

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO PLANNING COMMISSION
July 5, 2018**

A meeting of the Louisville Metro Planning Commission was held on July 5, 2018 at 1:00 p.m. at the Old Jail Building, located at 514 W. Liberty Street, Louisville, Kentucky.

Commission members present:

Vince Jarboe, Chair
Marilyn Lewis, Vice Chair
Jeff Brown
Rich Carlson
Lula Howard
Robert Peterson
Emma Smith
Donald Robinson

Commission members absent:

David Tomes

Staff Members present:

Emily Liu, Director, Planning and Design Director
Joe Reverman, Planning and Design Assistant Director
Brian Davis, Planning and Design Manager
Joel Dock, Planner II
Jay Lockett, Planner I
Tony Kelly, MSD
Travis Fiechter, Legal Counsel
John Carroll, Legal Counsel
Pamela M. Brashear, Management Assistant

The following matters were considered:

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APPROVAL OF MINUTES

JUNE 21, 2018 PLANNING COMMISSION REGULAR MEETING MINUTES

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

RESOLVED, that the Planning Commission does hereby **APPROVE** the minutes of its meeting conducted on June 21, 2018.

The vote was as follows:

YES: Commissioners Brown, Carlson, Howard, Lewis and Peterson

NOT PRESENT FOR THIS CASE: Commissioner Tomes

ABSTAINING: Commissioners Robinson, Smith and Jarboe

PLANNING COMMISSION MINUTES
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BUSINESS SESSION
CASE NO. 17ZONE1060

Request: Business Session deliberation in accordance with KRS 100.211(g)(2) for change in zoning from R-4 to C-2, landscape waiver, variance, and detailed district development plan. Public Hearing held June 7, 2018

Project Name: Storage Project

Location: 7500 Bardstown Road

Owner: Madge H. Chalmers Revocable Trust & Edward Harding, Jr.
9630 Ravenscroft Lane NW
Concord, NC 28027

Applicant: arc – Jason Sams
1517 Fabricon Boulevard
Louisville, Ky. 47130

Representative: arc – Jason Sams
1517 Fabricon Boulevard
Louisville, Ky. 47130

Jurisdiction: Louisville Metro

Council District: 22 – Robin Engel

Case Manager: Joel Dock, AICP, Planner II

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.)

Discussion

00:05:28 Mr. Dock stated this case was heard at the June 5, 2018 public hearing. There was a vote of 3 - yes, 3 - no and 1 abstention. This case is to be considered and voted on again with no additional testimony. Any changed vote must be based on the original evidence and testimony.

00:07:02 The commissioners decided not to change their original votes.

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

NO ACTION

PLANNING COMMISSION MINUTES
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BUSINESS SESSION
719 LYNN STREET
RELATED TO CASE NO. 17ZONE1066

Request: To allow the applicant to submit a pre-application
Staff Case Manager: Brian Davis, Planning and Design Manager

Agency Testimony:

00:14:24 Mr. Davis stated the request to change the zoning to C-2 was denied. A new tenant wants to pursue the same zoning change. The policy states one can't come back with a similar plan. The committee will determine if the plan is different, waive the rule and allow the applicant to submit a pre-application.

The following spoke in favor of this request:

Nicholas Pregliasco, Bardenwerper, Talbott and Roberts, 1000 North Hurstbourne Parkway, 2nd floor, Louisville, Ky. 40223

Summary of testimony of those in favor:

00:15:55 Mr. Pregliasco gave a power point presentation. The proposal is to allow a new use on site. Some of the concerns are screening, buffering and hours of operation. There will be no outdoor entertainment, but there will be outdoor dining. There is a proposed 8 foot wooden fence to help with noise and for screening purposes.

The commissioners discussed prior concerns. Mr. Pregliasco said there will be mitigation – no waivers, limited hours of operation, provide fence, etc.

Deliberation

00:30:23 Planning Commission deliberation.

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

On a motion by Commissioner Howard, seconded by Commissioner Lewis, the following resolution, based on 3.0203 #2B and the presentation heard today, was adopted.

RESOLVED, that the Louisville Metro Planning Commission does hereby allow the applicant to submit a pre-application.

The vote was as follows:

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719 LYNN STREET
RELATED TO CASE NO. 17ZONE1066

YES: Commissioners Brown, Howard, Lewis, Peterson, Robinson, Smith and Jarboe

NOT PRESENT AND NOT VOTING: Commissioner Tomes

ABSTAINING: Commissioner Carlson

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PUBLIC HEARING
CASE NO. 18MOD1005

Request: Modification of a Binding Element
Project Name: Glenview Trust
Location: 5900 US Highway 42

Owner: The Glenview Trust Company
Tawana Edwards
4969 US Highway 42, Suite 2000
Louisville, Ky. 40222

Applicant: The Glenview Trust Company
Tawana Edwards
4969 US Highway 42, Suite 2000
Louisville, Ky. 40222

Representative: Kyle P. Galloway
Duncan Galloway Egan Greenwald
9750 Ormsby Station Road, Suite 210
Louisville, Ky. 40223

Jurisdiction: Louisville Metro
Council District: 16 – Scott Reed
Case Manager: Jay Lockett, Planner I

Notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicants.

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

Agency Testimony:

00:38:36 Mr. Lockett discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Kyle Galloway, 9570 Ormsby Station, Suite 210, Louisville, Ky. 40223
Marty Merkel, 140 West Washington Street #409, Louisville, Ky. 40202

Summary of testimony of those in favor:

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00:41:04 Mr. Galloway gave a power point presentation. The design is substantially different and the parking is underneath the building. It is compatible with the neighborhood.

00:43:48 Mr. Merkel stated the new design is more traditional and compatible with the neighborhood.

Deliberation

00:45:06 Planning Commission deliberation.

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

On a motion by Commissioner Howard, seconded by Commissioner Peterson, the following resolution was adopted based on the standard of review and staff analysis.

WHEREAS, there are no changes to the approved development plan associated with this request. Tree canopy will be provided on the subject site per the provisions of the land development code; and

WHEREAS, there are no changes to vehicular or pedestrian transportation networks on or around the site associated with this request; and

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

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

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

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

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RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the modification of binding element number 9 as follows:

9. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the ~~June 16, 2016~~ **July 5, 2018** Planning Commission meeting.

The vote was as follows:

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

NOT PRESENT AND NOT VOTING: Commissioner Tomes

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PUBLIC HEARING
CASE NO. 18ZONE1010

Request: Change in zoning from C-1 to C-2 and a District
Development Plan with binding elements

Project Name: Jeff Wyler Auto

Location: 5244 Dixie Highway

Owner: DWSB Louisville, LLC
401 Milford Parkway, Suite A
Milford, Ohio 45150

Applicant: DWSB Louisville, LLC
401 Milford Parkway, Suite A
Milford, Ohio 45150

Representative: Bardenwerper, Talbot & Roberts, PLLC
Nick Pregliasco
1000 North Hurstbourne Parkway, 2nd floor
Louisville, Ky. 40223

Jurisdiction: Louisville Metro

Council District: 12- Rick Blackwell

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

Presented By: Brian Davis, Planning and Design Manager

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

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

Agency Testimony:

00:47:32 Mr. Davis discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Nick Pregliasco, Bardenwerper, Talbott and Roberts, 1000 North Hurstbourne Parkway, 2nd floor, Louisville, Ky. 40223
Paul Rini, 401 Milford Parkway, Suite A, Milford, Ohio 45150

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Summary of testimony of those in favor:

00:52:18 Mr. Pregliasco gave a power point presentation. The proposal is a new Honda dealership moving from down the street. There are no changes from the prior approved plan, but are working with “Dixie Do Over” (beautification project). The only concerns from neighbors was the building being vacant for over a year.

01:06:46 Mr. Rini stated the current facility is being leased and at the middle of 2019 the lease runs out. He said he doesn’t know what the owner will do with that property.

Deliberation

01:13:13 Planning Commission deliberation.

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

Zoning Change from C-1 to C-2

On a motion by Commissioner Brown, seconded by Commissioner Smith, the following resolution was adopted based on Cornerstone 2020, staff analysis, testimony heard today and the applicant’s findings.

WHEREAS, the Louisville Metro Planning Commission finds the proposal meets Guideline 1, Community Form because the proposal is consistent with existing development along Dixie Hwy in this area, which consists largely of auto sales. Other commercial uses include restaurants, retail and financial institutions; and

WHEREAS, the Louisville Metro Planning Commission finds the proposal meets Guideline 1, Community Form because there are existing sidewalks along the site frontage and a proposed pedestrian connection. This proposal is located along a high frequency transit corridor with a TARC stop on the north side of the frontage. The Dixie Hwy plan calls for pedestrian facilities especially where transit stops are located; and

WHEREAS, the Louisville Metro Planning Commission finds the proposal meets Guideline 1, Community Form because the proposal is reusing a large retail building and sharing an entrance with an existing outlot building; and

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WHEREAS, the Louisville Metro Planning Commission finds the proposal meets Guideline 1, Community Form because the use is compatible with those along the corridor. There is no low-density residential directly adjacent; and

WHEREAS, the Louisville Metro Planning Commission finds the proposal meets Guideline 1, Community Form because the proposal is located within the Suburban Marketplace Form District and within an existing site, therefore it is not expanding the existing corridor; and

WHEREAS, the Louisville Metro Planning Commission finds the proposal meets Guideline 2, Centers because the Dixie Hwy corridor is surrounded by residential development and has good accessibility from other parts of the city; and

WHEREAS, the Louisville Metro Planning Commission finds the proposal meets Guideline 2, Centers because the reuse of an existing building is compact, efficient use and is cost-effective; and

WHEREAS, the Louisville Metro Planning Commission finds the proposal meets Guideline 2, Centers because the proposal is reusing an existing building in a center but does not have a central feature because the site changes are minimal; and

WHEREAS, the Louisville Metro Planning Commission finds the proposal meets Guideline 2, Centers because this site shares an entrance with an outlot and has crossover access to adjacent properties; and

WHEREAS, the Louisville Metro Planning Commission finds the proposal meets Guideline 2, Centers because as the site is existing, the proposal is using existing infrastructure; and

WHEREAS, the Louisville Metro Planning Commission finds the proposal meets Guideline 2, Centers because the site proposes pedestrian access to the transit stop along its frontage; and

WHEREAS, the Louisville Metro Planning Commission finds the proposal meets Guideline 3, Compatibility because the building materials are similar to other newer commercial buildings in the area; and

WHEREAS, the Louisville Metro Planning Commission finds the proposal meets Guideline 3, Compatibility because this proposal is not a non-residential expansion into a residential area; and

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WHEREAS, the Louisville Metro Planning Commission finds the proposal meets Guideline 3, Compatibility because APCD has no issues with the proposal; and

WHEREAS, the Louisville Metro Planning Commission finds the proposal meets Guideline 3, Compatibility because the proposal has existing shared and crossover access; and

WHEREAS, the Louisville Metro Planning Commission finds the proposal meets Guideline 3, Compatibility because lighting will be in compliance with LDC standards; and

WHEREAS, the Louisville Metro Planning Commission finds the proposal meets Guideline 3, Compatibility because Dixie Hwy is a major arterial with transit access and a well-developed commercial corridor. The development is located near several commercial centers; and

WHEREAS, the Louisville Metro Planning Commission finds the proposal meets Guideline 3, Compatibility because there are no abutting uses that require property perimeter buffers and all height and setback requirements are complied with; and

WHEREAS, the Louisville Metro Planning Commission finds the proposal meets Guideline 3, Compatibility because there are no abutting uses that require property perimeter buffers and all height and setback requirements are complied with; and

WHEREAS, the Louisville Metro Planning Commission finds the proposal meets Guideline 3, Compatibility because all building heights, setbacks and lot dimensions are compatible with surrounding commercial development; and

WHEREAS, the Louisville Metro Planning Commission finds the proposal meets Guideline 3, Compatibility because parking is located along the street frontages and no parking or delivery areas are adjacent to residential; and

WHEREAS, the Louisville Metro Planning Commission finds the proposal meets Guideline 3, Compatibility because the proposal is utilizing an existing parking lot with minimal changes to the existing condition. The lot frontage for the site is also minimal; and

WHEREAS, the Louisville Metro Planning Commission finds the proposal meets Guideline 3, Compatibility because signs will meet Chapter 8 of the LDC; and

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WHEREAS, the Louisville Metro Planning Commission finds the proposal meets Guideline 4, Open Space because there are little to no existing natural features on the site; and

WHEREAS, the Louisville Metro Planning Commission finds the proposal meets Guideline 5, Natural Areas and Scenic and Historic Resources because there are little to no existing natural features on the site; and

WHEREAS, the Louisville Metro Planning Commission finds the proposal meets Guideline 5, Natural Areas and Scenic and Historic Resources because there are no hydric soils or slopes on site; and

WHEREAS, the Louisville Metro Planning Commission finds the proposal meets Guideline 6, Economic Growth and Sustainability because Dixie Hwy, a major arterial, is a highly trafficked commercial corridor; and

WHEREAS, the Louisville Metro Planning Commission finds the proposal meets Guideline 7, Circulation because roadway improvements are being made as part of a state project along Dixie Highway; and

WHEREAS, the Louisville Metro Planning Commission finds the proposal meets Guideline 7, Circulation because sidewalks are existing and a pedestrian connection is being made to the existing structure from Dixie Highway; and

WHEREAS, the Louisville Metro Planning Commission finds the proposal meets Guideline 7, Circulation because cross access to adjacent sites is adequate; and

WHEREAS, the Louisville Metro Planning Commission finds the proposal meets Guideline 7, Circulation because dedication of right of way is not required; and

WHEREAS, the Louisville Metro Planning Commission finds the proposal meets Guideline 7, Circulation because the applicant has sufficiently shown that parking requirements will be met; and

WHEREAS, the Louisville Metro Planning Commission finds the proposal meets Guideline 7, Circulation because cross access to adjacent sites is adequate; and

WHEREAS, the Louisville Metro Planning Commission finds the proposal meets Guideline 8, Transportation Facility Design because access is being achieved from the abutting public right of way, a major arterial; and

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WHEREAS, the Louisville Metro Planning Commission finds the proposal meets Guideline 8, Transportation Facility Design because this proposal is located on an existing roadway network that is sufficient; and

WHEREAS, the Louisville Metro Planning Commission finds the proposal meets Guideline 9, Bicycle, Pedestrian and Transit because sidewalks are existing and a pedestrian connection is being made to the existing structure from Dixie Highway; and

WHEREAS, the Louisville Metro Planning Commission finds the proposal meets Guideline 10, Flooding and Stormwater because MSD has no issues with the proposal; and

WHEREAS, the Louisville Metro Planning Commission finds the proposal meets Guideline 12, Air Quality because APCD has no issues with the proposal; and

WHEREAS, the Louisville Metro Planning Commission finds the proposal meets Guideline 14, Infrastructure because this area is fully developed and has adequate existing infrastructure for the proposal; and

WHEREAS, the Louisville Metro Planning Commission finds the proposal meets Guideline 14, Infrastructure because there is existing infrastructure in place for potable water; and

WHEREAS, the Louisville Metro Planning Commission finds the proposal meets Guideline 14, Infrastructure because the Health Department has no issues with the proposal; and

WHEREAS, this rezoning involves repurposing the existing vacant former Kroger store building to allow a Jeff Wyler new car auto dealership; and the applicant is proposing to remodel the interior of the existing 64,845 sf building to include 20 service bays, with indoor display and sales areas; and

WHEREAS, the proposed automobile dealership on this site is appropriate because Suburban Marketplace “often contain a single large-scale use or a cluster of uses within a master plan development”; also, Suburban Marketplace is a form characterized by predominantly industrial and office uses, meaning not entirely; and given that there are several nearby car dealerships, together they represent a large-scale use, and they are large employers requiring significant sized properties such as available at this abandoned and no longer viable large box retail use as a Kroger store; and

WHEREAS, the proposed automobile dealership complies with all of the applicable Intents and Policies 1, 2, 3, 4, 5, 7, 11, 13, 14, 15, and 16 of Guideline 2 because this site is next to an adjacent already properly zoned retail site next to a previously utilized

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Kroger retail center; this proposal for a new car dealership with very extensive investment in the dilapidated building involves an efficient use of land similarly used next door to the south and an investment in existing infrastructure; car buyers already visiting the existing nearby new car auto dealerships will have travel times and distances reduced when shopping for another similar brand next door; since this change of use from a Kroger retail center to a new auto dealership, with the adjoining retail businesses does not involve an isolated commercial use expansion; rather this proposal is an adaptive reuse of an existing large box retail building for which there is and have been, no demand, just like the other many vacant large box retail uses that end up being divided up for fitness centers and other uses; the activity center established by the new Honda dealership and other commercial facilities nearby is a revitalization of the existing activity center and not the creation of a new activity center; the addition of another automobile dealership enhances the mix of commercial uses already existing at this location; existing utilities will be utilized; and almost no changes are being made to the previously approved DDDP further reduces impacts; and

WHEREAS, the proposed automobile dealership complies with all of the applicable Intents and Policies 1, 2, 4, 5, 6, 7, 8, 9, 12, 21, 22, 23, 24, 28 and 29 of Guideline 3 because the proposed new automobile dealership replacing the existing vacant large box Kroger retail center is a compatible use in an area of large employment activities and other automobile dealerships reducing vehicle miles traveled; the proposed dealership building will include a very substantial renovation of the existing vacant Kroger building with almost no changes to the building or parking areas, reducing almost all potential impacts; the new Honda building will be highly attractive and a vast improvement for the area; high quality building materials will be used; odors and air quality emissions, traffic, noise, lighting and visual impacts are addressed by virtue of the fact there are almost no changes proposed to the existing site as shown on the DDDP and thus very low impact to the adjoining retail or residential uses; the accompanying DDDP and concept landscape plan on the colored-up site plan shown at the neighborhood meeting illustrates the appropriate setbacks with good screening and buffering with no waivers or variances requested; and lighting will be addressed and be fully Land Development Code compliant; and

WHEREAS, the proposed automobile dealership complies with all of the applicable Intents and Policies 1, 2, 3, and 6 of Guideline 6 because this site is no longer viable as a large box retail center, as demonstrated by the time it has been vacant, and one of very few that has significant available land at a high-traffic location to accommodate a new car dealership in an already existing activity center; this reduces costs of land development and further promotes an existing employment center with good access to a support population that will visit this new proposed auto dealership; and

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WHEREAS, the proposed automobile dealership complies with all of the applicable Intents and Policies 1, 2, 3, 4, 10, 11, 13, 14, 15 and 18 of Guideline 7, Policies 1, 3, 5, 6, 7, 9, 10 and 11 of Guideline 8, and Policies 1, 2, 3 and 4 of Guideline 9 because Dixie Highway has adequate traffic-carrying capacity for business growth, and a car dealership generates significantly less traffic than the prior Kroger retail center, particularly during peak hours, thus less customers than many retail uses of similar acreage; since roads systems are adequate, the issues to address, as addressed on the DDDP accompanying this application involve the issues of parking adequacy, alternative transportation modes, and whether internal traffic movements, internal parking arrangements and access from Dixie Highway as well as between adjoining sites are appropriately designed; the DDDP accompanying this application satisfies all of the design requirements of Metro Public Works and Transportation planning which are inherent in all three of these Guidelines; the DDDP received the preliminary stamp of approval from these agencies prior to public review; and almost no changes are proposed from the previously approved DDDP with no waivers or variances requested; and

WHEREAS, the proposed automobile dealership complies with all of the applicable Intents and Policies 1, 3, 6, 7, 10 and 11 of Guideline 10, Policies 3 and 5 of Guideline 11 and Policies 1, 4, 7, 8 and 9 of Guideline 12 because MSD requires that post development peak rates of runoff do not exceed pre-development conditions and that adjacent properties are not adversely affected by the subject site's new and through drainage from storm water run-off; the proposed DDDP received MSD's preliminary stamp of approval prior to public review; MSD has also established soil erosion and sediment control as well as water quality standards which must be met with this development's construction plans; as to all of the Policies associated with air quality, they are always addressed when commuting times and distances are reduced when new activities congregate as here in an existing activity center; and because almost no changes to the currently approved DDDP and site layout are proposed, very few of these issues will be applicable; and

WHEREAS, the proposed automobile dealership complies with all of the applicable Intents and Policies 1, 2, 3, 4, 5 and 7 of Guideline 13 because, as the concept landscape plan produced at the neighborhood meeting and accompanying this application demonstrate, and as will be included in the eventual landscape plan filed with DPDS post zoning approval, this site will comply with LDC landscape requirements; and

WHEREAS, for all the reasons explained at LD&T and the Planning Commission public hearing and also in the public hearing exhibit books on the approved detailed district development plan, this application also complies with all other applicable Guidelines and Policies of the Cornerstone 2020 Comprehensive Plan;

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RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council the change in zoning from C-1, Commercial to C-2, Commercial on 7.75 acres on property described in the attached legal description be **APPROVED**.

The vote was as follows:

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

NOT PRESENT AND NOT VOTING: Commissioner Tomes

Detailed District Development Plan and Binding Elements

On a motion by Commissioner Brown, seconded by Commissioner Peterson, the following resolution was adopted based on the Standard of Review and staff analysis and testimony heard today.

WHEREAS, there do not appear to be any environmental constraints or historic resources on the subject site; and

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

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

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

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

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

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

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
3. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
4. Before any permit (including but not limited to building, parking lot, change of use, site disturbance) is requested:
 - a. The development plan must receive full construction approval from Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. Encroachment permits must be obtained from the Kentucky Transportation Cabinet.
 - c. A minor subdivision plat or legal instrument shall be recorded dedicating additional right-of-way to Dixie Highway to provide a total of 65 feet from the centerline. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services prior to obtaining a certificate of occupancy. The right-of-way dedication shall be required 65 feet from the center line of pavement within 30 days of Metro Council approval for the rezoning. The right-of-way dedication may be by deed of conveyance or minor plat.
 - d. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a certificate of occupancy. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - e. A reciprocal access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be created

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between the adjoining property owners and recorded. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services prior to obtaining a certificate of occupancy.

5. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
6. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
7. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
8. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the July 5, 2018 Planning Commission meeting.
9. No idling of trucks shall take place within 200 feet of residential development. No overnight idling of trucks shall be permitted on-site.
10. All existing trees on the site shall be preserved.

The vote was as follows:

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

NOT PRESENT AND NOT VOTING: Commissioner Tomes

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PUBLIC HEARING
CASE NO. 18ZONE1012

Request: Change in zoning from R-4 to R-5 and a District Development Plan/Preliminary Subdivision Plan with binding elements

Project Name: Smyrna Parkway Subdivision
Location: 7905 Smyrna Parkway

Owner: The Believers Church Incorporated
7905 Smyrna Parkway
Louisville, Ky. 40228

Applicant: Welch Developers, LLC
301 Middletown Park Place, Suite A
Louisville, Ky. 40243

Representative: Mindel, Scott Association Inc.
Curtis Mucci
5151 Jefferson Boulevard
Louisville, Ky. 40219

Bardenwerper, Talbot & Roberts, PLLC
Nick Pregliasco
1000 North Hurstbourne Parkway, 2nd floor
Louisville, Ky. 40223

Jurisdiction: Louisville Metro
Council District: 23 – James Peden
Case Manager: Julia Williams, RLA, AICP, Planning Supervisor
Presented By: Brian Davis, Planning and Design Manager

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

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

Agency Testimony:

01:20:10 Mr. Davis discussed the case summary, standard of review and staff analysis from the staff report.

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The following spoke in favor of this request:

Nick Pregliasco, Bardenwerper, Talbott and Roberts, 1000 North Hurstbourne Parkway, 2nd floor, Louisville, Ky. 40223

Summary of testimony of those in favor:

01:24:24 Mr. Pregliasco gave a power point presentation. The church, previous owners, had certain features placed in the contract so the request would be compatible with the church and neighbors. The home will be removed and will serve as an entrance.

Deliberation

01:35:49 Planning Commission deliberation.

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

Zoning Change from R-4 to R-5

01:37:36 On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution was adopted based on Cornerstone 2020 staff analysis, testimony heard today and the applicant's findings.

WHEREAS, the Louisville Metro Planning Commission finds the proposal meets Guideline 1, Community Form because the proposal is located in an area dominated by single family residences and will be adding density to the area; and

WHEREAS, the Louisville Metro Planning Commission finds the proposal meets Guideline 1, Community Form because the proposal is not considered high density and the development is accessed from a collector level road, which is appropriate; and

WHEREAS, the Louisville Metro Planning Commission finds the proposal meets Guideline 1, Community Form because this proposal is for a similar density residential development as what currently existing in this neighborhood; and

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WHEREAS, the Louisville Metro Planning Commission finds the proposal meets Guideline 1, Community Form because sidewalks are being provided along the Smyrna Parkway frontage as well as throughout the site; and

WHEREAS, the Louisville Metro Planning Commission finds the proposal meets Guideline 2 Centers because this development is residential only but is increasing residential density near an activity center; and

WHEREAS, the Louisville Metro Planning Commission finds the proposal meets Guideline 2 Centers because the proposal is subdividing a large underutilized tract in order to create more housing near an activity center; and

WHEREAS, the Louisville Metro Planning Commission finds the proposal meets Guideline 2 Centers because this proposal is located .25 south of Outer Loop where a mix of commercial and neighborhood serving uses currently exist; and

WHEREAS, the Louisville Metro Planning Commission finds the proposal meets Guideline 2 Centers because this development is near a concentration of non-residential and specifically commercial properties; and

WHEREAS, the Louisville Metro Planning Commission finds the proposal meets Guideline 2 Centers because this proposal is within the Neighborhood form and near a cluster of uses that serve the neighborhood; and

WHEREAS, the Louisville Metro Planning Commission finds the proposal meets Guideline 2 Centers because this proposal has one access point for this development only, but a shared access in this location is not appropriate, due to the property being bounded by other residential with a private drive; and

WHEREAS, the Louisville Metro Planning Commission finds the proposal meets Guideline 2 Centers because utilities are provided to serve the development; and

WHEREAS, the Louisville Metro Planning Commission finds the proposal meets Guideline 2 Centers because parking will be provided on each individual site; and

WHEREAS, the Louisville Metro Planning Commission finds the proposal meets Guideline 2 Centers because the nearby center is within walking distance. Pedestrian connectivity is being provided; and

WHEREAS, the Louisville Metro Planning Commission finds the proposal meets Guideline 3, Compatibility because the site layout is similar to other single family subdivisions in the area; and

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WHEREAS, the Louisville Metro Planning Commission finds the proposal meets Guideline 3, Compatibility because the building materials will be residential in character and similar to other adjacent residential and other residential in the area; and

WHEREAS, the Louisville Metro Planning Commission finds the proposal meets Guideline 3, Compatibility because single family residential is compatible with single family residential because it is the same low density use; and

WHEREAS, the Louisville Metro Planning Commission finds the proposal meets Guideline 3, Compatibility because Transportation Planning has determined no adverse impacts on traffic; and

WHEREAS, the Louisville Metro Planning Commission finds the proposal meets Guideline 3, Compatibility because lighting will meet LDC requirements; and

WHEREAS, the Louisville Metro Planning Commission finds the proposal meets Guideline 3, Compatibility because the proposal is for a consistent single family design and appears to meet the requirements for the Neighborhood form; and

WHEREAS, the Louisville Metro Planning Commission finds the proposal meets Guideline 3, Compatibility because the proposal in increasing the density in an area that is accessible by transit, with a transit line along Outer Loop; and

WHEREAS, the Louisville Metro Planning Commission finds the proposal meets Guideline 3, Compatibility because the proposal possibly offers a housing option for the elderly, as there is a TARC route and services nearby; and

WHEREAS, the Louisville Metro Planning Commission finds the proposal meets Guideline 3, Compatibility because the proposal is appropriate in that it offers more housing in an area where it is likely needed; and

WHEREAS, the Louisville Metro Planning Commission finds the proposal meets Guideline 3, Compatibility because buffers and setbacks appear to be in compliance with LDC standards; and

WHEREAS, the Louisville Metro Planning Commission finds the proposal meets Guideline 3, Compatibility because all setbacks and building heights appear to be within LDC standards and are compatible with surrounding development; and

WHEREAS, the Louisville Metro Planning Commission finds the proposal meets Guideline 4, Open Space because open space is not required for this development; and

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WHEREAS, the Louisville Metro Planning Commission finds the proposal meets Guideline 4, Open Space because the site is meeting the tree canopy requirements. No karst features are evident on the site; and

WHEREAS, the Louisville Metro Planning Commission finds the proposal meets Guideline 5, Natural Areas and Scenic and Historic Resources because the site is meeting the tree canopy requirements. No karst features are evident on the site; and

WHEREAS, the Louisville Metro Planning Commission finds the proposal meets Guideline 5, Natural Areas and Scenic and Historic Resources because the site has no historical or architectural value; and

WHEREAS, the Louisville Metro Planning Commission finds the proposal meets Guideline 5, Natural Areas and Scenic and Historic Resources because LOJIC identified hydric soils on site but there is no evidence of a wetland; and

WHEREAS, the Louisville Metro Planning Commission finds the proposal meets Guideline 7, Circulation because Transportation Planning is not requiring road improvements with the proposal; and

WHEREAS, the Louisville Metro Planning Commission finds the proposal meets Guideline 7, Circulation because the proposal has adequate access and is not required to connect to any other abutting use due to the intensity of uses surrounding the development and private drives; and

WHEREAS, the Louisville Metro Planning Commission finds the proposal meets Guideline 7, Circulation because the applicant is proposing right of way dedication; and

WHEREAS, the Louisville Metro Planning Commission finds the proposal meets Guideline 8, Transportation Facility Design because there are developments to the north and south that contain drives but both developments are multi-family. The property to the south has a private drive; and

WHEREAS, the Louisville Metro Planning Commission finds the proposal meets Guideline 8, Transportation Facility Design because this site is accessed directly from a collector level road and does not appear to impact surrounding single family uses; and

WHEREAS, the Louisville Metro Planning Commission finds the proposal meets Guideline 8, Transportation Facility Design because by connecting to the existing street network, the appropriate linkages are made; and

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WHEREAS, the Louisville Metro Planning Commission finds the proposal meets Guideline 9, Bicycle, Pedestrian and Transit because a sidewalk is being provided along the frontage of Smyrna Parkway as well as within the development site; and

WHEREAS, the Louisville Metro Planning Commission finds the proposal meets Guideline 10, Flooding and Stormwater because MSD has no issues with the proposal; and

WHEREAS, the Louisville Metro Planning Commission finds the proposal meets Guideline 14, Infrastructure because there are existing utility connections on site; and

WHEREAS, the Louisville Metro Planning Commission finds the proposal meets Guideline 14, Infrastructure because there are existing public water connections; and

WHEREAS, the Louisville Metro Planning Commission finds the proposal meets Guideline 14, Infrastructure because the Health Department has no issues with the proposal; and

WHEREAS, the subject property is located in the Neighborhood Form District, which is characterized by predominately residential uses from low to high density; this proposed R-5 subdivision is a low density one, although developed in accordance with a zoning district other than standard R-4, meaning an ever-so-slightly higher gross density (4.4 du/a) than perhaps otherwise achievable under the existing R-4 zoning district classification; the applicant could have chosen the "alternative development incentives (ADI) regulation" or "conservation subdivision regulation", or it could've applied for "PRD" rezoning, but those regulations require affordable components not appropriate for this location; and furthermore, R-5 is available, well-known, understood and easy to apply at this site, and there are other residential developments in the area that are zoned R-5A; and

WHEREAS, 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, 16, 21, 22 and 23 of Guideline 3 because this low density residential subdivision adds to the desired mixture of housing types, sizes and styles while still being design-compatible in terms of scale and building materials; 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; setbacks will include compatible side and rear yards, and the LDC tree canopy and landscape regulations will apply; the detailed district development/preliminary subdivision plan (DDDP), neighborhood meeting PowerPoint and home design elevations filed with and to be later reviewed with this application demonstrate all that; and

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WHEREAS, the proposed subdivision and its DDDP comply with all applicable Intent and Policies 1, 2, 3, 4, 5, 6, and 7 of Guideline 4 and Policies 1 and of Guideline 5 because unlike most standard single-family subdivisions, this one includes some meaningful interior and perimeter open space, conserving some natural resources and features, assuring good transitions to neighboring properties including the recently approved Crossroads IGA neighborhood grocery to the south, and providing for passive outdoor activities off residents' individual home lots; a that assures for better buffers and a far superior neighborhood look and feel; and the homeowners association will maintain these open areas; and

WHEREAS, the proposed subdivision complies with all of the applicable Intent and Policies 2, 5, and 11 of Guideline 6 because this proposed subdivision helps to ensure the availability of residential building lots where lots are in high demand, meaning near the many businesses along Outer Loop and Preston Highway; including the recently approved Crossroads IGA neighborhood grocery to the south, this land is surrounded by like-kind subdivisions; and that makes it an infill single-family residential site, appropriate for the area in the larger community, where new single-family housing is in greatest demand; and

WHEREAS, the proposed subdivision complies with all of the applicable Intent and Policies 1, 2, 4, 6, 9, 11, 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 this subdivision is situated on a primary collector street (Smyrna Parkway) where sidewalks will be constructed, near public transit at Outer Loop, where sewer, water and other utilities already exist, where road capacity exists, and in close proximity to jobs and shopping in all directions, especially as noted hereinabove; further, this DDDP has been reviewed by Metro Transportation Planning personnel, who gave the DDDP the preliminary stamp of approval prior to docketing for Planning Commission review; that assures that all of these applicable Public Works standards are complied with, including regulatory standards of the Land Development Code (LDC); and

WHEREAS, in that regard, the proposed subdivision will assure that both existing Smyrna Parkway access and new subdivision streets and stub connections are constructed to operate safely and to function at relatively low volumes, as neighborhood serving streets are expected to function; thus, all negative traffic impacts are avoided with this development; and, as noted, design of the site, as shown on the DDDP accompanying this application assures that corner clearances, driveway access, median openings, cross connections, etc. are provided as required; and

WHEREAS, the proposed DDDP complies with all applicable Intent 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-

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development peak flows; that is accomplished through on-site detention; thus, new impervious areas will not have a negative impact on existing stormwater systems; also, the DDDP has received MSD's preliminary stamp of approval before it is 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 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 interior and perimeter landscaping; and accordingly, the LDC will be fully complied with; and

WHEREAS, for all the reasons explained at LD&T and the Planning Commission public hearing and also in the public hearing exhibit books on the approved detailed district development plan, this application also complies with all other applicable Guidelines and Policies of the Cornerstone 2020 Comprehensive Plan;

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the change of zoning from R-4 Single Family Residential to R-5 Single Family Residential on 10.91 acres on property described in the attached legal description be **APPROVED**.

The vote was as follows:

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

NOT PRESENT AND NOT VOTING: Commissioner Tomes

Major Preliminary Subdivision Plan/ District Development Plan and Binding Elements

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

WHEREAS, there do not appear to be any environmental constraints or historic resources on the subject site. Tree canopy requirements of the Land Development Code will be provided on the subject site; and

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

WHEREAS, there are no open space requirements pertinent to the current proposal. However, there are 2 open space lots proposed for the site; and

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

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

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

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

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. 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. 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.

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4. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
5. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the July 5, 2018 Planning Commission meeting.
6. The applicant shall submit a Tree Preservation Plan for approval by Planning and Design staff showing trees/tree masses to be preserved prior to beginning any construction procedure (i.e. clearing, grading, demolition). 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. The applicant shall submit a landscape plan for approval by Planning Commission staff showing plantings and/or other screening and buffering materials to comply with the Chapter 10 of the Land Development Code prior to recording the record plat. The applicant shall provide the landscape materials on the site as specified on the approved Landscape Plan prior to issuance of Certificates of Occupancy for the site.
8. A note shall be placed on the preliminary plan, construction plan and the record plat that states, "Construction fencing shall be erected prior to any grading or construction activities - preventing compaction of root systems of trees to be preserved. The fencing shall enclose the area beneath the dripline of the tree canopy and shall remain in place until all construction is completed. No parking, material storage, or construction activities shall be permitted within the fenced area."
9. 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.
10. All street signs shall be installed by the Developer, and shall conform to the Manual on Uniform Traffic Control Devices (MUTCD) requirements. Street signs

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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.

11. The developer shall be responsible for maintenance of all drainage facilities and undeveloped lots ensuring prevention of mosquito breeding, until such time as the drainage bond is released.
12. 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.
13. Prior to the recording of the record plat, copies of the recorded documents listed below shall be filed with the Planning Commission.
 1. Articles of Incorporation in a form approved by Counsel for the Planning Commission and the Certificate of Incorporation of the Homeowners Association.
 2. A deed of restriction in a form approved by counsel of the Commission outlining responsibilities for the maintenance of open space.
 3. Bylaws of the Homeowners' Association in a form approved by Counsel for the Planning Commission.
14. 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.

The vote was as follows:

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

NOT PRESENT AND NOT VOTING: Commissioner Tomes

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STANDING COMMITTEE REPORTS

Land Development and Transportation Committee

No report given.

Site Inspection Committee

No report given.

Planning Committee

No report given.

Development Review Committee

No report given.

Policy and Procedures Committee

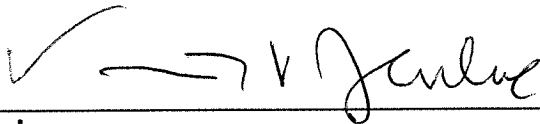
No report given.

CHAIRPERSON/DIRECTOR'S REPORT

No report given.

ADJOURNMENT

The meeting adjourned at approximately 2:45 p.m.



Chair



Planning Director