

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO PLANNING COMMISSION
January 24, 2019**

A meeting of the Louisville Metro Planning Commission was held on January 24, 2019 at 1:00 p.m. at the Old Jail Building, located at 514 W. Liberty Street, Louisville, Kentucky.

Commission members present:

Vince Jarboe, Chair
Jeff Brown
Rich Carlson
Lula Howard
Robert Peterson
Emma Smith
David Tomes
Donald Robinson
Ruth Daniels

Commission members absent:

Marilyn Lewis, Vice Chair

Staff Members present:

Emily Liu, Director, Planning and Design Director
Joe Reverman, Planning and Design Assistant Director
Brian Davis, Planning and Design Manager
Joe Haberman, Planning and Design Manager
Julia Williams, AICP, Planning and Design Supervisor
Chris French, Planning and Design Supervisor
Jay Lockett, Planner I
Beth Stuber, Engineering Supervisor
John Carroll, Legal Counsel
Paul Whitty, Legal Counsel
Pamela M. Brashear, Management Assistant

The following matters were considered:

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APPROVAL OF MINUTES

JANUARY 10, 2019 PLANNING COMMISSION REGULAR MEETING MINUTES

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

RESOLVED, that the Planning Commission does hereby **APPROVE** the minutes of its meeting conducted on January 10, 2019, adding Commissioner Daniels under Commissioners Present.

The vote was as follows:

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

NOT PRESENT FOR THIS CASE: Commissioner Lewis

ABSTAINING: Commissioner Robinson

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BUSINESS SESSION
CASE NO. 18ZONE1049

Request: For the Planning Commission to consider a night hearing
Project Name: Logistics Airpark
Location: 5530-5540 Minor Lane
Owner: Land Holdings, LLC
Applicant: Nicklies Development
Representative: Nicklies Development
Jurisdiction: Louisville Metro
Council District: 13 – Mark Fox
Case Manager: Joel Dock, AICP, Planner II
Presented By: Julia Williams, AICP, Planning Supervisor

Discussion

00:05:36 Ms. Williams said she received a petition for a night hearing in the district at a convenient location, but there are only 138 signatures. The Planning Commission needs to consider several options.

00:08:49 Charles said the snow and rain prevented them from getting all the signatures needed. There are a lot of elderly in the area and it's hard for them to get downtown. The other developments in the area are a concern.

00:10:55 Mr. Jim Calvary said he doesn't want to have a night hearing. All rules and regulations have been adhered to and the case should progress. The February 7, 2019 (end of agenda) Planning Commission date would be the best.

00:14:13 Commissioner Tomes stated if the petition doesn't meet the standards or legal requirements for a night hearing, the commission shouldn't set a precedent.

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

00:17:30

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

RESOLVED, that the Louisville Metro Planning Commission does hereby schedule this case for the February 7, 2019 Planning Commission meeting, to be heard no earlier than 5:00 p.m. and extend the time limits to 40 minutes for the applicant, 50 minutes for the opposition and 10 minutes for the rebuttal.

The vote was as follows:

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CASE NO. 18ZONE1049

**YES: Commissioners Brown, Carlson, Daniels, Howard, Peterson, Robinson,
Smith, Tomes and Jarboe**

NOT PRESENT AND NOT VOTING: Commissioner Lewis

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BUSINESS SESSION
LDC CHAPTER 6 APP REV

Request: Revisions to Appendices 6A Access Management Design Standards and 6C Jefferson County Addressing Manual
Project Name: Chapter 6 Appendices Revisions
Location: Louisville Metro
Applicant: Louisville Metro Planning and Design Services
Jurisdiction: Louisville Metro
Council District: All Districts
Case Manager: Chris French, AICP, Planning and Design Supervisor

Discussion

00:24:07 Mr. French stated that the revisions to appendices 6A and 6C were reviewed by the Planning Committee on November 20, 2018 and by general consensus, forwarded to the Planning Commission.

Mr. French discussed the changes.

00:26:39 Commissioner Howard said this case was reviewed by the Planning Committee (2 meetings) and there was no opposition. The Planning Committee agreed with staff's work.

00:27:11 Mr. Whitty stated change "be it also known" to "note that".

00:27:49 Commissioner Brown said the Access Management Guidelines were always a part of the Dixie Hwy. project so this formalizes it.

00:29:09 Chair Jarboe said putting medians in is a necessity for making the Dixie corridor safe.

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

On a motion by Commissioner Howard, seconded by Commissioner Carlson, the following resolution based on testimony from Planning and Design staff was adopted.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the revisions to Appendices 6A Access Management Design Standards and 6C Jefferson County Addressing Manual.

The vote was as follows:

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BUSINESS SESSION
LDC CHAPTER 6 APP REV

**YES: Commissioners Brown, Carlson, Daniels, Howard, Peterson, Robinson,
Smith, Tomes and Jarboe**

NOT PRESENT AND NOT VOTING: Commissioner Lewis

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BUSINESS SESSION
1576 CHEROKEE RD REZONING APP

Discussion

00:31:13 Mr. Davis said this case was denied and the applicant wants to reapply without having to wait the required two years.

00:31:54 Mr. Baker said there are two reasons this new zoning application should be allowed: review would be different since the adoption of the new Comprehensive Plan 2040 and there is a significant change from the original application.

Mr. Baker answered questions from the commissioners.

Deliberation

00:40:37 The commissioners agree that the applicant meets the guidelines for refiling a new application before the two year rule.

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

On a motion by Commissioner Howard, seconded by Commissioner Smith, the following resolution based on the testimony heard today and the items regarding Planning Commission Policy 3.02.03; it meets number 1 in terms of economic change affecting the property and item 2B, any other difference that the Planning Commission finds to constitute a significant change from the original application which is the reduction of the height and the Comprehensive Plan 2040 was adopted.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** allowing the applicant to refile a rezoning application for 1576 Cherokee Rd.

The vote was as follows:

YES: Commissioners Brown, Carlson, Daniels, Howard, Peterson, Robinson, Smith, Tomes and Jarboe

NOT PRESENT AND NOT VOTING: Commissioner Lewis

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PUBLIC HEARING

CASE NO. 18DEVPLAN1194

Request: Revised District Development Plan with Amendments to Binding Elements
Project Name: Marathon Oil Warehouse
Location: 3920 Kramers Lane
Owner: Marathon Oil Company
Applicant: Morton Buildings, Inc.
Representative: Morton Buildings, Inc.
Jurisdiction: Louisville Metro
Council District: 1 – Jessica Green
Case Manager: Jay Lockett, AICP, Planner I

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

Agency Testimony:

00:44:37 Mr. Lockett discussed the case summary, standard of review and staff analysis from the staff report.

Deliberation

00:51:43 Planning Commission deliberation.

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

Development Plan and Binding Elements

On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution based on the Standard of Review and Staff Analysis and testimony heard today was adopted.

WHEREAS, there are potential wetlands and hydric soils on the subject site, but not in the area of the proposed development. The scale of proposed development is not large enough to trigger landscaping or tree canopy requirements of the Land Development Code; and

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

WHEREAS, there are no open space requirements pertinent to the current proposal; and

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

WHEREAS, the Louisville Metro Planning Commission finds, the overall site design and land uses are compatible with the existing and future development of the area. Buildings and parking lots will meet all required setbacks; and

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

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the Revised District Development Plan **SUBJECT** to the following Binding Elements:

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. All signs shall be in accordance with Chapter 8 of the Land Development Code.
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) 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. 40 feet from center line shall be dedicated to the right-of-way of Kramers Ln. along the frontage of this property. Dedication will be by minor plat or deed.
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.

The vote was as follows:

YES: Commissioners Brown, Carlson, Howard, Peterson, Robinson, Smith, Tomes and Jarboe

NOT PRESENT AND NOT VOTING: Commissioner Lewis

ABSTAINING: Commissioner Daniels

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PUBLIC HEARING

CASE NO. 18STREETS1026

Request: Closure of public right-of-way
Project Name: Turkey Run Parkway Closure
Location: Section of Turkey Run Parkway
Owner: Louisville Metro
Applicant: 21st Century Parks
Representative: QK4
Jurisdiction: Louisville Metro
Council District: 20 – Stuart Benson
Case Manager: Jay Luckett, AICP, Planner I

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

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

Agency Testimony:

01:09:07 Mr. Luckett discussed the case summary, standard of review and staff analysis from the staff report.

Deliberation

01:11:02 Planning Commission deliberation.

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

Closure of public right-of-way

On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution based on the Standard of Review and Staff Analysis and testimony heard today was adopted.

WHEREAS, adequate public facilities are available to serve existing and future needs of the community. The proposed closures do not result in an increase in demand on public

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facilities or services as utility agencies have coordinated with the applicant and/or applicant's representative and Planning and Design Services staff to ensure that facilities are maintained or relocated through agreement with the developer. No property adjacent or abutting the rights-of-way to be closed will be left absent of public facilities or services, or be dispossessed of public access to their property; and

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

WHEREAS, the Louisville Metro Planning Commission finds, the request to close multiple rights-of-way is in compliance the Goals, Objectives and Plan Elements of the Comprehensive Plan as Guideline 7, Policy 1 provides that those who propose new developments bear or reasonably share in the costs of the public facilities and services made necessary by development; Guideline 7, Policy 6 strives to ensure that transportation facilities of new developments are compatible with and support access to surrounding land uses, and contribute to the appropriate development of adjacent lands; Guideline 7, Policy 9 provides that the Planning Commission or legislative body may require the developer to dedicate rights-of-way for street, transit corridors, bikeway and walkway facilities within or abutting the development as set forth in the Land Development Code and/or an adopted urban mobility plan; Guideline 8, Policy 8 states that Adequate street stubs for future roadway connections that support access and contribute to appropriate development of adjacent lands should be provided by new development and redevelopment; and Guideline 14, Policy 7 provides that the design and location of utility easements provide access for maintenance and repair and to minimize negative visual impacts. Any cost associated with the rights-of-way to be closed will be the responsibility of the applicant or developer. Adequate public facilities are available to serve existing and future needs of the community. Any facility required to be placed in an easement or relocated will be done so by the developer. Transportation facilities have been provided to accommodate future access and to not dispossess property owners of public access. All adjacent residential lands maintain access to public infrastructure and utility services will continue to be provided to these lands; and

WHEREAS, the Louisville Metro Planning Commission further finds there are no other relevant matters to be considered by the Planning Commission.

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council the closure of the Turkey Run Parkway right-of-way be **APPROVED**.

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The vote was as follows:

**YES: Commissioners Brown, Carlson, Daniels, Howard, Peterson, Robinson,
Smith, Tomes and Jarboe**

NOT PRESENT AND NOT VOTING: Commissioner Lewis

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PUBLIC HEARING

CASE NO. 18DEVPLAN1026

Request: Revised detailed district development plan with landscape waivers and alternative method for tree canopy compliance

Project Name: Kameri Auto Sales

Location: 8500 National Turnpike

Owner: Sami Kameri

Applicant: Sami Kameri

Representative: Milestone Design Group

Jurisdiction: Louisville Metro

Council District: 13 – Mark Fox

Case Manager: Joel Dock, AICP, Planner II

Presented by: Julia Williams, AICP, Planning Supervisor

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

Agency Testimony:

01:12:50 Ms. Williams stated the applicant needs to be in attendance for this case because of the alternate tree canopy.

01:13:47 On a motion by Commissioner Howard, seconded by Commissioner Brown, the following resolution was adopted.

RESOLVED, that the Louisville Metro Planning Commission does hereby **TABLE** this case to the end of the agenda.

By general consensus this case is tabled to be heard before Case No. 18AMEND1002.

01:27:03 Ms. Williams suggested continuing this case to a date uncertain and it will be re-noticed.

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

On a motion by Commissioner Brown, seconded by Commissioner Smith, the following resolution was adopted.

RESOLVED, that the Louisville Metro Planning Commission does hereby **CONTINUE** this case to a date uncertain.

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PUBLIC HEARING

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The vote was as follows:

**YES: Commissioners Brown, Carlson, Daniels, Howard, Peterson, Robinson,
Smith, Tomes and Jarboe**

NOT PRESENT AND NOT VOTING: Commissioner Lewis

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PUBLIC HEARING

CASE NO. 17ZONE1068

Request: Change in zoning from C-1 to C-2 with detailed district development plan
Project Name: 2300 Hikes Lane
Location: 2220-2300 Hikes Lane
Owner: Crystal Clean Carwash
Applicant: Kheder Kutmah
Representative: Kheder Kutmah
Jurisdiction: Louisville Metro
Council District: 10 – Pat Mulvihill
Case Manager: Joel Dock, AICP, Planner II
Presented by: Julia Williams, AICP, Planning Supervisor

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

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

Agency Testimony:

01:14:57 Ms. Williams discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Chris Schipper, 1950 Blackeston Mill Road, Clarksville, In. 47129

Summary of testimony of those in favor:

01:20:42 Mr. Schipper said he will remove some entrances and set up a bond. Parking in the right-of-way will be cleaned up.

Deliberation

01:22:11 Planning Commission deliberation.

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

Zoning Change from C-1, Commercial to C-2, Commercial

On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution based on the Cornerstone 2020 Staff Analysis and testimony heard today was adopted.

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Community Form guideline because the proposal integrates into the existing pattern of development as the area contains a mixture of commercial districts of low to medium intensity. Pedestrian connections to building entrances, sidewalk improvements, and reduction in curb-cuts are provided to improve accommodations for transit users, pedestrians and bicyclists. The proposal includes a compact group of buildings using the same curb cut, parking and signs, and that have a common buffering or streetscape plan with respect to any abutting lower density or intensity uses as no new construction is proposed. The proposal is of a medium to high density designed to be compatible with both non-residential development in the corridor and adjacent low density residential development in other form districts as no changes to the site are proposed that would increase non-compatibility and adjacent uses are commercial and high density residential. The proposal is located within the boundaries of the existing form district intended for non-residential uses; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Centers guideline because the proposal does not create a new center. It is located in the Suburban Marketplace Corridor Form District and no new construction is proposed. Sufficient residential population, employment, and traffic are present in the area to support the use. The proposed development is compact and results in an efficient land use pattern and cost-effective infrastructure investment as no new construction is proposed and the facilities will be repurposed for similar uses. The proposed district is in an area of mixed commercial uses of varying intensities. The proposal includes no new construction; therefore, the incorporation of residential and/or additional mixed uses is not warranted. The proposal is an existing development in an activity center. The proposal shares entrance and parking facilities with adjacent uses to reduce curb cuts and surface parking, and locates parking to balance safety, traffic, transit, pedestrian, environmental and aesthetic concerns as pedestrian connections to building entrances, sidewalk improvements, and reduction in curb-cuts are provided to improve accommodations for transit users, pedestrians and bicyclists. It would appear that the proposal is designed to share utility hookups and service entrances with

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adjacent developments. The proposal is designed to support easy access by bicycle, car and transit and by pedestrians and persons with disabilities as ADA spaces and sidewalks improvements are proposed; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Compatibility guideline because No exterior changes are proposed which impact compatibility. The proposal does not constitute a non-residential expansion into an existing residential area as the area of the rezoning is within the Suburban Marketplace Corridor, a non-residential from district, and located along and incorporated into a commercial corridor. No odors or emissions beyond the existing operations of auto service station are expected. The change in zoning would not appear to generate any greater traffic than what would have previously existed for a service station with multiple bays for repair and employees. Lighting will comply with LDC 4.1.3. The proposal is a slightly higher intensity than the previous district on the site, although it is a similar use. It is, however, located along a major arterial roadway with public transit access, and located within an activity center containing similar intensities of uses. Transitions between adjacent uses are preexisting and no further transitions in the form of landscaping is required as the intensity classification of the new use is in the same classification of the previous use. The existing facilities are not proposed to be expanded beyond the current level of impervious surface. The proposed district is similar in intensity to surrounding established uses and the current use is well established along the corridor and adjacent to a high density residential use. There are no changes to the subject site that would increase non-compatibility with respect to setbacks, lot dimensions and building heights. Parking, loading and delivery areas located adjacent to residential areas are designed to minimize adverse impacts of lighting, noise and other potential impacts, and that these areas are located to avoid negatively impacting motorists, residents and pedestrians as conditions will remain relatively unchanged and an existing 6' wood fence provides screening. Parking areas along the street remain relatively unchanged except for where curbs are to be closed. A buffer area is proposed along the street in an existing area of transition on the property at 2300 Hikes Lane. Signs will be compatible with the form district pattern and contribute to the visual quality of their surroundings; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Open Space guideline because Open space as a component of the development is not necessary or required for the proposed use given that the existing facilities are being reused. There do not appear to be any significant natural features that require incorporation into the development; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Natural Areas and Scenic Historic Resources guideline because the site does not contain sensitive natural features that would result in environmental degradation if

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disturbed. Further, no construction is proposed. The proposal includes the preservation, use or adaptive reuse of buildings and sites as the existing service station will be repurposed for a new repair garage and auto sales. Features on-site are not recognized as having any historic significance. The site does contain wet or highly permeable soils, severe, steep or unstable slopes with the potential for severe erosion; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Economic Growth and Sustainability guideline because the proposed use and district do not allow for industrial development. The proposed rezoning is located in an activity along an arterial roadway in an area of mixed intensity commercial uses; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Circulation guideline because the proposal will contribute its proportional share of the cost of roadway improvements and other services and public facilities made necessary by the development through physical improvements to these facilities, contribution of money, or other means as right-of-way improvements will be made to reduce curb cuts and improve sidewalk connectivity. While the proposal is an auto-oriented use, it appropriately reuses an existing auto-oriented use in an area that is capable of supporting both auto orientation and transit use. The proposal has adequate transportation facilities in place to serve the development as sidewalks are present and TARC service is readily available. R/W is being dedicated as required. The proposal includes adequate parking spaces to support the use. Existing joint and cross access through the development and to connect to adjacent development sites is available; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Transportation Facility Design guideline because no new streets are proposed, required, or needed. Primary access to the site is through areas of similar intensity. No changes to the function of streets or the street network are proposed; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Bicycle, Pedestrian and Transit guideline because No new pedestrian connections are necessary and the subject site is served by multiple TARC routes and sidewalks are present; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Flooding and Stormwater guideline because the proposal's drainage plans have been approved by MSD; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Air Quality guideline because The proposal has been reviewed by APCD and found to not have a negative impact on air quality; and

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WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Landscape Character guideline because the subject site does not contain natural corridors, nor can natural corridors be provided given its location along a high traffic roadway in the midst of commercial uses; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Infrastructure guideline because the proposal is located in an area served by existing utilities or planned for utilities. LWC had no concerns with the proposal and adequate water supply is available. The proposal has adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams.

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

The vote was as follows:

YES: Commissioners Brown, Carlson, Daniels, Howard, Peterson, Robinson, Smith, Tomes and Jarboe

NOT PRESENT AND NOT VOTING: Commissioner Lewis

Detailed District Development Plan and Binding Elements

On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution based on the Standard of Review and Staff Analysis and testimony heard today was adopted.

WHEREAS, there are no features of historic significance on the property and no apparent natural resources. The existing structures and parking facilities are being reused; and

WHEREAS, provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community has been provided as pedestrian connections to building entrances, sidewalk improvements, and reduction in curb-cuts are provided to improve accommodations for transit users, pedestrians and bicyclists. Cross connectivity is available; and

WHEREAS, open space is not required as a component of this development; and

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

WHEREAS, the Louisville Metro Planning Commission finds, the overall site design and land uses are compatible with the existing and future development of the area. There are no changes to the subject site that would increase non-compatibility with respect to setbacks, lot dimensions and building heights. Adjacent uses are commercial and high density residential. Conditions in parking areas will remain relatively unchanged and an existing 6' wood fence provides screening; and

WHEREAS, the Louisville Metro Planning Commission further finds the development plan conforms to applicable guidelines and policies of the Comprehensive Plan as demonstrated in the Cornerstone 2020 Staff Analysis provided in *Attachment 3* of the staff report. No waivers or variances have been requested.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the Detailed District Development Plan **SUBJECT** to the following Binding Elements:

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. No outdoor advertising signs, small freestanding signs, pennants, balloons, streamers 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. Prior to issuance of a permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit):

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- a. The development plan must receive full construction approval from Louisville Metro Department of Codes and Regulations Construction Permits and Transportation Planning Review and the Metropolitan Sewer District.
 - b. A reciprocal access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be created between each site as shown on the approved development plan. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services.
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. Right-of-way dedication by deed or minor plat and a license agreement for parking and signage within the right-of-way shall be completed prior to the release of the encroachment bond.

The vote was as follows:

YES: Commissioners Brown, Carlson, Daniels, Howard, Peterson, Robinson, Smith, Tomes and Jarboe

NOT PRESENT AND NOT VOTING: Commissioner Lewis

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CASE NO. 18AMEND1002

Request: ***Hearing of this case will start no earlier than 3:00 p.m.**
Amendments to the Land Development Code Related to
Short Term Rentals
Project Name: Short Term Rental Ordinance Amendments
Location: Louisville Metro
Applicant: Louisville Metro
Jurisdiction: Louisville Metro
Council District: All Council Districts
Case Manager: Joseph Haberman, AICP, Planning Manager

NOTE: Commissioners Peterson and Tomes left and did not vote on this case.

01:30:56

NOTE: Chair Jarboe said there is a time limit of 2 hours for testimony.

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

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

Agency Testimony:

01:32:43 Mr. Haberman discussed changes since the last public meeting. There are a lot of public comments being submitted to staff. The moratorium is a separate issue and BOZA continues to review cases under the current ordinance.

The following spoke in favor of this request:

Leslie Frye, 943 Burning Springs Circle, Louisville, Ky. 40223
Mary Conrad, 803 Gleneagle Court, Louisville, Ky. 40223
Alexandria Bolton, 117 West Breckinridge Street, Louisville, Ky. 40203
Rose Hall, 1146 South 6h Street, Louisville, Ky. 40203

Summary of testimony of those in favor:

02:25:36 Ms. Frye, a realtor, stated that some fear comes from social media. Property values are not determined by people making noise or how many cars are in

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the parking lot. It is based on sales in the neighborhood. Published house rules in a short term rental is a plus and people follow them.

02:31:20 Ms. Conrad has 2 short term rentals that are not owner occupied.

Ms. Conrad received some statistics from AirBNB with the following information: Inbound guests to Louisville are over 120,000; 60% short term rental owners are female; earnings average \$4500/year; from April – December 2018 the city of Louisville brought in \$670,000, which could hopefully be used for enforcement; and state earnings \$2.1 million.

02:48:26 Ms. Bolton is a real estate broker, homeowner, investor, flipper and just started a company managing AirBNBs. It's counter-productive with these federal incentives to limit the opportunity for small businesses to grow. The small neighborhoods are really benefitting from the AirBNBs.

Ms. Bolton said she's in favor of option 3.

03:10:20 Ms. Hall stated she operated a short term rental AirBNB for 6 months – a year before knowing about proper registration. Ms. Hall said was refused a conditional use permit (CUP) because her home is multi-family residential.

The following spoke in opposition to this request:

Hannah Gill, 807 Fetter Avenue, Louisville, Ky. 40217
Erin Vachon, 1143 Samuel Street, Louisville, Ky. 40204
Faith Yascone, 1335 South Brook Street, Louisville, Ky. 40208
Luke Neubauer, 115 Waverly Court, Louisville, Ky. 40206
Christina Neubauer, 115 Waverly Court, Louisville, Ky. 40206
Barrett Goff, 3302 Dogwood Drive, Louisville, Ky. 40220

Summary of testimony of those in opposition:

01:35:02 Ms. Gill stated she's been running an AirBNB out of her home for two years and has nothing but positive experiences.

01:36:45 Ms. Vachon stated she's not familiar with the options offered by staff. She lives across the street from a year round short term rental property. There are a lot of parties that disturb the neighborhood. The owners should have to prove that they reside in the home.

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01:49:20 Mr. Haberman, at the request of Chair Jarboe, explained the 3 options from the staff report.

03:23:43 Mr. Neubauer stated that options 1, 2 and 3 don't address the real issue which is enforcement.

03:33:10 Mrs. Neubauer, real estate agent, stated that she witnesses several types of people that use short term rental, some of them being; homeowners that sell their homes quickly; people relocating; and people that want flexibility. A vacant home is not beneficial to a neighborhood.

Mrs. Neubauer stated she's strongly against options 1 and 2. There needs to be more education and enforcement.

03:39:24 Mr. Goff stated he's opposed to options 1 and 2 because he's in the process of getting his non-owner occupant short term rental application approved. The problem is enforcement. There are some technological advancements that can improve the people renting illegally.

The following spoke neither for nor against the request:

Faith Yascone, 1335 South Brook Street, Louisville, Ky. 40208

Glenda Yascone, 1335 South Brook Street, Louisville, Ky. 40208

Glenn Davis, 803 Linden Drive, Louisville, Ky. 40223

Jay Bowman, 2237 Lowell Avenue, Louisville, Ky. 40205

Jonathan Klunk, 1372 South 6th Street, Louisville, Ky. 40208

Joseph Montano, 1120 G. Street NW, Washington DC, 20005

Ashley Brown, 1806 Shady Lane, Louisville, Ky. 40205

Richard Wagner, 1153 South 2nd Street, Louisville, Ky. 40213

Sieglinde Kinne', 1478 South 1st Street, Louisville, Ky. 40208

Carrye Jones, 2601 Ballantrace Circle, Louisville, Ky. 40242

Councilman Bill Hollander, 202 South Peterson Avenue, Louisville, Ky. 40206

Sandra J. Corlett, 4306 Mount Eden Road, Shelbyville, Ky. 40065

Steve Porter, 2406 Tucker Station Road, Louisville, Ky. 40299

Summary of testimony of those neither for nor against:

01:40:27 Ms. Faith Yascone stated most of the issues can occur with short term or permanent residents. The regulations need to operate trying to find solutions, not out of fear.

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01:56:10 Ms. Glenda Yascone said her short term rental is her primary residence. The control is fear-based. All areas should be regulated the same to promote fairness.

01:59:50 Mr. Glenn Davis does not reside at his short term rental property.

Mr. Glenn Davis said he's against options 1 and 2, but in agreement with number 3 with some caveats. Requiring all short term rentals to post permits on web sites is supported (by all sides). The majority of the problems from short term rentals come from unlicensed operators.

02:04:31 Mr. Bowman owns 2 short term rental homes both within 3 miles of his primary residence. The main issue is enforcement, not zoning. Purchasing homes in disrepair and renting out is good for the economy and neighborhoods.

02:09:07 Mr. Klunk lives in an owner occupied duplex and owns and operates a property management company specializing in short term rentals.

Mr. Klunk stated he's opposed to an outright ban on non-owner unoccupied properties in residentially zoned areas. "Neighbors are holding non-owner occupied short term rental properties to a much higher standard."

02:21:40 Chair Jarboe said it's not in the Planning Commission's purview to pick or choose neighborhoods that can/can't have short term rentals.

02:22:00 Mr. Montano, Ky. Government Affairs Manager for Expedia Group, stated he is concerned about a ban or moratorium on whole home vacation rentals. It would have a dangerous impact.

Mr. Montano supports policies that are fair, sensible, and effective and allows the activity of short term rentals to operate legally.

02:35:40 Ms. Ashley Brown owns a short term rental ½ a block from her residence.

Ms. Ashley Brown stated she has invested a lot of money to fix up this home in disrepair as a means of supporting her family. She opposes options 1 and 2 and supports option 3 with better enforcement with the current regulations.

02:39:16 Mr. Wagner lives in his short term rental property but has other locations as well.

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Mr. Wagner said he meets most of his renters and they don't want to use hotels. Issues with neighbors have been worked out. Allow the short term rentals that are legal to continue.

02:43:21 Ms. Kinne' owns 2 short term rental duplexes and resides in one. She supports option 3 with enforcement and higher fees. There needs to be a concise location to find information regarding compliance.

02:50:55 Ms. Jones is a short term rental owner and the host lives on the premises.

Ms. Jones is not on AirBNB or any other on-line platform, but caters to homeowners in transition (by referral). Ms. Jones supports option 3.

02:56:32 Councilman Hollander stated he does not own a short term rental property but represents 30,000 people in district 9. Short term rental issues are real. Also, there is an impact of short term rental in residential districts on affordability and availability of rental housing in the community. There is an affordable housing crisis in the community.

03:03 17 Ms. Corlett owns a non-owner occupied short term rental. Louisville is a tourist destination and Ms. Corlett has hosted a variety of customers.

Ms. Corlett opposes options 1 and 2.

03:15:34 Mr. Porter stated he owns a licensed bed and breakfast and has been in operation for the past 20 years. The B&B has a state license and is inspected by the health department, inspected by fire marshals, always a resident on the premises and requires a commercial zoning or conditional use permit and commercial insurance. Transparency and enforcement are the major problems. If hotels and B&Bs require commercial zoning or a CUP, AirBNBs should have the same requirements because it's a business in their home. AirBNBs should be required to have a marshal inspection and approval and a commercial insurance policy. The CUP process should have more strict conditions of approval, periodic review for complaints and should use their power of revocation for justified complaints. Also, the registration number and/or the address should be listed on any online advertising.

Deliberation

03:44:47 Mr. Whitty stated that anyone operating a legal AirBNB, regardless of this regulation, will be constitutionally protected.

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03:45:47 Commissioner Howard read some potential changes to the ordinances and is in favor of option 2.

03:52:50 Commissioner Carlson asked if increasing the fee cover the cost of additional staff for enforcement? Ms. Liu answered, enforcement is complicating because it also includes technology, resources and research. An increase to \$100 is reasonable and will not deter people from registering.

Commissioner Carlson suggests adding the following: clarify what constitutes a civil complaint that can be used to revoke a conditional use permit; each short term rental has to have at least one functional carbon monoxide detector; every sleeping room has at least one operable emergency rescue opening; the current name and telephone number of the host or the emergency contact be mailed (certified registered) to each first tier adjacent property owner; and any short term rental that's not the primary resident, the host has to have the dwelling unit inspected by a fire prevention inspector or a licensed home inspector.

04:00:56 Commissioner Brown said he doesn't support restricting where these can be located, therefore supporting option 3.

Commissioner Brown said he doesn't agree with the maximum occupancy.

04:07:21 Commissioner Daniels said she agrees with Commissioners Howard and Carlson's suggestions. Locking the rental time to 29 days is not reasonable. Ms. Liu explained that 30 day rental or more is long term rental and allowed.

Commissioner Daniels supports option 2.

04:09:56 Commissioner Robinson agrees with Commissioners Howard and Carlson's amendments. There should be no limiting the investors.

Commissioner Robinson supports option 3.

04:11:34 Commissioner Smith supports option 3.

04:14:11 Chair Jarboe said this is a very complex case. Don't forget the people that are in opposition and being affected negatively (sent letters). In our motion to Metro Council, it should include presenting funds to Planning and Design staff for enforcement.

Chair Jarboe supports option 3.

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

04:37:02

On a motion by Commissioner Carlson, seconded by Commissioner Brown, the following resolution was adopted.

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council **APPROVE** the attached amendments to the Louisville Metro Code of Ordinances. The motion was based on the amendments as presented in the 12/6/18 staff report with the following changes:

- Include Commissioner Howard's suggestions introduced at the 1/24/19 meeting to increase the annual registration fee from \$25 to \$100 and to add a requirement to display a copy of the registration in a location near the entry to the short term rental that is visible from the exterior of the building (section 115.517);
- Include Commissioner Carlson's suggestions introduced at the 1/24/19 meeting to add requirements that a short term rental has at least one functional carbon monoxide detector and every sleeping room has at least one operable emergency and rescue opening, that the current name and telephone number of the host and emergency contact be mailed to each first tier adjacent property owner. Any changes of the host or emergency contact shall be re-noticed within 10 days, and that a short term rental that is not the primary residence of the host that the host shall have the dwelling unit inspected by a fire prevention inspector or a home inspector licensed in Kentucky to determine if there are visible fire or life safety issues that need to be addressed prior to occupancy by guests (section 115.520).
- Related to occupancy requirements, omit the changes to Section 115.520(C) as presented in the 12/6/18 staff report and delete the existing provision from the Louisville Metro Code of Ordinances all together.

The vote was as follows:

YES: Commissioners Brown, Carlson, Daniels, Robinson, Smith and Jarboe
NOT PRESENT AND NOT VOTING: Commissioners Lewis, Peterson and Tomes
ABSTAINING: Commissioner Howard

04:47:00

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On a motion by Commissioner Brown, seconded by Commissioner Robinson, the following resolution based on the staff report and testimony heard today was adopted.

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council and the cities with zoning authority not **AMEND** their Land Development Codes by disallowing short term rentals that are not the primary residences of the hosts in any of the zoning districts in which they are currently permitted in the Louisville Metro version of the Land Development Code (section 4.2.63) was adopted.

The vote was as follows:

YES: Commissioners Brown, Carlson, Daniels, Howard, Robinson, Smith and Jarboe

NOT PRESENT AND NOT VOTING: Commissioners Lewis, Peterson and Tomes

04:57:32

On a motion by Commissioner Brown, seconded by Commissioner Robinson, the following resolution based on the staff report and testimony heard today was adopted.

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council and the cities with zoning authority **APPROVE** the attached amendments to the Land Development Code. The motion was based on the amendments as presented in the 12/6/18 staff report with the following changes:

- Include Commissioner Carlson's suggestion introduced at the 1/27/19 meeting to clarify what constitutes a civil complaint that can be used to revoke a conditional use permit or registration (sections 4.2.63 and 4.3.23).
- Include Commissioner Howard's suggestions introduced at the 1/27/19 meeting to add a requirement that the host shall register the short term rental within 60 days of the issuance of the conditional use permit or the permit shall become null and void (section 4.2.63), add a requirement that an active registration for the short term rental shall be maintained (4.2.63), add a process for a case in which the primary residency of the host is in question for the Planning Director to request that the Board of Zoning Adjustment review the registration at a public meeting (4.3.23), and provide the Planning Director with the authority to deny a short term rental registration to any host who has had a registration revoked within one year of application for the new registration (4.3.23).
- Related to occupancy requirements, disregard part of the changes to Sections 4.2.63.C. and 4.3.23.C. by omitting the addition of "with total occupancy not to exceed 10 persons in a dwelling unit regardless of the number of bedrooms".

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The vote was as follows:

YES: Commissioners Brown, Carlson, Daniels, Robinson, Smith and Jarboe
NOT PRESENT AND NOT VOTING: Commissioners Lewis, Peterson and Tomes
ABSTAIN: Commissioner Howard

LOUISVILLE METRO LAND DEVELOPMENT CODE

1.2.2 Definitions

Primary Residence (or Principal Residence) – A primary residence is the main home of an individual. An individual has only one primary residence at a time. If an individual owns and lives in just one dwelling unit, then that property is his or her primary residence. If an individual owns or lives in more than one dwelling unit, then he or she must apply a "facts and circumstances" test to determine which property is his or her primary residence. While the most important factor is where he or she spends the most time, other factors are relevant as well. The more of these factors that are true of a home, the more likely that it is a primary residence: Factors include, but are not limited to, the address listed on an individual's U.S. Postal Service address, Voter Registration Card, federal and state tax returns, driver's license, state identification card, and/or vehicle registration.

Short Term Rental - A dwelling unit that is rented, leased or otherwise assigned for a tenancy of less than 30 consecutive days duration, where no meals are served. This term does not include hotel or motel rooms, extended stay lodging facilities, bed and breakfast inns or boarding and lodging house rooms.

Short Term Rental Host - Any person who is the owner of record of residential real property, or any person who is a lessee of residential real property pursuant to a written agreement for the lease of such real property, who offers a dwelling unit, or portion thereof, for short term rental.

4.2.63 Short Term Rental of a dwelling unit that is not the primary residence of the host or the short term rental Short Term Rental of a condominium unit that is the primary residence of the host in a R-R, R-E, R-1, R-2, R-3, R-4, R-5, U-N, R-5A, R-5B, R-6, R-7, or R-8A district and Short Term Rental of any dwelling unit in a TNZD district

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A short term rental of dwelling unit that is not the primary residence of the host or the short term rental of a condominium unit that is the primary residence of the host in a R-R, R-E, R-1, R-2, R-3, R-4, R-5, U-N, R-5A, R-5B, R-6, R-7, or R-8A district and a short term rental of any dwelling unit in a TNZD district may be allowed upon the granting of a Conditional Use Permit. In addition to any conditions of approval, a short term rental and its host shall meet the following requirements:

- A. The maximum stay for a guest shall be 29 consecutive days. A dwelling unit rented to the same occupant 30 consecutive days or more is not considered a short term rental.
- B. The dwelling unit shall be limited to a single short term rental contract at a time.
- C. At no time shall more persons reside in the short term rental than two times the number of bedrooms plus ~~four~~ two individuals.
- D. The building in which the dwelling unit is located shall be a single-family residence, ~~or duplex,~~ or a condominium ~~unit~~. If the short term rental is a condominium unit, the condominium unit must be the primary residence of the host. All conditional use permit applications for the short term rental of a condominium unit shall include evidence showing the applicable condominium association has taken action to approve the short term rental of the subject condominium. This evidence shall be provided in the form of minutes from an officially called meeting of the applicable condominium association board wherein all condominium owners were notified that short term rental of the subject condominium would be discussed and a majority of the board members voted in favor of permitting /allowing the short term rental of the subject condominium. In addition to notification required by Chapter 11 Part 5A, an applicant for a short term rental within a condominium shall provide notice of the Conditional Use Permit public hearing to all condominium owners within the association. Proof of notification shall be by way of affidavit. This provision shall not be waived or adjusted.
- E. Food and alcoholic beverages shall not be served or otherwise provided by the host to any guest.
- F. Outdoor signage which identifies the short term rental is prohibited in residential zoning districts.
- G. There shall be a sufficient amount of parking available for the host and guests, as determined by the Board of Zoning Adjustment. The amount and location of parking shall be based on the land uses and density of the immediate vicinity.

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Any parking surface that is added to accommodate the short term rental use shall be removed when the short term rental use is terminated.

- H. The short term rental and host shall meet all additional requirements set forth in the Louisville Metro Code of Ordinances.
- I. If the property is subject to two (2) or more substantiated civil and/or criminal complaints within a one year period, the Board of Zoning Adjustment may revoke the approval pursuant to section 11.5A.6. Civil complaints include, but are not limited to, reported violations of building, safety, property maintenance, health and sanitation, fire, electrical, plumbing, and mechanical codes.
- J. Prior to commencement of any short term rental on the subject property, the host shall register the short term rental pursuant to the Louisville Metro Code of Ordinances. If the short term rental is not registered within 60 days of the issuance of the conditional use permit, the permit shall become null and void.
- K. An active registration for the short term rental, as required by the Louisville Metro Code of Ordinances, shall be maintained. No short term rentals may take place unless the registration is active and in the name of the current host and property owner. If the registration is not renewed and lapses for six months or in the event of a change of ownership and/or host, a new registration is not issued within six months from the date of the change, the conditional use permit shall become null and void. In order to recommence short term rentals, a new conditional use permit must be granted if required by this Land Development Code.

4.3.23 Short Term Rentals

In a R-R, R-E, R-1, R-2, R-3, R-4, R-5, U-N, R-5A, R-5B, R-6, R-7, or R-8A district, a short term rental of dwelling unit that is the primary residence of the host is permitted by the Planning Director with special standards set forth in this section. In a OR, OR-1, OR-2, OR-3, OTF, C-N, C-R, C-1, C-2, C-3, C-M, EZ-1, W-1, W-2, PVD, PTD, or PRD district, any short term rental is permitted by the Planning Director with special standards set forth in this section.

- A. The maximum stay for a guest shall be 29 consecutive days. A dwelling unit rented to the same occupant for 30 consecutive days or more is not considered a short term rental.
- B. The dwelling unit shall be limited to a single short term rental contract at a time.

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- C. At no time shall more persons reside in the short term rental than two times the number of bedrooms plus ~~four~~two individuals.
- D. The building in which the dwelling unit is located shall be a single-family residence or duplex unless the dwelling unit is located on property zoned C-R, C-N, C-1, C-2, ~~or C-3,~~ or EZ-1 and the property meets all of the following criteria: 1. The property is within 200' of a TARC route; 2. The property is within .75 miles of a public park; and 3. The property is within one mile of a National Register District or Local Preservation District. This provision shall not be waived or adjusted.
- E. Food and alcoholic beverages shall not be served or otherwise provided by the host to any guest.
- F. Outdoor signage which identifies the short term rental is prohibited in residential zoning districts.
- G. There shall be a sufficient amount of parking available for the host and guests, as determined by the Planning Director. The amount and location of parking shall be based on the land uses and density of the immediate vicinity. In the event that a complaint is filed concerning the lack of adequate parking, the Planning Director may require that the host submit a parking study to Planning & Design Services. If the parking study concludes that there is inadequate parking available to the host and guests, the host shall either a) increase the amount of parking or b) discontinue the short term rental use.
- H. The short term rental and host shall meet all additional requirements set forth in the Louisville Metro Code of Ordinances.
- ~~I. In order to maintain a registry of short term rentals, the host of the short term rental shall submit a notice of intent to commence a short term rental to the Office of Planning & Design Services in a form prescribed by the Planning Director. This form may be an online form that does not require the host to visit the office.~~
- J. I If the property is subject to two (2) or more substantiated civil and/or criminal complaints within a one year period, the Planning Director may revoke the approval. Civil complaints include, but are not limited to, reported violations of building, safety, property maintenance, health and sanitation, fire, electrical, plumbing, and mechanical codes.

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- J. In a case in which a) the primary residency of the host is in question due to conflicting documentation or b) inadequate documentation concerning the primary residency of the host is provided by the host, the Planning Director may request that the Board of Zoning Adjustment review the registration and make a determination related to the residency of the host.
- K. The Planning Director has the authority to deny a short term rental registration to any host who has had a registration revoked within one year of application for the new registration.

LOUISVILLE METRO CODE OF ORDINANCES

§ 115.515 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

DIRECTOR. The Director of the Louisville Metro Department of Develop
Louisville.

HOST. Any person who is the owner of record of real property, or any person who is a lessee of real property pursuant to a written agreement for the lease of such real property, who offers a dwelling unit, or portion thereof, for short term rental.

HOSTING PLATFORM. An internet based platform that generally allows an owner or tenant to advertise the dwelling unit through a website and provides a means for potential transient users to arrange short term rental and payment through the hosting platform.

SHORT TERM RENTAL. A dwelling unit that is rented, leased or otherwise assigned for a tenancy of less than 30 consecutive days duration, where no meals are served. This term does not include hotel or motel rooms, extended stay lodging facilities, bed and breakfast inns or boarding and lodging house rooms.

TRANSIENT USER. A person who exercises occupancy or is entitled to occupancy by reason of concession, permit, right of access, license or other agreement for a period of less than 30 consecutive days duration.

§ 115.516 ANNUAL REGISTRATION REQUIRED.

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No person, firm, or corporation shall own or operate a short term rental on any premises within Jefferson County unless the short term rental has been registered annually with the Louisville Metro Department of Develop Louisville.

§ 115.517 ANNUAL REGISTRATION; FEE.

- (A) Each annual registration for a short term rental shall be per the procedure prescribed by the Director, ~~and approved by the Louisville Metro Revenue Commission~~ and shall be available for paperless, online registration ~~upon the effective date of this subchapter~~. The registration form, at a minimum, shall include the following:
- (1) The name, address, phone number, and email address of the ~~h~~Host ~~and of a person an emergency contact residing or located in Jefferson County, Kentucky and/or within 25 miles of the short term rental who shall be responsible for addressing any maintenance or safety concerns and nuisance complaints requiring immediate attention. The Host shall provide the emergency contact's information to Transient Users prior to commencing their stays; and~~
 - (2) The location of the short term rental.
- (B) A nonrefundable fee of ~~\$25~~ \$100 shall accompany the annual registration form of a short term rental. The initial registration fee shall be waived.
- (C) A copy of the current annual registration provided by the Department shall be displayed in a location near the entry to the short term rental that is visible from the exterior of the building.

§ 115.518 COMPLIANCE WITH FEDERAL, STATE AND LOCAL LAWS AND REGULATIONS.

Each separate short term rental shall be in compliance with any currently applicable laws and regulations of the federal, state, or local governments, as may be amended from time to time including but not limited to, laws or regulations on nondiscrimination, zoning, building, safety, property maintenance, health and sanitation, fire, electrical, plumbing, mechanical, and other applicable laws.

§ 115.519 REGISTRATION WITH THE LOUISVILLE METRO REVENUE COMMISSION. TRANSIENT OCCUPANCY TAXES.

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- (A) Pursuant to LMCO Chapter 121, transient room ~~Transient occupancy taxes are to be collected and paid by the Host to the Louisville Metro Revenue Commission Metro Government pursuant to this Code; and~~

- (B) Pursuant to LMCO Chapter 110, the host may be subject to occupational license taxes to the Metro Government. ~~Transient occupancy taxes are ultimately the responsibility of the host, but the collection and remission of all required taxes pursuant to LMCO Chapters 110 and 121 may be paid by a hosting platform on behalf of host if the short term rental is created through a hosting platform that has an agreement with the Metro Government for collection and payment of such taxes to the Metro Revenue Commission.~~

- (C) The Host shall register with the Louisville Metro Revenue Commission to ensure compliance with all applicable local taxes including the transient room tax and occupational license tax.

§ 115.520 DUTIES OF A HOST.

It shall be the duty of a ~~h~~Host under this subchapter to ensure that:

- (A) The short term rental meets the smoke detector requirements set forth in LMCO § 94.02; has at least one functional carbon monoxide detector installed in an appropriate location as set forth in Kentucky Residential Code; every sleeping room shall have at least one operable emergency and rescue opening as set forth in the Kentucky Residential Code; and that a clearly marked evacuation plan is posted on the premises;

- (B) There shall be no more than one contract per short term rental at a time;

- ~~(C)~~ At no time shall more persons reside in the short term rental than two times the number of bedrooms plus four individuals; and

- ~~(C)(D)~~ There is no signage on the premises of the short term rental advertising or identifying the short term rental in residential zoning districts.

- ~~(D)~~ The name and telephone number of the Host and any emergency contact shall be conspicuously posted within the short term rental.

- ~~(E)~~ The current name and telephone number of the Host and any emergency contact shall be mailed via certified US mail return receipt requested, to each first tier adjacent property owner. Any changes of the Host or emergency contact shall be re-noticed within ten (10) calendar days.

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(F) For a short term rental that is not the primary residence of the Host, the Host shall have the dwelling unit inspected by a fire prevention inspector or a home inspector licensed in Kentucky to determine if there are visible fire or life safety issues that need to be addressed prior to occupancy by guests.

§ 115.521 ADVERTISING ON A HOSTING PLATFORM.

Short term rentals registered in accordance with § 115.517 may be advertised for short term stays of less than 30 days on a Hosting Platform. A Host and/or property owner that advertises an un-registered short term rental on a Hosting Platform is subject to enforcement as stated in §§ 115.522 and 115.999(N)(2).

§ 115.521 115.522 ENFORCEMENT.

In addition to the penalties provided in § 115.999(N), the Director is authorized to enforce the provisions of this subchapter through declaratory, injunctive and other civil actions filed in any court of competent jurisdiction.

§ 115.999 PENALTY.

(N)

- (1) Any person who violates any provision of §§ 115.515 through 115.520 shall receive a notice of violation as a warning for a first offense will be subject to a civil penalty of \$50 as imposed by a Zoning Enforcement Officer. **A second offense will be subject to a civil penalty of not less than \$100 and no more than \$500** \$250 as imposed by the Director a Zoning Enforcement Officer. **A third offense will be subject to a civil penalty of not less than \$500 and no more than \$1,000 as imposed by the Director a Zoning Enforcement Officer**. Any additional offense beyond the third offense will be subject to a civil penalty of \$750 as imposed by a Zoning Enforcement Officer. **Each day that a violation continues after notice has been served shall be deemed a separate offense. Any person who receives a citation for violating §§ 115.515 through 115.520 may appeal the violation to the Code Enforcement Board.**

- (2) Any person who violates any provision of §115.521 related to advertising on a Hosting Platform shall receive a notice of violation as a warning for a first offense. Any additional offense will be subject to a civil penalty of \$50 as imposed by a Zoning Enforcement Officer. Each day that a violation continues after notice has been served shall be deemed a separate offense. Any person

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who receives a citation for violating § 115.521 may appeal the violation to the Code Enforcement Board.

(2)(3) In addition to the penalties provided herein, the Director is authorized to pursue remedial civil actions for violations of §§ 115.515 through 115.520 by civil complaint or petition for injunctive relief, declaration of rights or other appropriate proceedings filed in the Jefferson County, Kentucky Circuit Court.

05:00:45

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

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council to consider a funding source for operating expenses for short term rental enforcement.

The vote was as follows:

YES: Commissioners Brown, Carlson, Daniels, Howard, Smith and Jarboe
NOT PRESENT AND NOT VOTING: Commissioners Lewis, Peterson and Tomes
ABSTAIN: Commissioner Robinson

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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 6:41 p.m.



ACMG
Chair



Planning Director