarboe, Turner, Brown, Kirchdorfer, Vice Chair Proffitt and Chair Person Blake**

**NO: No one**

**NOT PRESENT: Commissioners White and Lewis**

**ABSTAINING: Commissioner Tomes**

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**01:05:41** On a motion by Vice Chair Proffitt, seconded by Commissioner Peterson, the following resolution was adopted:

**Waiver #1: Land Development Code Waiver from Chapter 5.5.2 of the 2004 Land Development Code to allow the front facing door on the side of the building and no entrance located along the primary street frontage;**

**WHEREAS**, the Louisville Metro Planning Commission finds that the requested waiver will not adversely affect adjacent property owners since proper access will be provided from the right of way to the building entrance, and

**WHEREAS**, the Commission further finds that Guideline 3, policy 1 and 2 calls for the compatibility of all new development and redevelopment with the scale and site design of nearby existing development and with the pattern of development within the form district. The proposal is for a non-residential use. The Land Development Code provides building design standards for non-residential and mixed use buildings. The purpose of the regulation is to provide visual interest and a human scale that is representative of the form district. Animating features and materials consist with the design of the building will be provided along the street facing façade and the entrance will be located toward the interior parking lot; therefore, the waiver will not violate specific guidelines of Cornerstone 2020, 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 sufficient access will be provided on the site and animating features with glazing will be provided along the street facing façade, and

**WHEREAS**, the Commission further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant by requiring a second entrance away from both the parking and pedestrian entry points; now, therefore be it

**RESOLVED**, that the Louisville Metro Planning Commission in Case Number 15ZONE1041 does hereby **RECOMMEND APPROVAL** to the City of Middletown of Waiver #1 to allow the front facing door on the side of the building and no entrance located along the primary street frontage based on the staff report, testimony heard today, the elevations presented by the applicant and the applicant's presentation.

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**The vote was as follows:**

**YES: Commissioners Peterson, Jarboe, Turner, Brown, Kirchdorfer, Vice Chair Proffitt and Chair Person Blake**

**NO: No one**

**NOT PRESENT: Commissioners White and Lewis**

**ABSTAINING: Commissioner Tomes**

**01:06:40** On a motion by Vice Chair Proffitt, seconded by Commissioner Peterson, the following resolution was adopted:

**Detailed District Development Plan**

**WHEREAS**, the Louisville Metro Planning Commission find that there does 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 with the current proposal. Future multi-family developments proposed on the subject site will be required to meet Land Development Code requirements, and

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

**WHEREAS**, the Commission further finds that 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

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**RESOLVED**, that the Louisville Metro Planning Commission in Case Number 15ZONE1041 does hereby **RECOMMEND APPROVAL** to the City of Middletown of the Detailed District Development Plan as presented here today with the addition of seven Binding Elements, six of those noted on a document dated December 3, 2015 at 1:42 p.m. on page 2 that denotes the six Binding Elements, and then a seventh Binding Element which would read as the applicant shall provide appropriate screening on the roof of the building to hide the package unit located on the roof, as well as the five Binding Elements located on page 18 of 18 of the staff report under the title "Detailed District Development Plan", based on the staff report, the plan itself, the discussion here today and the applicant's presentation.

**The vote was as follows:**

**YES: Commissioners Peterson, Jarboe, Turner, Brown, Kirchdorfer, Vice Chair Proffitt and Chair Person Blake**

**NO: No one**

**NOT PRESENT: Commissioners White and Lewis**

**ABSTAINING: Commissioner Tomes**

**01:09:14** On a motion by Vice Chair Proffitt, seconded by Commissioner Peterson, the following resolution was adopted:

**Binding Element Amendment**

**WHEREAS**, the Louisville Metro Planning Commission finds that there does 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 with the current proposal. Future multi-family developments proposed on the subject site will be required to meet Land Development Code requirements, and

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**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 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**, that the Louisville Metro Planning Commission in Case Number 15ZONE1041 does hereby **RECOMMEND APPROVAL** to the City of Middletown of a General Plan Binding Element Amendment that would read as on page 17 of 18, Item #3, "use of the subject site shall be limited to office, retail, restaurants, bank and hotel, and other uses permitted in the C-1 district **except for the C-2 use of a lot for tire/auto care center on Lot E as approved at Planning Commission meeting of 12/3/15.**

There shall be no other use of the property unless prior approval is obtained from the Planning Commission. Notice of a request to amend this binding element shall be given in accordance with the Planning Commission's policies and procedures. The Planning Commission may require a public hearing on the request to amend this binding element", based on discussion here today, presentation by staff and the staff report, 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 or the Planning Commission's designee and to the City of Middletown for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. Prior to development of each tract/building or phase of this project, the applicant, developer, or property owner shall obtain approval from the Planning Commission and City of Middletown of building design in accordance with

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Chapter 5 of the LDC. The façade elevations shall be in accordance with the Suburban Form District building design standards.

- ~~3. Use of the subject site shall be limited to office, retail, restaurants, bank and hotel, and other uses permitted in the C-1 district. There shall be no other use of the property unless prior approval is obtained from the Planning Commission. Notice of a request to amend this binding element shall be given in accordance with the Planning Commission's policies and procedures. The Planning Commission may require a public hearing on the request to amend this binding element.~~
3. Use of the subject site shall be limited to office, retail, restaurants, bank and hotel, and other uses permitted in the C-1 district **except for the C-2 use of a lot for tire/auto care center**. There shall be no other use of the property unless prior approval is obtained from the Planning Commission. Notice of a request to amend this binding element shall be given in accordance with the Planning Commission's policies and procedures. The Planning Commission may require a public hearing on the request to amend this binding element.
4. The development shall not exceed 272,000 square feet of gross floor area.
5. Signs shall be in accordance with the City of Middletown sign regulations.
6. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
7. The access to the site must be provided from the curb cut on Shelbyville Rd, N. English Station Rd and Data Vault Drive as shown on the development plan.
8. 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.
9. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, or alteration permit or demolition permit is requested:
  - a. The development plan must receive full construction approval from Louisville Metro Department of Codes and Regulations Construction

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Permits and Transportation Planning Review and the Metropolitan Sewer District.

- b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
  - c. The property owner/developer must obtain approval by the Planning Commission and the City of Middletown 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. Any landscaping shown in the scenic corridor must be installed and maintained as possible after clearing. There shall be no removal of the existing landscaping or required landscaping without City Commission approval. In the event any tree or landscaping is removed without written consent of the City, the City may require the owner/applicant to replace with a tree of similar size and age (when cut), or as approved by the City Commission. Any replacement tree or trees shall be such as are deemed adequate by the City to mitigate the impact.
  - 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. Approval of the Tree Preservation Plan and a Tree Inventory by Middletown is required prior to clearing or removal of trees.
  - e. A major record plat must be recorded creating Tracts 1, 2 and 3, private access easements and designate a portion of Data Vault Drive as public road as shown on the development plan.
  - f. The appropriate variances shall be obtained from the Board of Zoning Adjustment to allow the development as shown on the approved district development plan.
10. A certificate of occupancy must be received from the appropriate code enforcement department, after review and approval by the City of Middletown, 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 and the City of Middletown.



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11. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line or permitted on the site.
12. 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.
13. At the time a building permit is requested, the applicant shall submit a certification statement to the permit issuing agency, from an engineer, or other qualified professional stating that the lighting of the proposed development is in compliance with Chapter 4 Part 1.3 of the land development code and shall be maintained thereafter. No building permits shall be issued unless such certification statement is submitted. Lighting shall be maintained on the property in accordance with Chapter 4 Part 1.3 of the Land Development Code.
14. The final style and design of each building shall be reviewed and approved by the Planning Commission, DRC, or LD&T Committee and the City of Middletown and be consistent with the general style and design presented at the October 24<sup>th</sup> LD&T meeting, prior to obtaining building permits for individual buildings.
15. Construction plans, bond, and KTC permit are required by Metro Public Works prior to road construction approval and issuance of MPW encroachment permit. Construction approvals for the site shall not be granted until such time as Kentucky Transportation Cabinet (KTC) improvements as shown on the development plan have been let for construction and bonds have been secured and encroachment permits issued for improvements which are the responsibility of the developer. Developer shall not request a Certificate of Occupancy (CO) for the site until all offsite road improvements as shown on the development plan, approved road improvement exhibit dated 02/16/10 and included in the BTM Engineering Traffic Impact Study (TIS) have been constructed and any required signal installations and modification have been implemented.
16. Prior to submittal of a revised development plan (or a construction plan if no revised development plan is required) or approval of the office building, which

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shall also require the approval of the City of Middletown, shown on the detailed district development plan approved at the February 19, 2010 Planning Commission public hearing ("Plan") or any other construction generating a greater number of trips (as estimated by the most current version of the ITE Trip Generation Manual) than would be generated by the uses shown on the Plan, an updated traffic study shall be submitted and approved by Metro Public Works and the Kentucky Transportation Cabinet. If Metro Public Works or the Kentucky Transportation Cabinet determines that additional roadway improvements are required, based on the traffic study, such improvements shall be made by the applicant prior to the issuance of a certificate of occupancy. If such additional roadway improvements are not directly necessitated by the applicant's impact on the roadway network, the applicant shall contribute a proportionate share, based on trip generation, for those improvements to Metro Public Works, and shall delay construction until such time as the improvements have been constructed.

17. Developer shall be responsible for any required utility relocations, final surface overlay, signage, signal installation and striping associated with required road improvements to Shelbyville Road, North English Station Road, Data Vault Drive and the portions of the proposed entrance drive within the right-of-way.
18. All street signs shall be installed by the Developer and shall conform to the Manual on Uniform Traffic Control Devices (MUTCD) requirements. Street signs shall be installed prior to the recording of the subdivision record plat or occupancy of the first structure with access from the street and shall be in place at the time of any required bond release. The address number shall be displayed on a structure prior to requesting a certificate of occupancy for that structure.
19. An encroachment permit and bond may be required by Metro Public Works for roadway repairs on all surrounding access roads to the site due to damages caused by construction traffic activities.
20. Per the approved road improvement exhibit dated 02/16/10, Metro Public Works requirements and KTC requirements, the applicant shall provide the following:
  - a. For Shelbyville Road, install a right turn lane for the proposed right-in-right-out access. Turn lane shall measure 150' in storage length with a 100' taper.
  - b. The southbound approach from North English Station Road at its intersection with Shelbyville Road shall be widened to provide an additional southbound left turn lane. The widening shall continue northward on North English Station to accommodate required taper lengths as necessary.

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- c. Developer shall be responsible for signal installation at N. English Station and Data Vault Dr. and required modifications to the existing traffic signal at the intersection of N. English Station and Shelbyville Road.
  - d. If proposed KTC multiuse path along Shelbyville Road frontage has not been installed at the time of site construction, the area of the path shall be pregraded per KTC requirements. If path has been installed at the time of site construction, the path will be relocated to accommodate Shelbyville Road improvements per KTC requirements.
- 21. The applicant shall contribute a proportionate share, not to exceed \$10,000, to the cost of the installation of a traffic signal at the intersection of N. English Station Road and Aiken Road (N). This contribution shall be made at the request of Metro Public Works at such time as Metro Public Works is prepared to install this signal.
  - 22. Once the site is cleared, it must be seeded with grass and kept free from overgrowth (weeds or grass over on foot high) and secured, as best is possible, from dumping. In any event the site must be kept in compliance with City of Middletown Ordinances #15, Series 1984; #5, Series 1987, #8, Series 1982.
  - 23. The development shall be substantially in accordance with the "Development Design Guidelines & Pattern Book," as presented at the July 16<sup>th</sup>, 2014 Development Review Committee meeting.
  - 24. An irrevocable access easement required to the Louisville Water Company site adjacent to the proposed development is required to be submitted to staff and legal counsel for the Planning Commission for final approval prior to building permits.

**Detailed District Development 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 or the Planning Commission's designee and to the City of Middletown for review and approval; any changes/additions/alterations not so referred shall not be valid.

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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. 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. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the October 29<sup>th</sup>, 2015 Planning Commission public hearing.
6. No C-2 uses of the overall shopping center or this particular site shall be permitted except the Tire Discounters as shown on the DDDP on this particular outlot.
7. Hours of customer service shall be limited to 7am to 8pm Monday through Friday and 7am to 5pm on Saturday.
8. Overhead garage doors shall remain closed at all times except when opened for vehicles to enter or exit the bays.
9. There shall be no outdoor storage of tires, automobile supplies or part, and no storage of junked cars. Vehicles shall not be parked overnight on the lot except those dropped off the day before and picked up the day after service.

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10. No servicing of vehicles shall be permitted outside of the building.
11. No outdoor P.A. systems are allowed on the property.
12. The applicant shall provide appropriate screening on the roof of the building to hide the package unit located on the roof.

**The vote was as follows:**

**YES: Commissioners Peterson, Jarboe, Turner, Brown, Kirchdorfer, Vice Chair Proffitt and Chair Person Blake**

**NO: No one**

**NOT PRESENT: Commissioners White and Lewis**

**ABSTAINING: Commissioner Tomes**

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**CASE NO. 15ZONE1006**

Request: Change in zoning from OR-3 to C-2

Project Name: Tafel Motors

Location: 4124 Shelbyville Road

Owner: 4124 Shelbyville Road, LLC

Applicant: 4124 Shelbyville Road, LLC

Representative: Gresham Smith and Partners

Jurisdiction: City of St. Matthews

Council District: 9- Bill Hollander

**Case Manager: Julia Williams, RLA, 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:**

**01:12:16** Julia Williams presented the case and showed a Powerpoint presentation (see recording and staff report for detailed presentation).

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

Michael Tigue, P.O. Box 729, Lagrange, KY 40031  
Joe Atkinson, 4156 Shelbyville Road, Louisville, KY 40207  
Jon Henney, 101 S. 5<sup>th</sup> Street, Louisville, KY 40202

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**Summary of testimony of those in favor:**

**01:17:51** Michael Tigue spoke on behalf of the applicant (see recording for detailed presentation).

**01:21:01** Joe Atkinson spoke on behalf of the applicant (see recording for detailed presentation).

**01:22:00** Vice Chair Proffitt asked Mr. Tigue if his client has ever considered closing off the entrance to Shelbyville Road.

**01:22:22** Mr. Tigue stated this entrance is utilized. Mr. Tigue stated it is true that the bulk of people do come in through the rear, but the direct answer is they have not considered it. Mr. Tigue stated there has been some consideration to a “right in/right out”.

**01:25:07** Commissioner Brown stated they brought that up with the Transportation Cabinet. He stated they typically won’t make a decision on this kind of thing until they submit an application for the construction approval. Commissioner Brown stated they made them aware they would prefer this to be a “right in/right out”.

**01:26:33** Jon Henney stated the only point he wanted to make in regard to Commissioner Proffitt’s comment about the entrance is right now the arrangement they have with this rear access point is with the Harvey Brown folks, and there’s no guarantee that that will always be there. If they give up their access to Shelbyville Road and something were to happen to either the control of this property or decision that they no longer want them to access in and out of that then they have no access to that property.

**01:29:40 Commissioners’ deliberation**

**01:25:44** On a motion by Vice Chair Proffitt, seconded by Commissioner Peterson, the following resolution was adopted:

**Change in Zoning from OR-3 to C-2:**

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal is located in an existing activity center in the Neighborhood Form District between the Suburban Marketplace Corridor and Town Center Form Districts with a variety appropriate uses for nearby neighborhoods. C-2 is a high intensity zoning district located on a major arterial (Shelbyville Road). There are no residential uses adjacent to the site, and

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**WHEREAS**, the Commission further finds that although the proposal will not create a new center in the neighborhood form district, no building is proposed. The proposal is an expansion of existing commercial development adjacent to the site to the northeast. The site is located on a major arterial that not only supports the adjacent neighborhoods but also makes a regional connection. The population that Shelbyville Road serves supports the proposal. The proposal is an expansion of existing commercial in the area which is efficient and cost effective. The site is already non-residential. The proposal is part of an existing linear retail corridor. There is access to the adjacent site that would encourage shared parking and access. Utilities can be provided for the site or shared. The proposal supports easy access by all modes of transportation, and

**WHEREAS**, the Commission further finds that the proposal is a non-residential expansion into an existing non-residential area. APCD has no issues with the proposal. Transportation Planning has no issues with the proposal. Lighting will meet LDC requirements. The proposal is a high intensity zoning district located along a transit corridor and is also located in an existing activity corridor. Buffers and setbacks are being met. The proposal is not located adjacent to residential zoning. Signs will meet LDC requirements, and

**WHEREAS**, the Commission further finds that open space is in the form of buffers and setbacks. The proposal is located in an existing developed area. No natural features are evident on the site, and

**WHEREAS**, the Commission further finds that soils are not an issue with the site, and

**WHEREAS**, the Commission further finds that the proposed commercial zoning is located in an existing activity center that has been created along Shelbyville Road, and

**WHEREAS**, the Commission further finds that Transportation Planning has no issues with the proposal. A sidewalk is provided along the frontage. Cross access to the adjacent properties is being provided. Parking is not required for the use. Cross access to the adjacent properties is being provided, and

**WHEREAS**, the Commission further finds that no new roadways are being created. Cross access is provided through similarly zoned parcels, and

**WHEREAS**, the Commission further finds that a sidewalk is provided along the frontage, and

**WHEREAS**, the Commission further finds that MSD has no issues with this proposal, and



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**WHEREAS**, the Commission further finds that APCD has no issues with the proposal, and

**WHEREAS**, the Commission further finds that the proposal is located in an existing developed area. No natural features are evident on the site, and

**WHEREAS**, the Commission further finds that existing utilities will serve the site. An adequate water supply is available to the site. The Health Department has no issues with the proposal; now, therefore be it

**RESOLVED**, that the Louisville Metro Planning Commission in Case Number 15ZONE1006 does hereby **RECOMMEND APPROVAL** to the City of St. Matthews a Change in Zoning from OR-3 to C-2 based on the presentation today, the staff report and discussion in business session.

**The vote was as follows:**

**YES: Commissioners Peterson, Jarboe, Turner, Tomes, Brown, Kirchdorfer, Vice Chair Proffitt and Chair Person Blake**

**NO: No one**

**NOT PRESENT: Commissioners White and Lewis**

**ABSTAINING: No one**

**01:37:33** On a motion by Commissioner Brown, seconded by Commissioner Tomes, the following resolution was adopted:

**District Development Plan**

**WHEREAS**, the Louisville Metro Planning Commission finds that there does 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

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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 with the current proposal, 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 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**, that the Louisville Metro Planning Commission in Case Number 15ZONE1006 does hereby **RECOMMEND APPROVAL** to the City of St. Matthews the District Development Plan and Binding Elements on pages 13 and 14 of the staff report with the correction to proposed Binding Element 4-h(d) to include cross connectivity easements to the East and West properties and an additional Binding Element that the landscaping will be substantially similar to what was presented today, based on the staff report and testimony heard today, and **SUBJECT** to the following Binding Elements:

**Binding Elements**

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

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3. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
4. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested:
  - a. The development plan must receive full construction approval from Develop Louisville, Louisville Metro Public Works and the Metropolitan Sewer District.
  - b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
  - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Article 12 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
  - ~~h-~~ 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 to the ~~north~~ east and west 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. If a certificate of occupancy (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 and the City of St. Matthews.
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 and the City of St. Matthews.

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7. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
8. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
9. The property owner shall provide a cross over access easement if the property to the south is ever re-developed. A copy of the signed easement agreement shall be provided to Planning Commission staff upon request.
10. No overnight idling of trucks shall be permitted on-site.
11. Landscaping will be substantially similar to what was presented to the Planning Commission on 12/3/15.

**The vote was as follows:**

**YES: Commissioners Peterson, Jarboe, Turner, Tomes, Brown, Kirchdorfer and Chair Person Blake**

**NO: Vice Chair Proffitt**

**NOT PRESENT: Commissioners White and Lewis**

**ABSTAINING: No one**

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**CASE NO. 15ZONE1040**

Case No: 15zone1040  
Request: Change in zoning from R-5A to R-6  
Project Name: Moss Creek  
Location: 7801 & 7900 Moss Creek Drive  
Owner: Moss Creek Enterprises, LLC  
Applicant: Moss Creek Enterprises, LLC  
Representative: Land Design & Development, Inc.; Dinsmore and Shohl  
Jurisdiction: Louisville Metro  
Council District: 12 – Rick Blackwell  
**Case Manager: Julia Williams, RLA, 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:**

**01:39:41** Julia Williams presented the case and showed a Powerpoint presentation (see recording and staff report for detailed presentation).

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

Cliff Ashburner, 101 S. 5<sup>th</sup> Street, Suite 2500, Louisville, KY 40202  
David Greenberg, 143 W. Market Street, Louisville, KY 40202

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Kevin Young, 503 Washburn Avenue, Louisville, KY 40222

**Summary of testimony of those in favor:**

**01:43:04** Cliff Ashburner spoke on behalf of the applicant (see recording for detailed presentation).

**01:51:11** David Greenberg spoke on behalf of the applicant and explained the materials that will be used in construction (see recording for detailed presentation).

**01:52:12 Commissioners' deliberation**

**01:54:06** In response to questions from Commissioner Turner and Vice Chair Proffitt, Cliff Ashburner and Kevin Young explained where dumpsters would be located and about their landscaping plan.

**01:55:08** On a motion by Vice Chair Proffitt, seconded by Commissioner Kirchdorfer, the following resolution was adopted:

**Change in Zoning from R-5A to R-6:**

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposed R-6 zoning district supports a mix of housing choices and densities in the neighborhood. The proposed change in zoning constitutes an increase in density which will have limited impact on adjacent residential uses. Greenwood Road is a minor arterial. The proposed change in zoning will allow for higher density dwellings that are similar to the adjacent homes within the overall Moss Creek development. The majority of the streets on this site have been constructed and sidewalks are provided throughout the development to enhance pedestrian connectivity, and

**WHEREAS**, the Commission further finds that the proposed R-6 zoning district encourages a compact development pattern and efficient land use pattern. The proposal for residential uses is compatible with the surrounding residential uses in the neighborhood. Connections or stubs to adjacent properties are provided where possible to encourage cross access and support the development of adjacent lands. Utility easements are provided and would allow for extensions to adjacent developments. Parking is designed to balance safety, traffic and pedestrian considerations. Sidewalks are provided throughout the development to enhance pedestrian connectivity, and

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**WHEREAS**, the Commission further finds that the proposed R-6 zoning district constitutes an increase in density, which will generally be compatible with the scale and site design of nearby existing residential developments. The building materials are similar to what is found in the area. Buffers are provided between the R-6 and the adjacent R-4 zoned lots. Transportation Planning has not indicated that traffic will be an issue. Light trespass requirements of the Land Development Code will adequately mitigate adverse impacts of lighting. The R-6 zoning district encourages affordable and inclusive housing. The proposed change in zoning constitutes an increase in density which will have limited impact on adjacent residential uses. Buffers are provided between the R-6 and the adjacent R-4 zoned lots. Setbacks, lot dimensions and building heights of will be compatible with nearby developments, and

**WHEREAS**, the Commission further finds that open space requirements of the Land Development Code are provided on the site to meet the needs of the community. There are no natural features on the site that would be adversely affected by development of the property, and

**WHEREAS**, the Commission further finds that Staff of Historic Preservation has reviewed the preliminary development plan and found that the proposed zoning change will not affect any known cultural or historic resources. Soils are not an issue with the proposal, and

**WHEREAS**, the Commission further finds that roadway improvements are not necessary for this development. Connections or stubs to adjacent properties have been provided where possible to encourage cross access and support the development of adjacent lands. Dedication of ROW is not necessary for this proposal, and

**WHEREAS**, the Commission further finds that the primary access is proposed from interior roadways from Greenwood Road where it will not create a nuisance to other residential uses in the neighborhood, and

**WHEREAS**, the Commission further finds that sidewalks are provided throughout the development to enhance pedestrian connectivity, and

**WHEREAS**, the Commission further finds that MSD has preliminarily approved the plans, and

**WHEREAS**, the Commission further finds that there are no natural corridors for habitat or migration on the site, and

**WHEREAS**, the Commission further finds that there are existing utilities in the area. The site has existing access to an adequate supply of potable water and water for fire-

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fighting purposes. The Health Department has no issues with the proposal; now, therefore be it

**RESOLVED**, that the Louisville Metro Planning Commission in Case Number 15ZONE1040 does hereby **RECOMMEND APPROVAL** to Metro Council a change in zoning from R-5A to R-6, based on the presentation here today, discussion in business session and the justification provided by the staff report.

**The vote was as follows:**

**YES: Commissioners Peterson, Jarboe, Turner, Tomes, Brown, Kirchdorfer, Vice Chair Proffitt and Chair Person Blake**

**NO: No one**

**NOT PRESENT: Commissioners White and Lewis**

**ABSTAINING: No one**

**01:56:08** On a motion by Vice Chair Proffitt, seconded by Commissioner Kirchdorfer, the following resolution was adopted:

**Revised Detailed District Development Plan;**

**WHEREAS**, the Louisville Metro Planning Commission finds that there does 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 the open space requirements meet Land Development Code requirements, and

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



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**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**, that the Louisville Metro Planning Commission in Case Number 15ZONE1040 does hereby **RECOMMEND APPROVAL** to Metro Council the Revised Detailed District Development Plan, based on the staff report, the plan presented today by Land Design and Development and the discussion and presentation, and **SUBJECT** to the following Binding Elements:

**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. 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:

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- a. The development plan must receive full construction approval from Develop Louisville, Louisville Metro Public Works and the Metropolitan Sewer District.
  - b. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
  - c. A minor plat or legal instrument shall be recorded consolidating the property into one lot. A copy of the recorded instrument shall be 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.
5. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
  6. 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. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the December 3, 2015 Planning Commission meeting.

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**The vote was as follows:**

**YES: Commissioners Peterson, Jarboe, Turner, Tomes, Brown, Kirchdorfer, Vice  
Chair Proffitt and Chair Person Blake**

**NO: No one**

**NOT PRESENT: Commissioners White and Lewis**

**ABSTAINING: No one**

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**STANDING COMMITTEE REPORTS**

**Land Development and Transportation Committee**

No report given.

**Site Inspection Committee**

No report given.

**Planning Committee**

No report given.

**Development Review Committee**

No report given.

**Policy and Procedures Committee**

No report given.

**CHAIRPERSON/DIRECTOR'S REPORT**

No report given.

**ADJOURNMENT**

The meeting adjourned at approximately 3:11 p.m.

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**Chair**

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**Planning Director**