

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO PLANNING COMMISSION**

April 6, 2017

A meeting of the Louisville Metro Planning Commission was held on April 6, 2017, at 1:00 p.m. at the Old Jail Building, 514 W Liberty Street, Louisville, KY 40202.

Members present:

Vince Jarboe, Chair
Jeff Brown
Lula Howard
Laura Ferguson
Robert Peterson
David Tomes
Rich Carlson

Members absent:

Marilyn Lewis, Vice Chair
Emma Smith
Marshall Gazaway

Staff members present:

Brian Davis, Planning Manager
Beth Jones, Planner II
Joel Dock, Planner II
John Carroll, Legal Counsel
James Carey, Legal Counsel
Tammy Markert, Transportation Planning
Kristen Loeser, Management Assistant

The following cases were heard:

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APPROVAL OF MINUTES

NOTE: This item was heard out of order.

02:12:35 On a motion by Commissioner Carlson, seconded by Commissioner Ferguson, the following resolution was adopted:

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the minutes of its meeting conducted on March 16, 2017.

The vote was as follows:

Yes: Carlson, Ferguson, Tomes, and Jarboe

Absent: Smith, Gazaway, and Lewis

Abstain: Brown, Howard, and Peterson

No: None

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BUSINESS SESSION

MEETING SCHEDULE CHANGE

00:03:51 Due to a scheduling conflict with the APA-KY Conference, the May 18, 2017 Planning Commission meeting should be rescheduled as a special meeting for May 11, 2017 at 2:00 p.m.

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PUBLIC HEARING

CASE NUMBER 17WAIVER1003

Project Name:	809 Market Street
Location:	809 E. Market Street
Owner(s):	Shelby Market Properties, LLC
Applicant:	LMS Design – Lindsey Stoughton
Representative(s):	LMS Design – Lindsey Stoughton
Project Area/Size:	N/A
Existing Zoning District:	EZ-1, Enterprise Zoning District
Existing Form District:	TMC, Traditional Marketplace Corridor
Jurisdiction:	Louisville Metro
Council District:	4 – Barbara Sexton Smith
Case Manager:	Joel P. Dock, Planner II

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 meeting related to this case is available on the Planning & Design Services website, or you may contact the Customer Service staff to view the recording or to obtain a copy.

Agency Testimony:

00:05:40 Joel Dock presented the case (see Staff Report and recording for detailed presentation).

The following spoke in favor of the request:

Lindsey Stoughton, 816 Franklin Street, Louisville, KY 40206

Summary of testimony of those in favor:

00:14:49 Project designer Lindsey Stoughton spoke on behalf of the applicant. In response to Commissioner Carlson, she stated that accessibility of the outdoor seating area will be reviewed during the permitting process. She has received one letter of opposition from a neighboring business owner, but she believes there will not be a problem with shared parking since there will only be a two hour overlap of the hours of operation.

00:15:59 Commissioners' deliberation

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00:18:48 On a motion by Commissioner Brown, seconded by Commissioner Peterson, the following resolution was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the proposed waiver is in compliance with the comprehensive plan as Guideline 6, policies 3 and 5 encourage redevelopment and reinvestment in downtown, older, and declining neighborhoods consistent with the form district pattern, as well as targeted districts such as the *NuLu* area. Guideline 7, policy 3 encourages higher density mixed-use development reducing the need for multiple automobile trips and encouraging mobility choice. Guideline 9, Policies 1, 2, & 4 call for development which supports and accommodates the movement and parking of pedestrians on foot or on bike, as well as promoting use of public transportation. The proposed parking waiver is to allow for an existing bar to create a formal outdoor seating area at the rear of the property. The reduction of parking will allow for the redevelopment and continued growth of a targeted area of unique restaurant and arts district in the urban area of the City, known as *NuLu*. This area is well supported by public transportation and within walking and biking distance from nearby residential neighborhoods. Bicycle parking will be supported as the minimum standards for bicycle parking is being exceeded. Automobile trips to a specific establishment will be minimized by the overall attraction of the area and surrounding services, and

WHEREAS, the Commission further finds that the site is constrained with no location for expanded parking facilities. Additionally, the *NuLu* overlay guidelines discourage the construction of off-street parking facilities, and

WHEREAS, the Commission further finds that the site is constrained with no location for expanded parking facilities. Additionally, the *NuLu* overlay guidelines discourage the construction of off-street parking facilities. Parking will be mitigated by multiple modes of transport (bikes, foot, and bus) provided to the area. Trips to *NuLu* are supported by an attraction to many services and amenities, and generated by both local residents and tourists, and

WHEREAS, the Commission further finds that the reduction requested is the smallest amount in order to accommodate the proposed use as parking is unavailable and new off-street spaces are discouraged by the *NuLu* overlay guidelines, and

WHEREAS, the Commission further finds that adjacent or nearby properties will not be significantly impacted by the proposal to reduce the minimum parking requirements as the restaurant to be expanded is located in an area that serves as a hub for the growth of the restaurant, entertainment, and arts culture in Louisville Metro and the area is centrally located to accommodate multiple modes of transportation, specifically TARC

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trips. The hours of operation of the restaurant extend well beyond normal operating hours of adjacent non-restaurant businesses, and

WHEREAS, the Commission further finds that *NuLu* overlay guidelines discourage the construction of off-street parking facilities. The regulations contained within the LDC, Table 9.1.2 do not accurately reflect the relationship between parking and growth in urban areas that have not been designed to accommodate suburban parking standards, but instead have been designed to attract people through multiple modes of transportation from residential populations in close proximity to the area, and

WHEREAS, the Commission further finds that Parking is strained at times in the area during peak hours, but public transportation and other forms of transportation are readily available and the historic design and character of the area encourages pedestrian movement, and

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

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the parking waiver, **ON CONDITION** that final design of the bicycle racks to be installed will be coordinated with the East Market Street Scape Nulu project.

The vote was as follows:

Yes: Carlson, Ferguson, Tomes, Brown, Howard, Peterson, and Jarboe

Absent: Smith, Gazaway, and Lewis

Abstain: None

No: None

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PUBLIC HEARING

CASE NUMBER 16ZONE1078

Project Name	Stonestreet Apartments
Location	Stonestreet Road
Owner	Dorothy J. Yates, Wanda L. Nally
Applicant	Greenwood Properties LLC
Representative	Bardenwerper Talbott & Roberts PLLC
Project Area	3.8 acres
Jurisdiction	Louisville Metro
Council District	25 - David Yates
Case Manager	Beth Jones, AICP, Planner II

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

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

An audio/visual recording of the Planning Commission meeting 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:

00:20:15 Beth Jones presented the case (see Staff Report and recording for detailed presentation).

The following spoke in favor of the request:

Nick Pregliasco, 1000 N Hurstbourne Pkwy., Louisville, KY 40223

Summary of testimony of those in favor:

00:25:44 Nick Pregliasco spoke on behalf of the applicant. This is basically an extension of the existing Kennedy Place Townhomes community which is being renovated and is not large enough to support a clubhouse. Access to Stonestreet Road will be shared with the existing site, and sidewalks will be constructed along Stonestreet Road. The structures will be designed similarly to those of Kennedy Place Townhomes.

00:33:09 Commissioners' deliberation

00:34:18 On a motion by Commissioner Brown, seconded by Commissioner Howard, the following resolution was adopted:

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CASE NUMBER 16ZONE1078

Change in zoning from R-4 Residential Single-Family to R-6 Residential Multi-Family

WHEREAS, the Louisville Metro Planning Commission finds that Greenwood Properties, LLC (“Greenwood Properties”) proposes an apartment community consisting of a 54-unit townhome style apartment community on 3.8 +/- acres along the south side of Stonestreet Road between the existing Kennedy Place Townhomes and Christian Assembly Church, and

WHEREAS, the Commission further finds that the subject property lies within the Neighborhood Form District and on Stonestreet Road, east of Dixie Highway; the site’s location provides opportunities for this anticipated community of residents to gain quick and easy access to many shopping and dining opportunities and services, to workplace job opportunities along Dixie Highway and to I-265 and its ease of access to other suburban and downtown employment centers; this proposal will provide this area with new, attractive housing choices for residents who desire to live in a rental community; and other multi-family zoning and serving commercial land uses in close proximity to the subject property include Kennedy Place Townhomes, and

WHEREAS, the Commission further finds that Greenwood Properties proposes a townhome community, of all 2-story buildings; gross density will be on the low side of the high density range; and buildings will be constructed of attractive durable building materials (stone and “hardy plank” lap siding) and will feature high end architectural details, and

WHEREAS, the Commission further finds that perimeter setbacks and landscape buffer areas are provided along all property lines as required by the Land Development Code (LDC), which will screen and buffer resident activities with existing tree masses or new landscaping from and as to adjoining property owners, and

WHEREAS, the Commission further finds that the proposed apartment community conforms with the overall Intents of and specifically with Policies 1, 4, 5, 7, 8, 9, 11, 13, 14 and 15 of Guideline 2 of the for all the reasons listed above and because it will make efficient use of available property that lies within the Neighborhood Form District and is located in a robust area where residents currently seek new housing options that have easy access to the Dixie Highway commercial corridor and nearby workplace areas; future residents will also support the businesses and services in these nearby activity centers; parking is compact and shared, and walking and biking are convenient; and the main internal focal points will be the community exercise facility shown on the detail district development plan (DDDP), and

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WHEREAS, the Commission further finds that the proposed apartment community conforms with the overall Intents of and specifically with Policies 1, 2, 3, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 21, 22, 23, and 28 of Guideline 3 for all the reasons described above and because this proposed community is in a density range and design comparable to other nearby apartment communities; buildings will be of a townhouse style, 2 stories in height and constructed with attractive building materials comparable to residential communities in the area, in this case masonry and “hardy plank”; perimeter landscaping, screening and buffering will be provided and/or retained along all property lines; and buildings are oriented toward internal open spaces, will have ease of access to the exercise facility and on 3 sides will adjoin existing vegetative and/or newly landscaped areas, admittedly much of it on the adjoining large and existing treed church property, and

WHEREAS, the Commission further finds that sidewalks will be provided where required, and accommodations will be made for pedestrian and bicycle transportation as well as the handicapped and elderly; odors won’t exist in the residential community as they might in commercial/industrial development; air quality concerns related to traffic congestion or delay will be mitigated by the fact that this is a residential development and that internal roads and sidewalks are efficiently organized to control traffic flow and prevent delays; refuse will be picked up on a regular basis; lighting will be residential in character in conformance with LDC regulations; and all signage will be in conformance with LDC regulations; and no waivers or variances are requested, and

WHEREAS, the Commission further finds that the proposed apartment community conforms with the overall Intents of and specifically with Policies 1, 2 and 6 of Guideline 6 because, as noted above, future residents will support and be supported by the businesses, services, schools and churches in and around the nearby activity center of the very robust Dixie Highway, an increasingly popular place along which to work, live and play; this proposal also reduces public costs for land development by utilizing connections to existing infrastructure for water, sewer, electric and phone services; and the apartment community, as proposed, will have easy access to Stonestreet Road and Dixie Highway and several other roads in the area, and from there to other Louisville employment and commercial centers, and

WHEREAS, the Commission further finds that the proposed apartment community conforms with the overall Intents and applicable Policies of Guidelines 7, 8 and 9 because the proposed DDDP has been designed in conformance with all Metro Public Works and Transportation Planning design policies; good internal circulation, appropriate access, sight distances, corner clearances and parking are provided; Stonestreet Road has adequate traffic-carrying capacity, with a center left-turning lane to provide safe access; sidewalks and bike racks will be provided as required; and the DDDP obtained the stamp of approval from Metro Transportation Planning prior to

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official review by the Planning Commission, thus assuring compliance with all Metro Public Works standards addressed by these Guidelines, and

WHEREAS, the Commission further finds that the proposed apartment community conforms with the overall Intents and applicable Policies of Guidelines 10, 11 and 12 because, all drainage will run to internal catch basins and then to a sufficiently sized detention basin, and from there to an existing drainage channel and in that way will comply with all MSD storm water management requirements; therefore, post development peak rates of storm water discharge will not exceed peak pre-development rates; moreover, this DDDP received the preliminary stamped of approval by MSD prior to docketing for LD&T review; Louisville Water Company will provide water to the site; a soil erosion and sediment control plan will also be implemented to further manage sediment and drainage during construction; MSD water quality regulatory requirements have also been addressed; and air quality is addressed by virtue of the referenced shorter commuting distances explained hereinabove, and

WHEREAS, the Commission further finds that the proposed apartment community conforms with the overall Intents and applicable Policies of Guideline 13 for all the reasons described above and because landscaping will be provided and/or trees retained around buildings, along the Stonestreet Road entrance and frontage, along internal streets, and along property perimeters as noted above, except where a waiver in the southwest corner of the site has been requested and separately justified; recreational space is provided through and internal exercise facility; passive recreational enjoyment will be enjoyed in the inside recreational facility and within internal site landscaped areas, especially by virtue of the adjoining large open areas on the adjoining church property; and tree canopy requirements will be met, and

WHEREAS, the Commission further finds that the proposed apartment community conforms with the overall Intents and applicable Policies of Guideline 14 because, as noted above, water, sewer, electric, phone and cable service connections are available by nearby connection to ensure a reduced cost for infrastructure, and

WHEREAS, the Commission further finds that the Commission further finds that, based the staff report, the applicant's findings of fact distributed at today's meeting, and the evidence and testimony presented today, that all of the applicable Guidelines of Cornerstone 2020 and the Comprehensive Plan are being met; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the change in zoning from R-4 Residential Single-Family to R-6 Residential Multi-Family be **APPROVED**.

The vote was as follows:

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Yes: Carlson, Ferguson, Tomes, Brown, Howard, Peterson, and Jarboe

Absent: Smith, Gazaway, and Lewis

Abstain: None

No: None

00:38:42 On a motion by Commissioner Brown, seconded by Commissioner Howard, the following resolution was adopted:

Detailed District Development Plan

WHEREAS, the Louisville Metro Planning Commission finds that the existing tree canopy will not be preserved but new trees will be planted to meet LDC requirements. None of the remaining resources currently exist on the site, and

WHEREAS, the Commission further finds that the site will be accessed from Stonestreet Road via a cross-access agreement with adjoining development, eliminating the need for an additional curb cut. A sidewalk will be installed along the Stonestreet Road property frontage, and

WHEREAS, the Commission further finds that planned scenic and recreational open spaces exceed LDC requirements, and

WHEREAS, the Commission further finds that MSD has reviewed the development plan and issued preliminary approval, and

WHEREAS, the Commission further finds that the proposal meets all tree canopy, landscaping and screening requirements and exceeds requirements for open spaces. The site design is compatible with existing development on adjoining property to the east and is buffered from single-family residential development to the north, and

WHEREAS, the Commission further finds that the development plan conforms to or exceeds the requirements of the Comprehensive Plan and the Land Development Code, and

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

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RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE (1)** the Detailed District Development Plan and **(2)** a change to the following Finding of Fact, “WHEREAS, the Commission further finds that Greenwood Properties proposes a townhome community, of all 2-story buildings; gross density will be on the low side of the high density range; and buildings will be constructed of attractive durable building materials (stone, “hardy plank” lap siding, **or brick**) and will feature high end architectural details”, **SUBJECT** to the following binding elements:

NOTE: Change to the Finding of Fact was decided after the motion to recommend rezoning.

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 LDC. Any changes/additions/alterations to any binding element(s) shall be submitted to the Planning Commission or its designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. No outdoor advertising signs, small freestanding signs, pennants, balloons or banners shall be permitted on the site.
3. Before any permit is requested, including but not limited to permits for building, parking lot, change of use, site disturbance, alteration or demolition:
 - 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 Transportation Cabinet,
 - c. The property owner/developer must obtain approval of a detailed plan for screening/buffering/landscaping as described in LDC Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - d. A reciprocal access and crossover easement agreement, in a form acceptable to the Planning Commission legal counsel, shall be created for access to the site from Kennedy Place Circle, as shown on the Detailed District Development Plan presented at the 4/6/2017 meeting of the Planning Commission. A copy of the recorded instrument shall be submitted to the Division of Planning and Design

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Services; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.

4. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy unless specifically waived by the Planning Commission.
5. The applicant, developer or property owner shall provide copies of these binding elements to all tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of their content. The binding elements shall run with the land, and the owner and the occupant of the property shall at all times be responsible for compliance with them. At all times during development of the site, the applicant and developer, their heirs, successors and assignees, contractors, subcontractors and all other parties engaged in development of the site shall be responsible for compliance with these binding elements.

The vote was as follows:

Yes: Carlson, Ferguson, Tomes, Brown, Howard, Peterson, and Jarboe

Absent: Smith, Gazaway, and Lewis

Abstain: None

No: None

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PUBLIC HEARING

CASE NUMBER 17SUBDIV1001

Project Name: The Park at Locust Creek
Location: 17015 Shelbyville Road
Owners: Creek Partners, LLC; Maurice Sweeney & Sweeney Farm Family, LP
Applicant: Creek Partners, LLC
Representative(s): Sabak, Wilson, & Lingo, Inc. – Kelli Jones
Project Area/Size: 38.93 Acres
Existing Zoning District: R-4/R-5, Single-Family Residential
Existing Form District: N, Neighborhood
Jurisdiction: Louisville Metro
Council District: 19 – Julie Denton
Case Manager: Joel P. Dock, Planner II

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 meeting 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.

NOTE: Commissioner Howard recused herself from this case.

Agency Testimony:

00:40:10 Joel Dock presented the case (see Staff Report and recording for detailed presentation).

The following spoke in favor of the request:

Kelli Jones, 608 S 3rd Street, Louisville, KY 40202
Bob Marrett, 318 Longview Park Place, Louisville, KY 40245

Summary of testimony of those in favor:

00:50:56 Kelli Jones spoke on behalf of the applicant. Ms. Jones clarified that the variance request is 20 feet. The parkway buffer is being maintained as required, and more will be planted as required. Houses will be constructed beyond the 75' required setback will be similar to the villas at Locust Creek. Ms. Jones explained why she feels the variance and waivers are justified.

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01:01:45 Bob Marrett responded to questions from the Commissioners. There will be walking paths from the homes that connect to the open space to the north as well as the club to the east. Because of the topography, it would be difficult to construct a sidewalk along Shelbyville Road. There is also existing vegetation along Shelbyville Road that he would like to preserve to act as screening for homes in this area. In response to Commissioner Brown, Mr. Marrett stated there will be sidewalks along the main entryway ("Street A").

01:05:45 Commissioners' deliberation

01:11:35 On a motion by Commissioner Brown, seconded by Commissioner Peterson, the following resolution was adopted:

Waiver of LDC section 5.8.1.B to not provide sidewalk along Shelbyville Road

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

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the Waiver of LDC section 5.8.1.B to not provide sidewalk along Shelbyville Road.

The vote was as follows:

Yes: Ferguson, Tomes, Brown, Peterson, and Jarboe

Absent: Smith, Gazaway, and Lewis

Abstain: None

No: Carlson

Recuse: Howard

01:13:35 On a motion by Commissioner Brown, seconded by Commissioner Peterson, the following resolution was adopted:

Revised District Development Plan

WHEREAS, the Louisville Metro Planning Commission finds that the design of the proposed subdivision respects the environmental features on site. The R-5 portion subject to binding elements does not contain any significant natural features, and

WHEREAS, the Commission further finds that provisions for safe and efficient vehicular and pedestrian transportation has not been provided along the frontage of Shelbyville

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Road and staff does not support the requested sidewalk waiver. However, sidewalks are being provided internally within the subdivision, and

WHEREAS, the Commission further finds that open space is being provided and natural features are being preserved in within the subdivision, and

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

WHEREAS, the Commission further finds that the overall site design and land uses are compatible with the existing and future development of the area. Appropriate landscape buffering and screening will be provided to screen adjacent properties and roadways, and

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

Waivers:

LDC section 10.3.5.A.3 to encroach upon the 15' x 100' parkway buffer

LDC section 10.3.5.A.1 to allow encroachment into 75' parkway setback

WHEREAS, the Louisville Metro Planning Commission finds that pushing the development toward Shelbyville Road results in a very short boulevard entrance of only 80' in length which means there is not room for the 100' parkway buffer extension. In lieu of this 15 x 100' parkway buffer, the applicant is proposing a slightly larger open space at the entrance and 75% more planting within the parkway buffer. The exhibit below illustrates the area of the 15' x 100' buffer that is being waived (in yellow) as well as the increased open space area being proposed as mitigation (in green). As you can see, the proposal actually results in an increased area of open space although it is parallel, rather than perpendicular, to Shelbyville Road, and

WHEREAS, the Commission further finds that pushing the development toward Shelbyville Road results in an encroachment of the right-of-way into the required parkway setback. Private drives and parking lots are allowed to encroach into the parkway setback, but not rights-of-way. This is the same waiver that was requested for the Villas at Locust Creek under case number 19134. No buildings will encroach into the setback. As mitigation for this waiver, the applicant proposes 75% more planting within the Parkway Buffer. The entire 50' Parkway Buffer will be provided. In addition, the encroachments are offset by additional open space along the frontage of the

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development. The exhibit below illustrates the area of encroachment (in yellow) as well as the increased open space area being proposed as mitigation (in green). As you can see, the proposal actually results in an increased area of open space along the Shelbyville Road Frontage, and

WHEREAS, the Commission further finds that the waiver will not adversely affect adjacent property owners as the required parkway buffer and plantings will be provided, no structures will be located with the setback, and natural features to the rear of the property will be preserved to the benefit of the general welfare of the public, and

WHEREAS, the Commission further finds that Guideline 3, Policy 9 of Cornerstone 2020 calls for the protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigate when appropriate. Guideline 13, Policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. Guideline 13, Policy 7 calls for protection of the character of parkways and scenic byways and corridors through standards for buffers, landscape treatment, lighting and signs. The intent of parkway development standards is to protect existing scenic and aesthetic qualities, to ensure a quality visual experience on developing corridors and to protect and improve the visual experience on established corridors. The proposed plan is in compliance with these elements as no structural encroachments will be made into the setback or 15' x 100' buffer area. The applicant will provide additional plantings in the 15' x 100' buffer area to mitigate any adverse impact caused by the encroachment. The encroachment is minimal and will not adversely affect visual quality of the parkway as the applicant will provide 75% more trees within the buffer, and

WHEREAS, the Commission further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the encroachment is minimal and the applicant will provide 75% more trees within the buffer along Shelbyville Road and 75% more plant material within the 15' x 100' buffer area, and

WHEREAS, the Commission further finds that the applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect) as the applicant will provide 75% more trees within the buffer along Shelbyville Road and 75% more plant material within the 15' x 100' buffer area, and

Variance of LDC section 5.3.1.C.2 to provide a 20' front yard setback

WHEREAS, the Louisville Metro Planning Commission finds that the requested variance will not adversely affect public health safety or welfare as the request is internal to the subdivision and will allow for structures to minimize their impact on

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natural features to the rear of the subject site and the parkway buffer along the frontage, and

WHEREAS, the Commission further finds that the requested variance will not alter the essential character of the general vicinity as the proposal is for a new subdivision and the proposed setback will establish the front yard character of the subdivision, and

WHEREAS, the Commission further finds that the requested variance will not cause a hazard or nuisance to the public as the request is internal to the subject site and does not impact sight lines or movement for pedestrians or vehicular traffic, and

WHEREAS, the Commission further finds that the requested variance will not allow an unreasonable circumvention of zoning regulations as no setbacks have been established within the subdivision and the request does not adversely impact public health, safety, or welfare and does not create any hazards or nuisances, and

WHEREAS, the Commission further finds that the requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone as this site contains floodplain and potential steep slopes that are not typical of other portions of the Locust Creek development, and

WHEREAS, the Commission further finds that the strict application of the provisions of the regulation would deprive the applicant of reasonable use of the land as would require more disturbances of natural areas which the applicant wishes to protect, and

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

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

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE (1)** the Revised Major Preliminary Subdivision Plan, **(2)** the Revised District Development Plan, including the deletion of the existing binding elements as contained on page 9 of the staff report, **(3)** the Waiver of Land Development Code (LDC), section 10.3.5.A.3 to encroach upon the 15' x 100' parkway buffer, **(4)** the Waiver of LDC, section 10.3.5.A.1 to allow encroachment into 75' parkway setback and **(5)** the Variance of LDC, section 5.3.1.C.2 to provide a 20' front yard setback, **SUBJECT** to the following conditions of approval:

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Conditions of Approval

1. The development shall be in accordance with the approved Residential Development Preliminary Plan. No further subdivision of the land into a greater number of lots than originally approved will occur without approval of the Planning Commission.
2. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit is requested:
 - a. The development plan must receive full construction approval from Louisville Metro Department of Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. Encroachment permits must be obtained from Louisville Metro Public Works.
 - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - d. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
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 conditions of approval 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. Prior to the recording of the record plat, copies of the recorded documents listed below shall be filed with the Planning Commission.

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- a) Articles of Incorporation filed with the Secretary of State and recorded in the office of the Clerk of Jefferson County and the Certificate of Incorporation of the Homeowners Association.
 - b) A deed of restriction in a form approved by Counsel to the Planning Commission addressing (responsibilities for the maintenance of common areas and open space, maintenance of noise barriers, maintenance of TCPAs etc.) and other issues required by these conditions of approval.
 - c) Bylaws of the Homeowner's Association in a form approved by the Counsel for the Planning Commission.
6. An original stamped copy of the approved Tree Preservation Plan shall be present on site during all clearing, grading, and construction activity and shall be made available to any DPDS inspector or enforcement officer upon request.
 7. All street signs shall be installed by the Developer, and shall conform with 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 residence on 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.
 8. Open space lots shall not be further subdivided or developed for any other use and shall remain as open space in perpetuity. A note to this effect shall be placed on the record plat.
 9. After release of the drainage bond, mosquito abatement on open space lots shall be the responsibility of the Homeowners Association. Accumulations of water in which mosquito larvae breed or have the potential to breed are required to be treated with a mosquito larvacide approved by the Louisville Metro Health Department. Larvacides shall be administered in accordance with the product's labeling. This language shall appear in the deed of restrictions for the subdivision.
 10. Tree Canopy Protection Areas (TCPAs) identified on this plan represent individual trees and/or portions of the site designated to meet the Tree Canopy requirements of Chapter 10 Part 1 of the Land Development Code and are to be permanently protected. All clearing, grading and fill activity in these areas must be in keeping with restrictions established at the time of plan approval. As trees within TCPAs are lost through natural causes, new trees shall be planted in order to maintain minimum tree canopy as specified on the approved development or preliminary subdivision plan.

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11. At the time the developer turns control of the homeowners association over to the homeowners, the developer shall provide sufficient funds to ensure there is no less than \$3,000 cash in the homeowners association account. The subdivision performance bond may be required by the planning Commission to fulfill this funding requirement.

12. 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.

13. When limits of disturbance are shown on the plan, a note shall be placed on the preliminary plan and construction plan that states, "Construction fencing shall be erected at the edge of the limits of disturbance area, prior to any grading or construction activities. The fencing shall remain in place until all construction is completed. No parking, material storage, or construction activities shall be permitted within the fenced area."

The vote was as follows:

Yes: Carlson, Ferguson, Tomes, Brown, Peterson, and Jarboe

Absent: Smith, Gazaway, and Lewis

Abstain: None

No: None

Recuse: Howard

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PUBLIC HEARING

CASE NUMBER 16ZONE1053

Project Name: The Woods of Farnsley Moorman
Location: 6635 Woods Mill Drive
Owner(s): Corcoran Home Building & Remodeling
Applicant: Corcoran Home Building & Remodeling
Representative(s): Land Design & Development; Bardenwerper, Talbott & Roberts, PLLC
Project Area/Size: 13.2 acres
Jurisdiction: Louisville Metro
Council District: 14 – Cindi Fowler
Case Manager: Joel P. Dock, 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 meeting 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:

01:15:38 Joel Dock presented the case (see Staff Report and recording for detailed presentation).

The following spoke in favor of the request:

Nick Pregliasco, 1000 N Hurstbourne Pkwy., Louisville, KY 40223
Kevin Young, 503 Washburn Avenue, Louisville, KY 40222

Summary of testimony of those in favor:

01:21:45 Nick Pregliasco spoke on behalf of the applicant and showed a brief presentation.

01:29:43 Kevin Young with Land Design and Development spoke about the request and stated that trees have already been planted along Moorman Road so that a significant buffer will be established by the time buildings are constructed on this side of the site.

01:31:30 Commissioners' deliberation

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01:34:29 On a motion by Commissioner Brown, seconded by Commissioner Peterson, the following resolution was adopted:

Change in zoning from R-5A Multi-family Residential to PRD Planned Residential Development

WHEREAS, the Louisville Metro Planning Commission finds that the Woods of Farnsley Moorman residential community dates back to 2003 when a condominium development was approved for this site in case #9-45-01VLW and case #10-21- 01; no greater number of homes is planned now than the number of condo units approved and set forth in the binding elements found in the Planning Commission's April 3, 2003 minutes, and

WHEREAS, the Commission further finds that this application is intended to save the Woods of Farnsley Moorman condominium community that has a good deal of the infrastructure already installed but where condominium construction came to a screeching halt when the catastrophic housing Recession occurred, which somewhat lingers to this day; the previous developer/builder ended up losing its development rights to its lender, at which point the lender tried various ways to find new builders to complete the Woods of Farnsley Moorman as a condominium community; however, that was just about impossible, in large part because the problem with condominium construction resulted from federal lending rules that were applied nationwide, not just in those states (such as Florida, Arizona and Nevada) where the real condominium crisis occurred, and

WHEREAS, the Commission further finds that because very little changes in what is now being presented to the Planning Commission over what was originally approved, the modest concessions that are being requested in terms of a waiver for the maximum number of contiguous units resulting from this being originally designed as an attached housing community, represent no negative impacts on the greater community or anyone living nearby and consistent with what was approved and built; complete demonstration with all applicable Guidelines and Policies of the Comprehensive Plan is being fully demonstrated, as further evidenced by the revised detailed district development plan (RDDDP) and preliminary subdivision plans filed with this application and as further explained at the LD&T meeting and the Public Hearing in this case, and

WHEREAS, the Commission further finds that as part of this discussion, it is important again to know that the number of homes currently under consideration at Woods of Farnsley Moorman consist of only four additional homes than originally approved, and the traffic and transportation analysis approved at the time, considering existing infrastructure, can still accommodate both what is approved and what is proposed, and

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WHEREAS, the Commission further finds that the subject property lies within the Neighborhood Form District and is located on Moorman Road; the proposed PRD Subdivision is essentially the same as the originally approved Woods of Farnsley Moorman partially developed condominium development; gross density will be well less than allowed and below the high density range; the new proposed buildings will blend compatibly with the original constructed portion of the Woods of Farnsley Moorman development, and

WHEREAS, the Commission further finds that perimeter setbacks and landscape buffer areas are provided along all property lines as required by the Land Development Code (LDC); all buffering and other compatibility issues were addressed with the original RDDDP approval and as partially constructed, with only modest changes being made as part of this proposed RDDDP, and

WHEREAS, the Commission further finds that the application complies with the overall Intents of and specifically with Policies 1, 4, 5, 6, 11, 13, 14 and 15 of Guideline 2 of the for all the reasons listed above and because the proposal is very similar to the originally approved, and partially constructed, condominium development part of the prior rezoning; this proposal will allow the stalled condominium development to again move forward and be fully constructed; all condominium owners agreed to the partition of the remaining property from the condominium regime evidenced by their signatures on the partition documents as recorded; future residents will also support the businesses and services in nearby activity centers to the east and along Dixie Highway; and parking is compact and will be provided on the individual lots in the subdivision in driveways and garages; internal open space areas are included on the RDDDP, and

WHEREAS, the Commission further finds that the proposed subdivision complies with all of the applicable Intents and Policies 1, 2, 3, 5, 6, 7, 8, 9, 10, 12, 13, 14, 15, 21, 22 and 23 of Guideline 3 because this residential subdivision is almost the same as the original condominium development originally approved and anticipated and adds to the mixture of housing types, sizes and styles while still being design-compatible in terms of scale and building materials with the neighboring properties and with the partially development Woods of Farnsley Moorman condominium property; the proposed subdivision does not involve any known nuisances, such as odors, noises, lighting, aesthetics or traffic different than what already exists in the greater area or as originally proposed; setbacks will include compatible side and rear yards, and the tree canopy and landscape regulations will apply; and the RDDDP/preliminary subdivision plan, presented with this application and at the public hearing, demonstrate all that, and

WHEREAS, the Commission further finds that the proposed subdivision complies with all applicable Intents and Policies 1, 2, 3, 4, 5, 6, and 7 of Guideline 4 and Policies 1

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and of Guideline 5 because, unlike most standard single-family subdivisions, this one includes some 3.3 acres of open space on a site just 13 acres in size, conserving some natural resources and features, providing for passive outdoor activities off residents' individual home lots; that assures for better buffers and a far superior neighborhood feel; the homeowners association will maintain these open areas; and there are no historic resources on the site, and

WHEREAS, the Commission further finds that the proposed subdivision complies with all of the applicable Intents and Policies 2, 3, and 11 of Guideline 6 because this proposed subdivision helps to ensure the availability of residential building lots where lots are in demand; the existing condominium regime has been stalled forever, and no parties came forward to acquire the developer rights to continue the existing condominium development while the property was owned/controlled by the Bank; now the applicant controls the site which is surrounded by like-kind subdivisions, which makes it an infill single-family residential site, appropriate for the area in a community where new single-family housing is in demand; this property is also in a somewhat older area of town in need of new residential housing to serve the businesses on Dixie Highway corridor; and all owners agreeing to partition this property from the condominium regime also keeps those owners from having exceptionally high assessments to maintain a large property in a regime without sufficient units to pay for the maintenance of same, and

WHEREAS, the Commission further finds that the proposed subdivision complies with all of the applicable Intents and Policies 1, 2, 4, 6, 9, 11, 12, 13, 14, 15, and 18 of Guideline 7; Policies 4, 5, 7, 8, 9, 10 and 11 of Guideline 8; Policies 1, 2, 3 and 4 of Guideline 9; and Policies 1, 2, 3, 4, 6, and 8 of Guideline 12 because the original approved condominium development had private roads, many of which were built many years ago; the current proposed subdivision uses these partially developed existing roads as previously recorded via private access easements; sidewalks are already constructed along the frontage of the property and through the developed portion of the condominium regime; sidewalks will be installed in the subdivision as shown on the proposed RDDDP/subdivision plan; where sidewalks have been constructed, where public transit could exist, although probably doesn't (as that is determined by TARC alone, not the applicant and not the Planning Commission), where sewer, water and other utilities already exist, where road capacity exists, and in close proximity to jobs and shopping in all directions; further, this subdivision has been reviewed by Metro Transportation Planning Services personnel, who gave their stamp of preliminary approval prior to its docketing for Planning Commission review; that assures that all of these applicable Public Works standards are complied with, including Policies of the 2020 Land Development Code (LDC); and all required right of way was previously dedicated and will meet at Public Works and Transportation Planning requirements, and

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WHEREAS, the Commission further finds that the proposed subdivision will assure that both existing Tierney Avenue access and new subdivision streets continue and are constructed to operate safely and function pretty much as previously approved because a low traffic-generating use is proposed here; thus, all negative traffic impacts are avoided with this development; and, as noted, design of the site, as shown on the RDDDP/preliminary subdivision plan accompanying this application assures that corner clearances, driveway access, median openings, cross connections, etc. are provided as required -- that is, except as some disconnectivity to existing adjoining properties and streets is desired and as may be allowed in order to assure that no, or limited, cut-through traffic adversely affects this proposed subdivision or within adjoining ones as previously approved, and

WHEREAS, the Commission further finds that the proposed subdivision complies with all applicable Intents and Policies 1, 3, 6, 7, 10 and 11 of Guideline 10 and Policies 3 and 5 of Guideline 11 because MSD will require that post-development peak rates of stormwater runoff do not exceed pre-development peak flows, which is accomplished through on-site detention; thus, new impervious areas will not have a negative impact on existing stormwater systems; also, MSD has given its stamp for preliminary approval the RDDDP before it was set for Planning Commission review; and at time of construction, the proposed subdivision will need to include water quality measures to address the new MSD water quality standards; and any new construction will have to comply with MSD's soil erosion and sediment control standards, and

WHEREAS, the Committee further finds that the proposed subdivision complies with the Intent and applicable Policies 1, 2, 4, 5 and 6 of Guideline 13 because the local LDC requires tree canopies, certain kinds of landscaping for certain kinds of uses and screening and buffering of incompatible uses; and the LDC will be fully complied with, and

WHEREAS, the Commission further finds that, based the staff report, the applicant's findings of fact distributed at today's meeting, and the evidence and testimony presented today, that all of the applicable Guidelines of Cornerstone 2020 and the Comprehensive Plan are being met; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the change in zoning from R-5A Multi-family Residential to PRD Planned Residential Development Family be **APPROVED**.

The vote was as follows:

Yes: Ferguson, Tomes, Howard, Carlson, Brown, Peterson, and Jarboe

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Absent: Smith, Gazaway, and Lewis

Abstain: None

No: None

01:35:13 On a motion by Commissioner Brown, seconded by Commissioner Peterson, the following resolution was adopted:

**Major Preliminary Subdivision Plan &
Revised Detailed District Development Plan**

WHEREAS, the Louisville Metro Planning Commission finds that the design of the proposed subdivision respects the environmental features on site. ACOE approval and permit has been provided and incorporated into the record of this case for potential wetlands, and

WHEREAS, the Commission further finds that provisions for safe and efficient vehicular and pedestrian transportation has been provided. An internal network of walkways will allow for the movement of pedestrians within the site and to an abutting open space. Sidewalk will be provided where previously absent along Moorman Road. The nearest transit stop is route 18 located one-half mile from the subject site near Valley Station Shopping Center and operates during peak weekday hours, and

WHEREAS, the Commission further finds that open space is being provided as required per the PRD, Planned Residential Development standards. Over three acres of open space is being provided on the thirteen acre site, and

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

WHEREAS, the Commission further finds that the overall site design and land uses are compatible with the existing and future development of the area. Renderings provided by the applicant appear to be consistent with design of nearby structures and the previous proposal to create a multi-family development with attached units. Appropriate transitions are provided between abutting development, and

WHEREAS, the Commission further finds that the development plan conforms to applicable guidelines and policies of the Comprehensive Plan as Guideline 3, Policy 1 calls for compatibility of all new development and redevelopment with the scale and site

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design of nearby existing development and with the pattern of development within the form district. Guideline 3, Policy 3 encourages residential character that is compatible with adjacent residential areas. Allow a mixture of densities as long as their designs are compatible. Adjacent residential areas in different density categories may require actions to mitigate nuisances and provide an appropriate transition between the areas. The immediately surrounding neighborhood is primarily single-family residential lots of varying sizes over 6,000 square feet. The proposal adds diversity to the housing stock in the area through the creation of smaller lots that minimize maintenance commonly associated with homeownership and residential lots, and

Waiver of Land Development Code, section 5.3.1.D.1.b.vi to exceed four contiguous attached units

WHEREAS, the Commission further finds that the waiver will not adversely affect adjacent property owners because the originally approved, and partially constructed, Woods of Farnsley Moorman condominium development had up to 6 contiguous units throughout the development, which this proposal is intended to finish; four of the five currently constructed condominium regime buildings, which this property is a part of have 6 contiguous units, the last existing building has 4 contiguous buildings; and the just continues the existing development scheme, and

WHEREAS, the Commission further finds that the waiver will not violate the Comprehensive Plan for all the reasons set forth in the Detailed Statement of Compliance with all applicable Guidelines and Policies of the Cornerstone 2020 Comprehensive Plan filed with the original rezoning application and approved detailed district development plan for Woods of Farnsley Moorman, and

WHEREAS, the Commission further finds that the extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because the waiver request is to continue the development as it was originally approved as a condominium regime and will match the existing constructed buildings; the only reason this requires a waiver is because of the change of ownership from a condominium regime to a PRD subdivision where the owners own their lot and home rather than the interior enclosed space, otherwise, the waiver is not required, and

WHEREAS, the Commission further finds that strict application of the provisions of the regulation would deprive the applicant of a reasonable use of the land or would create an unnecessary hardship on the applicant because it would prohibit the applicant from continuing to construct the buildings as they were originally constructed by virtue of the change of ownership to lots from condominium units, and

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WHEREAS, the Commission further finds that, based the staff report, the applicant's findings of fact distributed at today's meeting, and the evidence and testimony presented today, that all of the applicable Guidelines of Cornerstone 2020 and the Comprehensive Plan are being met; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE (1)** the Major Preliminary Subdivision Plan, **(2)** the Revised Detailed District Development Plan, and **(3)** the Waiver of Land Development Code, section 5.3.1.D.1.b.vi to exceed four contiguous attached units, **SUBJECT** to the following binding elements:

Binding Elements

1. The development shall be in accordance with the approved district development plan and agreed upon binding elements unless amended pursuant to the Zoning District Regulations. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. There shall be no direct vehicular access to Moorman Drive
3. No outdoor advertising signs, small free-standing signs, pennants, balloons, or banners shall be permitted on the site.
4. There shall be no outdoor storage on the site.
5. Outdoor lighting shall be directed down and away from surrounding residential properties. Lighting fixtures shall have a 90-degree cutoff and height of the light standard shall be set so that no light source is visible off-site.
6. 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.
7. Before any permit (including but not limited to building, parking lot, change of use or alteration permit) is requested:
 - a. The development plan must receive full construction approval from Louisville Metro Department of Codes and Regulations Construction Permits and Transportation Planning Review and the Metropolitan Sewer District.

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- 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 permit for building or any clearing/grading activities. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - c. A major subdivision plat creating the lots and roadways as shown on the approved district development plan shall be recorded prior to issuance of any building permits, except that grading/clearing and foundation only permits may be issued to ensure the accuracy of property lines as they relate to common side walls for residential units.
8. 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.
9. 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.
10. 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.
11. If work is required within the easements causing removal or damage of landscape materials, the property owner shall be responsible for replacement of materials according to the approved landscape plan.
12. The site shall be developed in accordance with the tree preservation areas delineated on the tree preservation/landscaping plan. Any modification of the tree preservation plan requested by the applicant may be approved by the designated DPDS staff if the changes are in keeping with the intent of the approved tree preservation plan.

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13. The following note shall be provided within the deed restrictions for the subject site prior to recording of the record plat:
 - a. Tree Canopy Protection Areas (TCPAs) are individual trees and/or groupings of trees (trees may be existing or proposed) designated to meet the Tree Canopy requirements of Chapter 10 Part 1 of the Land Development Code (LDC), and are to be permanently protected. There shall be no disturbance or removal of any trees in the TCPAs identified on the tree preservation/landscape plan on file in the offices of the Planning Commission. All clearing, grading, and fill activity in these areas must be in keeping with restrictions established at the time of preliminary plan approval. No further clearing, grading, construction or other land disturbing activity shall take place beyond pruning to improve the general health of the tree or to remove dead or declining trees that may pose a public health and safety threat. As trees within TCPAs are lost through natural causes, new trees shall be planted in order to maintain minimum tree canopy as specified on the approved preliminary subdivision plan.
14. Prior to the recording of the record plat, copies of the recorded documents listed below shall be filed with the Planning Commission.
 - a. Articles of Incorporation filed with the Secretary of State and recorded in the office of the Clerk of Jefferson County and the Certificate of Incorporation of the Homeowners Association.
 - b. A deed of restriction in a form approved by Counsel to the Planning Commission addressing responsibilities for the maintenance of common areas and open space, maintenance of noise barriers, maintenance of WPAs, TCPAs and other issues required by these binding elements / conditions of approval.
 - c. Bylaws of the Homeowner's Association in a form approved by the Counsel for the Planning Commission.
15. At the time the developer turns control of the homeowner's association over to the homeowners, the developer shall provide sufficient funds to ensure there is no less than \$3,000 cash in the homeowner's association account. The subdivision performance bond may be required by the Planning Commission to fulfill this funding requirement.
16. Moorman Road pavement width shall be widened to 12 feet from center adjacent to the subject property, and a 6-8 foot earthen shoulder shall be constructed along the frontage of the subject property, as required by the Director of Metro Public Works.

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These improvements shall be completed prior to requesting a certificate of occupancy for any structure on the subject property.

The vote was as follows:

Yes: Ferguson, Tomes, Howard, Carlson, Brown, Peterson, and Jarboe

Absent: Smith, Gazaway, and Lewis

Abstain: None

No: None

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PUBLIC HEARING

CASE NUMBER 16ZONE1077

Project Name:	Signature Point
Location:	1111 Rose Hill Lane
Owner(s):	PBI Bank, Inc.; Signature Point Development, LLC
Applicant:	Elite Homes, Inc.
Representative(s):	Bardenwerper, Talbott, & Roberts, PLLC – Bill Bardenwerper
Project Area/Size:	88.5 acres (Total); 1.6 acres (Tract 4)
Existing Zoning District:	R-5A, R-6, & PRD
Existing Form District:	N, Neighborhood
Jurisdiction:	Louisville Metro
Council District:	20 – Stuart Benson
Case Manager:	Joel P. Dock, 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 meeting 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:

01:37:10 Joel Dock presented the case (see Staff Report and recording for detailed presentation).

The following spoke in favor of the request:

Nick Pregliasco, 1000 N Hurstbourne Pkwy., Louisville, KY 40223
Kevin Young, 503 Washburn Avenue, Louisville, KY 40222

Summary of testimony of those in favor:

01:51:41 There was discussion between Mr. Pregliasco, Mr. Young, and the Commissioners about moving the property line around Tract 4 back from the street and if the variance measurements could be approved by PDS Staff.

01:59:14 Mr. Pregliasco spoke on behalf of the applicant and showed a brief presentation.

02:08: 20 Commissioners' deliberation

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02:09:33 On a motion by Commissioner Brown, seconded by Commissioner Howard, the following resolution was adopted:

Change-in-Zoning from R-5A Multi-Family Residential to R-6 Multi-Family Residential

WHEREAS, the Louisville Metro Planning Commission finds that the existing condos are zoned R-5A, but the applicant is proposing to change the zoning to R-6 in order to dedicate the last remaining private streets in the development as public streets; and the rezoning is required so that, after dedication, the remaining existing condominium property complies with the floor-area ratio requirements of the zoning district, and

WHEREAS, the Commission further finds that originally, the entire northern portion of the overall Signature Point development property was included in the condominium regime; after the real estate recession and the condominium market stalled, Elite Homes worked with the 20 condominium owners to partition and remove the remainder of the property from the condominium regime such that it could be developed as a Planned Residential District (PRD) subdivision; Elite is actively building and selling new homes, thus reinvigorating this overall development; at the creation of the condominium regime, all streets were proposed as private streets, but once converted to a subdivision, the remaining streets were converted to publicly dedicated streets; at the time, the only streets that could not be publicly dedicated were the ones immediately surrounding the existing condominium regime as a dedication would cause the condominium regime to violate the required Floor Area Ratio of the existing zoning district, which cannot be waived; and as a result, in order to dedicate these streets, this rezoning is required; and there is no other proposed development or change to the existing condominium regime property other than the dedication of the private streets, and

WHEREAS, the Commission further finds that the rezoning plan includes dedicating the portions of Signature Point Drive, Stony Point Lane, Tulip Hill Way and Rose Hill Lane, which has the corresponding benefit to the condominium owners of eliminating any future maintenance obligations; and no other change to the existing condominium regime is proposed, and

WHEREAS, the Commission further finds that the subject property lies within the Neighborhood Form District and is located at the northwest corner of Rose Hill Lane and Signature Point Drive; no proposed changes are being made to the existing townhome style condominium units built over 10 years ago, which will remain as is; these 2-story buildings have garages; gross density will be on the low side of the high density range; the current buildings are constructed with attractive durable building

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materials and feature high-end architectural details; the existing buildings blend compatibly with the remainder of the Signature Point development, and the rezoning will not result in any additional residential units from the 20 condominium units currently existing on the property, and

WHEREAS, the Commission further finds that perimeter setbacks and landscape buffer areas are provided along all property lines as required by the Land Development Code (LDC); and all buffering and other compatibility issues were addressed during the original development plan approval as part of the original rezoning and as constructed, and

WHEREAS, the Commission further finds that the application complies with the overall Intents of and specifically with Policies 1, 4, 5, 7, 11, 13, 14 and 15 of Guideline 2 of the for all the reasons listed above and because no changes are proposed to the existing condominium regime property as built and as approved as part of the original rezoning of this property; further, dedicating the streets to public use will make efficient use of available property that lies within the Neighborhood Form District; this existing development is located in an extremely popular, very robust new residential development where residents currently seek new housing options that have easy access to the Shelbyville Road commercial center and such nearby workplace areas as along Shelbyville Road and North English Station Road; future residents will also support the businesses and services in nearby activity centers east and these also nearby west of the Snyder Freeway along Shelbyville Road; parking is compact and shared, and walking and biking are convenient; and internal open space focal points are included on the overall development plan, and

WHEREAS, the Commission further finds that the existing condominium community conforms with the overall Intents of and specifically with Policies 1, 2, 3, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 21, 22, 23, and 28 of Guideline 3 for all the reasons described above and because this existing condominium community is in a density range and design comparable to other nearby communities and the balance of the Signature Point development; buildings were constructed with attractive building materials comparable to residential communities in the area; and buildings are oriented toward the street, and

WHEREAS, the Commission further finds that sidewalks are provided where required, and accommodations are made for pedestrian and bicycle transportation as well as the handicapped and elderly; odors won't exist as they might in a commercial or industrial development; air quality concerns related to traffic congestion or delay will be mitigated by the fact that this is an existing residential development and that roads and sidewalks in the overall Signature Point development are efficiently organized to control traffic flow and prevent delays; refuse is picked up on a regular basis; lighting is residential in

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character with LDC regulations; and all signage is and will be in conformance with LDC regulations, and

WHEREAS, the Commission further finds that the existing condominium community conforms with the overall Intents of and specifically with Policies 1, 3, 5, 6 & 7 of Guideline 4 and with the Intents of Guideline 5 for all the reasons described above and because it features open space for this development as part of the overall Signature Point development with a pool, clubhouse, dog park, etc. for which the condominium owners have access and contribute monthly; that open space area is available for the passive recreational enjoyment by residents and serves as a gathering and recreation area by the residents; landscaping is also provided and trees installed around the buildings; setbacks and buffers along property lines will ensure good transitions between the proposed community and existing land uses; maintenance of landscaping, natural and open space areas will be performed by the condominium association on behalf of the condominium owners as set forth in the Master Deed for the condominium community; the common Signature Point development community features are maintained by a master association created to maintain same; and this maintenance arrangement results in a higher and more consistent level of maintenance of the open spaces, and

WHEREAS, the Commission further finds that the existing condominium community conforms with the overall Intents of and specifically with Policies 1, 2 and 6 of Guideline 6 because, as noted above, the existing residents support the businesses, services, schools and churches in and around the nearby activity center of the very robust City of Middletown, an increasingly popular place to work, live and play; this proposal will create a unified system of public streets in the overall development instead of having four private streets in a development with all public streets; the current situation provides serious issues and concerns as to maintenance and access rights that will be solved with this rezoning and the dedication as public streets; the applicant will bond the remaining work to be performed on the streets prior to dedication and acceptance of same; and this development has easy access to Shelbyville Road and I-265 and several other roads in the area, and from there to other Louisville employment and commercial centers, and

WHEREAS, the Commission further finds that the existing condominium community conforms with the overall Intents and applicable Policies of Guidelines 7, 8 and 9 because the proposed Detailed District Development Plan (DDDP) has been designed in conformance with all Metro Public Works and Transportation Planning design policies; good internal circulation, appropriate access, sight distances, corner clearances and parking are provided and have been built for some time; and S. English Station and Shelbyville Roads continue to have adequate traffic-carrying capacity, and

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WHEREAS, the Commission further finds that the existing condominium community conforms with the overall Intents and applicable Policies of Guidelines 10, 11 and 12 because all drainage will run to internal catch basins and then to sufficiently sized detention basins, and from there to an existing drainage channel and in that way will comply with all MSD storm water management requirements; this DDDP received the preliminary stamp of approval by MSD prior to docketing for LD&T and Planning Commission review; Louisville Water Company provides water to the site; MSD water quality regulatory requirements have been addressed; and air quality is addressed by virtue of the referenced shorter commuting distances explained hereinabove, and

WHEREAS, the Commission further finds that the existing condominium community conforms with the overall Intents and applicable Policies of Guideline 13 for all the reasons described above and because landscaping has been installed and trees planted; open space within the larger development is preserved for a positive natural appearance and for passive recreational enjoyment by residents; and tree canopy requirements have been met as part of the overall development of the site, and

WHEREAS, the Commission further finds that the existing condominium community conforms with the overall Intents and applicable Policies of Guideline 14 because, as noted above, water, sewer, electric, phone and cable service connections are available by nearby connection to ensure a reduced cost for infrastructure, and

WHEREAS, the Commission further finds that the Commission further finds that, based the staff report, the applicant's findings of fact distributed at today's meeting, and the evidence and testimony presented today, that all of the applicable Guidelines of Cornerstone 2020 and the Comprehensive Plan are being met; now, therefore be it

RESOLVED, the Commission further finds that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the change in zoning from R-5A Multi-Family Residential to R-6 Multi-Family Residential be **APPROVED**.

The vote was as follows:

Yes: Carlson, Ferguson, Tomes, Brown, Howard, Peterson, and Jarboe

Absent: Smith, Gazaway, and Lewis

Abstain: None

No: None

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02:10:30 On a motion by Commissioner Brown, seconded by Commissioner Howard, the following resolution was adopted:

Revised General District Development/Major Preliminary Subdivision Plan & Revised Detailed District Development Plan

WHEREAS, the Louisville Metro Planning Commission finds that soil erosion and sedimentation control plan will be implemented as recommended by MSD and USDA Soil Conservation Service. No additional natural resources appeared to be present on the subject site. Tree canopy will be provided as required by the Land Development Code, 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. An interconnected system of public walks and open space will allow for the safe movement of pedestrians throughout the development and provide outdoor recreation. The subject site contains both public and private roads. A perpetual easement of record in DB 10183, PG 535 allows for the movement of vehicles and pedestrians across all tracts shown on the development plan. Connection to the public walk will be provided and sidewalks will be completed across the frontage. Additionally, an easement for a TARC boarding area will be provided to accommodate future connection to public transit service, and

WHEREAS, the Commission further finds that open space is being provided in excess of the minimum requirements of the Land Development Code. The site offers internal walking paths, a combination of recreational amenities, open space, yards, dog parks, and common areas that benefit residents, guests, and the overall well-being of the community, 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 surrounding area in both scale and design. The subject site abuts a school and is adjacent to a mixture of single-family and multi-family developments. The development provides a variety of housing types and options for potential residents within proximity to an activity center located at Shelbyville Road and the Parklands of Floyds Fork, and

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WHEREAS, the Commission further finds that the development plan conforms to applicable guidelines and policies of the Comprehensive Plan as Guideline 3, Policies 1, 3, 10, & 11 encourage that all new residential development having a mixture of densities be compatible with the surrounding area, provide a variety of housing options, and be appropriately located along transit corridors. The proposed development will provide a variety of housing types and options for both renters and potential home-owners within a connected community along a collector level roadway, and

Variances:

LDC section 5.3.1.C to encroach into the required 15' Front and Street Side yards
LDC section 4.4.3.A.1.a.i to allow a fence in the street side/front yards to exceed 48", but to not exceed 5'

WHEREAS, the Louisville Metro Planning Commission finds that the variance will not adversely affect the public health, safety or welfare because this is an existing condominium community that was previously approved; the only change now is to allow the existing condominium townhome building to remain only under a different zoning regulation for the sole purpose of dedicating the last remaining private streets in the overall development; and the variance is only required due to the creation of a lot line that wouldn't exist if the streets remain private, and

WHEREAS, the Commission further finds that the variance will not alter the essential character of the general vicinity because as stated above, the development will remain the same, utilizing the infrastructure and buildings already in place; and there are no proposed changes to the buildings, layout, etc. only to dedicate the streets, and

WHEREAS, the Commission further finds that the variance will not cause a hazard or a nuisance to the public because this variance does not involve a hazard or nuisance issue, but rather involves the same buildings remain as they have been since they were originally constructed as the first buildings in the development, and

WHEREAS, the Commission further finds that the variance will not allow an unreasonable circumvention of the requirements of the zoning regulations because as stated, this application pertains to use of a different regulation to address a floor-area ratio issue which prohibits the roads being publicly dedicated; once publicly dedicated the remaining condominium property would violate the existing zoning floor area ratio, which cannot be waived; and the sole purpose is to dedicate the private streets around the buildings to avoid future issues with maintenance, snow removal, etc.; rezoning this small, existing development within Signature Point and removing the portions of Signature Point Drive, Stony Point Lane, Tulip Hill Way and Rose Hill Lane from the condominium regime, eliminates future maintenance obligations by the condominium regime, whereas the remaining roads are publicly dedicated; and these roads will be

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bonded until completed; and no other change to the existing condominium regime is proposed, and

WHEREAS, the Commission further finds that the variance arises from special circumstances, which do not generally apply to land in the general vicinity because, as stated, this project involves rezoning the existing multi-family zoned condominiums in order to address a floor-area ratio issue that otherwise maintains a short stretch of roads as private where the rest are public, and

WHEREAS, the Commission further finds that strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create unnecessary hardship because the applicant would otherwise be unable to dedicate the only remaining privately maintained streets within the entire Signature Point development, and

WHEREAS, the Commission further finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the regulation but rather is the result of addressing the floor-area ratio issue that by rezoning this small portion of the overall development, removes Signature Point Drive, Stony Point Lane, Tulip Hill Way and Rose Hill Lane from the condominium regime, which has the corresponding benefits of eliminating future maintenance obligations of the condo owners, and

WHEREAS, the Commission further finds that, based the staff report, the applicant's findings of fact distributed at today's meeting, and the evidence and testimony presented today, that all of the applicable Guidelines of Cornerstone 2020 and the Comprehensive Plan are being met; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE (1)** the Revised General District Development/Major Preliminary Subdivision Plan, **(2)** the Revised Detailed District Development Plan, **(3)** the Variance from Land Development Code (LDC), section 5.3.1.C to encroach into the required 15' Front and Street Side yards, and **(4)** the Variance from LDC, section 4.4.3.A.1.a.i to allow a fence in the street side/front yards to exceed 48", but to not exceed 5', noting that the final location of the property lines will be adjusted and reviewed at the Record Plat stage and will comply with all the floor area ratio requirements of the R6 zoning district, **SUBJECT** to the following binding elements:

Binding Elements

1. The development shall be in accordance with the approved district development plan and agreed upon binding elements unless amended pursuant to the Zoning District Regulations. Any changes/additions/alterations of any binding element(s) shall be

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submitted to the Planning Commission for review and approval; any changes/additions/alterations not so referred shall not be valid.

2. The development shall be in accordance with the approved Preliminary Subdivision Plan. No further subdivision of the land into a greater number of lots than originally approved shall occur without approval of the Planning Commission.
3. The signature entrance shall be submitted to the Planning Commission staff for review and approval prior to recording the record plat.
4. Lighting shall be maintained on the property in accordance with Chapter 4 Part 1.3 of the land development code.
5. Outdoor lighting in driving areas and parking lot illumination shall be either standard residential coach style lighting or of a type that directs light down and away from surrounding residential properties, which later type lighting fixtures shall have a 90-degree cutoff and height of the light standard shall be set so that no light source is visible from residential areas off-site. Building mounted fixtures shall be similar coach lamp style or porch lights with no wattage in excess of 75 watts. Light levels due to lighting on the subject site shall not exceed 0.5-foot candles measures at the property line. The applicant shall obtain certification by a qualified expert in measurement of lighting levels prior to requesting a certificate of occupancy. Such certification shall be maintained on site at all times thereafter.
6. 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.
7. A Tree Preservation Plan (TPP) shall be approved by Planning Commission staff prior to transmittal to the office responsible for permit issuance. No clearing and/or grading activities may take place until a Tree Preservation Plan has been approved. The Tree Preservation Plan shall identify and submit for approval by designated DPDS staff, a plan showing the location of Tree Preservation Areas on site (exclusive of areas dedicated as public right-of-way) prior to beginning any construction procedure (i.e., clearing, grading, demolition). All construction shall be conducted in accordance with the approved Tree Preservation Plan. A partial plan may be submitted to delineate clearing necessary for preliminary site investigation. All Tree Preservation Plans must be prepared in accordance with the standards set forth by DPDS.

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8. Before any permit (including but not limited to building, parking lot, change of use or alteration permit) is requested:
 - a. The development plan must receive full construction approval from Louisville Metro Department of Public Works and the Metropolitan Sewer District.
 - b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
 - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - d. A major subdivision record plat creating the lots and roadways as shown on the approved district development plan shall be recorded prior to issuance of any building permits.
 - e. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
9. 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.
10. If a building permit is not issued within two years 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.
11. 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.

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12. If work is required within the easements causing removal or damage of landscape materials, the property owner shall be responsible for replacement of materials according to the approved landscape plan.
13. The dumpster/compactor(s) shall not be emptied between the hours of 10 p.m. and 7 a.m.
14. The materials and design of proposed structures shall be substantially the same as depicted in the photos/rendering as presented at the 12/14/17 Development Review Committee hearing.
15. A 75-foot building setback shall be provided along S. English Station Road. No structures, except for approved signature entrance and fences shall be permitted.
16. The developer shall, at its expense, construct a 7-foot chain link fence with black vinyl coating with a variety of deciduous and evergreen trees planted along this fence line on 10-foot centers along the entire property line common to Christian Academy of Louisville property. The fence shall be constructed at the earliest of the following times: (A) before construction begins on the buildings along the north line of the subject property; or (B) one year after site work begins anywhere on the subject property. The fence shall be perpetually maintained by the developer or its successor (Condominium Council, Homeowner Association, etc.).
17. Construction fencing at least 6 feet tall shall be erected at the developer's expense along the entire common property line with Christian Academy of Louisville before any site work or construction work begins on the subject property. That fence shall be maintained thereafter by the developer until the fence described in the Binding Element No. 17 is constructed.
18. Developer shall reserve for Kentucky Department of Transportation acquisition up until December 31, 2007 the undeveloped land shown on the District Development Plan as presented at the October 17, 2002 Planning Commission meeting. Developer shall not file for any development plan approval, and KDOT shall have the right, but not the obligation, to acquire said land, Developer stating its intention in these signed binding elements to reach an agreed upon price with KDOT for the land, said land being further reserved in accordance with the District Development Plan by the developer for future KDOT improvements in the I-64/I-265 interchange.
19. Developer shall provide detention on site unless MSD decides that detention is not necessary or agrees to accept payment of the regional facility fee in lieu of detention or unless detention can be provided and reserved on future KDOT right-of-way as approved by MSD and KDOT.

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20. Before this Developer seeks a certificate of occupancy for its first building, if the road improvements previously required in Docket 9-28-01 and 9-20-01LW have not been made along U.S. 60 and South English Station Road as required by those two projects, then this Developer shall be responsible for making those South English Station Road and U.S. 60 road improvements, if any yet to be made. Provided, however, that the Planning Commission shall use its best efforts (with the assistance of the Public Works Department) to assist this Developer in obtaining reimbursement from the developers of the referenced projects for the costs of the road improvements previously imposed upon the developers in the referenced cases, prior to Public Works approval of construction plans for either of those two projects. Such improvements shall be made prior to issuance of the first certificate of occupancy.
21. In addition to the third (center turn) lane across the frontage of the development which this Developer is obligated to construct by virtue of a note on the approved district development plan, Developer shall also be responsible for constructing the third (center turn) lane from its property line north (in front of Christian Academy) along South English Station Road to the point along South English Station Road where the two lanes become three lanes in front of the Landis Lakes subdivision. Said improvements shall be completed prior to requesting the first certificate of occupancy for the development.
22. A noise study and mitigation measures, if any, as identified by the study shall be required prior to building permits for any residential structure within 250 feet of driving lanes along I-64 or I-265.
23. All new street name signs shall comply with the manual on Uniform Traffic Control Devices (MUTCD). The address number shall be displayed on a structure prior to requesting a certificate of occupancy for that structure.
24. At the time the developer turns control of the homeowner's association over to the homeowners, the developer shall provide sufficient funds to ensure there is no less than \$3,000 cash in the homeowner's association account. The subdivision performance bond may be required by the Planning Commission to fulfill this funding requirement.
25. Prior to the recording of the record plat, copies of the recorded documents listed below shall be filed with the Planning Commission:

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- a. Articles of Incorporation filed with the Secretary of State and recorded in the office of the Clerk of Jefferson County and the Certificate of Incorporation of the Homeowners Association.
- b. A deed of restriction in a form approved by Counsel to the Planning Commission addressing (responsibilities for the maintenance of common areas and open space, maintenance of noise barriers, maintenance of WPAs, TPAs) and other issues required by these binding elements / conditions of approval.
- c. Bylaws of the Homeowner's Association in a form approved by the Counsel for the Planning Commission.

The vote was as follows:

Yes: Carlson, Ferguson, Tomes, Brown, Howard, Peterson, and Jarboe

Absent: Smith, Gazaway, and Lewis

Abstain: None

No: None

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CLOSED SESSION

02:13:58 A motion was made by Commissioner Brown, seconded by Commissioner Carlson, to go into Closed Session to discuss pending litigation as allowed by KRS 61.810 (1) (c).

The vote was as follows:

Yes: Carlson, Ferguson, Tomes, Brown, Howard, Peterson, and Jarboe

Absent: Smith, Gazaway, and Lewis

Abstain: None

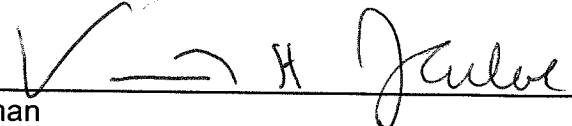
No: None

The Commission returned to Open Session. The Chair stated no action was taken during the Closed Session.

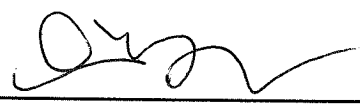
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ADJOURNMENT

The meeting adjourned at approximately 3:15 p.m.



Chairman



Division Director