

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO PLANNING COMMISSION MEETING
June 20, 2019**

A meeting of the Louisville Metro Planning Commission was held on Thursday, June 20, 2019 at 1:00 p.m. at the Old Jail Building, located at 514 W. Liberty Street, Louisville, KY 40202.

Commissioners present:

Vince Jarboe, Chair
Marilyn Lewis, Vice Chair
Rich Carlson
Ruth Daniels
Rob Peterson
David Tomes
Jeff Brown

Commissioners absent:

Emma Smith
Donald Robinson
Lula Howard

Staff members present:

Emily Liu, Director, Planning & Design Services
Brian Davis, Planning & Design Manager
Julia Williams, Planning & Design Supervisor
Joel Dock, Planner II
Dante St. Germain, Planner II
Jay Lockett, Planner I
John Carroll, Legal Counsel
Travis Fiechter, Legal Counsel
Paul Whitty, Legal Counsel
Beth Stuber, Transportation Planning
Tony Kelly, MSD
Chris Cestaro, Management Assistant (minutes)

The following matters were considered:

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APPROVAL OF MINUTES

Approval of the Minutes for the June 6, 2019 Planning Commission public hearing

00:03:57 On a motion by Commissioner Carlson, seconded by Commissioner Peterson, the following resolution was adopted:

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the minutes of the meeting conducted on June 6, 2019.

The vote was as follows:

YES: Commissioners Peterson, Daniels, Brown, Carlson, and Jarboe.

ABSTAINING: Commissioners Tomes and Lewis,

NOT PRESENT: Commissioners Robinson, Smith, and Howard.

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PUBLIC HEARING

CASE NO. 19ZONE1022

Request: Change in form district from NFD to SMCFD, and change in zoning from R-4 to C-2, with associated Detailed District Development Plan and binding elements

Project Name: Kerrick Lane Automobile Storage

Location: 4531 Kerrick Lane

Owner: Christy Hall

Applicant: Crittenden Drive, LLC

Representative: Jon Baker – Wyatt Tarrant & Combs

Jurisdiction: Louisville Metro

Council District: 12 – Rick Blackwell

Case Manager: Dante St. Germain, AICP, Planner II

Notice of this public hearing appeared in The Courier-Journal, 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. (The staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

NOTE 00:04:42 Before Dante St. Germain spoke, Mr. Baker explained why the applicant wanted this case to be continued (there was an issue with when the Courier Journal advertisement for this hearing was published.)

The following spoke in support of this request:

Jon Baker, Wyatt Tarrant & Combs, 500 West Jefferson Street, Louisville, KY 40202

John Addington, BTM Engineering, 3001 Taylor Springs Drive, Louisville, KY 40220

Brian Sternberg, Sternberg Automotive, 6600 Dixie Highway, Louisville, KY 40258

Summary of testimony of those in support:

00:05:33 Jon Baker, the applicant's representative, read a statute from KRS 100 about notification into the record and explained in detail what the legal ad issue was (see recording.)

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00:10:16 The Commissioners unanimously agreed that they had no objection to continuing the case after hearing testimony about it.

Agency Testimony:

00:13:14 Dante St. Germain presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.) She noted that a question had been raised at LD&T as to whether this site is included in the Dixie Highway Corridor Master Plan, and it is not.

Summary of additional testimony of those in support:

00:18:10 Mr. Baker resumed the podium to present the applicant's case and show a Power Point presentation (see recording for detailed presentation.)

00:22:50 John Addington, an applicant's representative, discussed landscaping and drainage design.

00:24:49 In response to a question from Commissioner Brown, Brian Sternberg, the applicant, said the parking lot will only be in use during normal business hours (8:00 a.m. to 5:00 p.m.) The lighting will be designed to meet LDC requirements and will be turned off at close of business.

00:25:45 Commissioner Carlson asked about proposed binding element #9, which reads:

9. Vehicle car alarms shall not be used by employees of the business for the purpose of locating vehicles. Nothing in this binding element shall preclude the use of alarms for anti-theft purposes.

Commissioner Carlson asked what neighbors should do if a car alarm goes off during times when the business is not open. He suggested expanding this binding element to include an emergency contact posted on the front door of the business.. Mr. Sternberg said posting an emergency contact number was ok.

The following spoke in opposition to this request:

No one spoke.

Deliberation:

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00:27:27 Commissioners' 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.

Continuation to July 18, 2019 Planning Commission public hearing

00:28:04 On a motion by Commissioner Carlson, seconded by Commissioner Lewis, Robinson, the following resolution, based on the evidence and testimony heard today, was adopted:

RESOLVED, the Louisville Metro Planning Commission does hereby **CONTINUE** this case to the July 18, 2019 Planning Commission public hearing.

The vote was as follows:

YES: Commissioners Tomes, Peterson, Daniels, Brown, Lewis, Carlson, and Jarboe.

NOT PRESENT: Commissioners Robinson, Smith, and Howard.

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CASE NO. 19ZONE1036

Request: Change in zoning from R-4 to R-6 with Detailed District Development Plan and landscape waivers
Project Name: Episcopal Senior Living
Location: 7717, 7721, & 7727 St. Andrews Church Road
Owner: George E. Koppel Jr. Rev Trust
Applicant: Episcopal Retirement Services
Representative: Cliff Ashburner – Dinsmore & Shohl, LLP
Jurisdiction: Louisville Metro
Council District: 25 – David Yates

Case Manager: Joel P. Dock, 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. (The staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

00:28:49 Joel Dock presented the case and showed a Power Point presentation (See staff report and recording for detailed presentation.)

00:32:31 In response to a question from Commissioner Brown, Mr. Dock described the exact locations that Waiver #1 refers to.

The following spoke in support of this request:

Cliff Ashburner, Dinsmore & Shohl, 101 South 5th Street Suite 2500, Louisville, KY 40202

Mike Hill, Land Design & Development, 503 Washburn Avenue, Louisville, KY 40222

Kathy Ison-Lind, 3870 Virginia Avenue, Cincinnati, OH 45227

Summary of testimony of those in support:

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00:33:35 Cliff Ashburner, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.) He noted that, in response to a comment from Commissioner Brown at LD&T, the applicant has elected to use evergreen screening adjacent to Unit #1.

00:39:18 Commissioner Carlson asked if the applicant had considered extending the walking path up to the school property. Mr. Dock said that option had been considered; however, staff thought that the connectivity along the sidewalks worked well and did not need an additional connection.

The following spoke in opposition to this request:

No one spoke.

Deliberation:

00:41:48 Commissioners' 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

00:45:37 On a motion by Commissioner Carlson, seconded by Commissioner Peterson, the following resolution, based on Plan 2040 Staff Analysis, the applicant's justification, and evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the intents of Land Use & Development Goal 1: Community Form because the proposed district is located along TARC express route 54x which provides access to Downtown, as well as being located within 1.5 miles of Dixie Highway, a major public transit and commercial corridor; grocery and health services are available along Dixie Highway; and the proposed district will provide appropriate transitions through the use of open space and landscape buffering; and

WHEREAS, the Commission further finds that the proposal meets the intents of Land Use & Development Goal 2: Community Form because the land is currently vacant and the proposed district will result in residential development; and

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WHEREAS, the Commission further finds that the proposal meets the intents of Land Use & Development Goal 3: Community Form because the site does not appear to possess any issues related to wet or highly permeable soils, severe, steep or unstable slopes with the potential for severe erosion; and

WHEREAS, the Commission further finds that the proposal meets the intents of Land Use & Development Goal 4: Community Form because The site does not appear to contain distinctive cultural features or distinctive historic resources; and

WHEREAS, the Commission further finds that the proposal meets the intents of Land Use & Development Goal 1: Mobility because the proposed district is located in a mixed intensity and density area that is 1.5 miles from Dixie Highway which provides primary and secondary activities and services; and Dixie Highway also provides for public transit service to employment and activity centers downtown or elsewhere on Dixie Highway; and

WHEREAS, the Commission further finds that the proposal meets the intents of Land Use & Development Goal 2: Mobility because the proposed district is located in a mixed intensity and density area that is 1.5 miles from Dixie Highway. A variety of densities and intensities are present along St. Andrews Church Road from Dixie Highway. Access to the proposed district would not create a significant nuisance given these conditions; and

WHEREAS, the Commission further finds that the proposal meets the intents of Land Use & Development Goal 3: Mobility because the proposed district is a minimal expansion to an existing R-6 district where housing at the density proposed is currently permitted; while the site is not directly connected for pedestrians from the site to Dixie Highway connectivity to express bus service is available to pedestrians. The district is consistent with adjacent uses and does not result in an expansion of density into lower intensity districts; existing roadway infrastructure appears adequate to support the proposed density; the proposal will bear or share in rough proportionality the costs of transportation facilities and services made necessary by development. Right-of-way will be dedicated to facilitate state improvement along the frontage; existing roadway infrastructure appears adequate to support the proposed density; necessary improvements will occur in accordance with long-range transportation plans and level of mobility criteria for all modes of travel. Right-of-way will be dedicated to facilitate state improvement along the frontage; and no access to high speed roadways is provided. Access is shared between multiple occupants using a private drive; and

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WHEREAS, the Commission further finds that the proposal meets the intents of Land Use & Development Goal 2: Community Facilities because the proposal is located in an area served by existing utilities or planned for utilities as evidenced by adjacent development; the proposal would appear to have access to an adequate supply of potable water and water for fire- fighting purposes as evidenced by adjacent development; and the proposal will have an adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams as determined by the Metropolitan Sewer District (MSD); and

WHEREAS, the Commission further finds that the proposal meets the intents of Land Use & Development Goal 1: Livability because the subject property does not contain any unique characteristics as the development area is mostly vacant of trees; the subject site is not located in an area of Karst Potential; the development site is not located in the floodplain; the proposed district encourages a variety of housing types. Development will reflect the pattern of the form district; the proposed district promotes housing options and environments that support aging in place as senior, independent, and assisted living are permitted within the district. The district is located within proximity to Dixie highway which provides primary and secondary goods and services. Grocery and healthcare services are provided along Dixie Highway. TARC express service is available along the frontage. Iroquois Park is located to the east of the development site; and

WHEREAS, the Commission further finds that the proposal meets the intents of Land Use & Development Goal 2: Housing because the proposal district supports intergenerational and mixed-income development that is connected to the immediate neighborhood and not far from Dixie Highway and Iroquois Park; and the proposed district allows for a small expansion to an existing multi- family district to facilitate a larger development consistent with nearby districts and uses. The district is located within proximity to Dixie highway which provides primary and secondary goods and services. Grocery and healthcare services are provided along Dixie Highway. TARC express service is available along the frontage. Iroquois Park is located to the east of the development site; and

WHEREAS, the Commission further finds that the proposal meets the intents of Land Use & Development Goal 3: Housing because The proposed district encourages fair and affordable housing by allowing a variety of ownership options and unit costs throughout Louisville Metro; the district expands opportunities for people to live in quality, variably priced housing in locations of their choice by enabling the provision of affordable and accessible housing in dispersed locations throughout Louisville Metro; the proposed district does not result in the displacement of current residents as the site is vacant; and the proposed district encourages the use of innovative design methods

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by expanding the ability to provide a variety of housing types and styles. The proposed district better serves the needs to provide affordable housing than the current district; and

WHEREAS, the Commission further finds that the proposal complies with the intent and applicable policies of the Community Form Plan Element. The subject Property is located in the Neighborhood Form District, which the Comprehensive Plan states is a form “characterized by predominantly residential uses that vary from low to high density and that blend compatibly into the existing landscape and neighborhood areas. High-density uses will be limited in scope to minor or major arterials and to areas that have limited impact on the low to moderate density residential areas. The Neighborhood Form will contain diverse housing types in order to provide housing choice for differing ages, incomes and abilities. New neighborhoods are encouraged to incorporate these different housing types within a neighborhood as long as the different types are designed to be compatible with nearby land uses. These types may include, but not be limited to . . .high density multi-family housing” Here, the proposal is consistent with the Neighborhood Form District as it will bring a new multi-family development that is affordable for senior citizen to an area of the neighborhood that already contains numerous multi-family developments . The proposed new construction will be consistent with the scale of the neighborhood as all proposed buildings will be single-story. The proposal is also consistent with the pattern of development in the surrounding area. There are numerous multi-family developments in the immediate area, including Cardinal Oaks Condominiums immediately to the south of the subject property. Other multi-family developments include Brookview Apartments one half-block to the west, and The Oak at St. Andrews and Renaissance St. Andrews developments across St. Andrews Church Road. Doss High School borders the Property to the east. The 43 proposed single-story apartments will be designed to blend into the existing landscape and neighborhood areas; and

WHEREAS, the Commission further finds that the proposal complies with the intent and applicable policies of the Mobility Plan Element because the subject property will be accessed via Carina! Oaks Drive, an existing private drive off St. Andrews Church Road. St. Andrews Church Road provides direct access to major arterial Dixie Highway to the west, and Manslick and New Cut Roads to the east. The proposal includes pedestrian sidewalks throughout the development and connections to the existing pedestrian sidewalks along St. Andrews Church Road. Public transit is available via the TARC stop for TARC Route 54X (express service to downtown Louisville) at the front of the Property at the intersection of St. Andrews Church Road and Cardinal Oaks Drive; and

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WHEREAS, the Commission further finds that the proposal complies with the intent and applicable policies of the Community Facilities Plan Element. The subject property is and will remain well served by the existing community facilities in the neighborhood, including nearby Iroquois Park and Doss High School, as well as the commercial center along Dixie Highway. The subject property is adequately served by all utilities, including water and sewer; and

WHEREAS, the Commission further finds that the proposal complies with the intent and applicable policies of the Economic Development Plan Element. The proposal will create a new 43-unit affordable senior housing facility on what is currently an undeveloped vacant site. The proposed facility will complement the existing multi-family developments in the area and bring new affordable housing options to the area. The Property is conveniently located nearby the commercial center along Dixie Highway. The scale and site layout of the property will be consistent with the neighborhood and other multi-family developments on and near St. Andrews Church Road while contributing to the development of the neighborhood; and

WHEREAS, the Commission further finds that the proposal complies with the intent and applicable policies of the Livability Plan Element. The proposal will connect to the existing sidewalk network along St. Andrews Church Road. Public transit is easily available via the TARC stop for TARC Route 54X (express service to downtown Louisville) at the front of the Property at the intersection of St. Andrews Church Road and Cardinal Oaks Drive. The proposal includes open space and will improve the tree canopy by planting over 27,000 square feet of new canopy. The proposal will not have any material adverse impact on any natural features; and

WHEREAS, the Commission further finds that the proposal complies with the intent and applicable policies of the Housing Plan Element. The proposal expands and ensures a diverse range of housing choices in the neighborhood as it will create 43 units of apartment-style affordable senior housing. The proposal will create affordable and livable apartment-style housing options in the place of the lots that are currently vacant; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the requested change in zoning from R-4 to R-6, multi-family on property described in the attached legal description be **APPROVED**

The vote was as follows:

YES: Commissioners Tomes, Peterson, Daniels, Brown, Lewis, Carlson, and Jarboe.

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NOT PRESENT: Commissioners Robinson, Smith, and Howard.

- **(Waiver #1) Waiver of Land Development Code (LDC), section 10.2 to reduce Landscape buffer along west property line from 25' to 8'**
- **(Waiver #2) Waiver of LDC, section 10.2 to allow easement/LBA overlap greater than 50% along east property line**

00:45:36 On a motion by Commissioner Carlson, seconded by Commissioner Peterson, the following resolution, based on the Standard of Review and Staff Analysis, the applicant's justification, and evidence and testimony heard today, was adopted:

(Waiver #1) WHEREAS, the Louisville Metro Planning Commission finds that the waiver will not adversely affect adjacent property owners as all plant material and screening will be provided as required; 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. The landscaping along the west property line will be variable and widen as it nears the back of the lot in an area of open space and detention. All plant material and screening will be provided. The reduction will not eliminate the ability to separate uses with appropriate landscaping techniques; 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 multiple units and parking facilities would be impacted by the full application of the LBA and all planting and screening material will provided; and

WHEREAS, the Commission further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as appropriate transitions will be provided through the installation of planting and screening material, as well as a variable width nearing the rear of the property; and

WHEREAS, the Commission further finds that the waivers will not adversely affect adjacent property owners. To the west is a commercial property that does not have the LDC-required buffer. In this area, the applicant proposes a variable LBA with a minimum width of 8'. The waiver to allow the overlap of the 50' Louisville Water Company

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easement with the required 25' LBA to the east will allow the efficient use of the property and will allow for the buffering to be installed entirely within the easement; and

WHEREAS, the Commission further finds that neither waiver will violate the Comprehensive Plan/Plan 2040. Plan 2040 supports both infill development and the provision of fair and affordable housing. Allowing the use of the subject property as proposed will support both of these concepts. The applicant will provide buffering on both the east and west property lines, buffering the proposed development from the adjacent commercial uses; and

WHEREAS, the Commission further finds that the extent of the waivers is, in each case, the minimum necessary to allow for the efficient use of the subject property. The proposed development will contain income- and age-restricted housing, a need in our community. The adjacent commercial properties, were they developed today, would be required to provide the landscaping that the applicant is providing. Although the applicant is providing the buffering, it requires the relief requested in order to cost-effectively develop the subject property; and

WHEREAS, the Commission further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the subject property. As stated, the commercial uses on either side of the subject property should have provided the required buffer but did not. The subject property is relatively small and adding a large buffering requirement would prevent the efficient use of these infill parcels; and

(Waiver #2) WHEREAS, the Commission further finds that the waiver will not adversely affect adjacent property owners as all plant material and screening will be provided as required; 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. The request does not reduce or eliminate the provision of the buffer and associated planting and screening material; 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 full width and planting material will be provided, and the overlap creates additional open space; and

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WHEREAS, the Commission further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as all plant material and screening will be provided as required; and

WHEREAS, the Commission further finds that the waivers will not adversely affect adjacent property owners. To the west is a commercial property that does not have the LDC-required buffer. In this area, the applicant proposes a variable LBA with a minimum width of 8'. The waiver to allow the overlap of the 50' Louisville Water Company easement with the required 25' LBA to the east will allow the efficient use of the property and will allow for the buffering to be installed entirely within the easement; and

WHEREAS, the Commission further finds that neither waiver will violate the Comprehensive Plan/Plan 2040. Plan 2040 supports both infill development and the provision of fair and affordable housing. Allowing the use of the subject property as proposed will support both of these concepts. The applicant will provide buffering on both the east and west property lines, buffering the proposed development from the adjacent commercial uses; and

WHEREAS, the Commission further finds that the extent of the waivers is, in each case, the minimum necessary to allow for the efficient use of the subject property. The proposed development will contain income- and age-restricted housing, a need in our community. The adjacent commercial properties, were they developed today, would be required to provide the landscaping that the applicant is providing. Although the applicant is providing the buffering, it requires the relief requested in order to cost-effectively develop the subject property; and

WHEREAS, the Commission further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the subject property. As stated, the commercial uses on either side of the subject property should have provided the required buffer but did not. The subject property is relatively small and adding a large buffering requirement would prevent the efficient use of these infill parcels; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Waiver of Land Development Code (LDC), section 10.2 to reduce Landscape buffer along west property line from 25' to 8' AND the requested Waiver of LDC, section 10.2 to allow easement/LBA overlap greater than 50% along east property line.

The vote was as follows:

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YES: Commissioners Tomes, Peterson, Daniels, Brown, Lewis, Carlson, and Jarboe.

NOT PRESENT: Commissioners Robinson, Smith, and Howard.

Detailed District Development Plan

00:46:43 On a motion by Commissioner Carlson, seconded by Commissioner Peterson, the following resolution, based on the Standard of Review and Staff Analysis, and evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the subject site does not appear to contain any natural resources or structures of historic significance. The development infills an existing lot between a multi-family development and the public roadway; and

WHEREAS, the Commission further finds that provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community are provided as sidewalks are being provided throughout the development with connections to the public network. The network is proposed to be improved by the state for a multi-use path. Vehicular connectivity is being provided from local roads; and

WHEREAS, the Commission further finds that sufficient open space to meet the needs of the development has been provided. The development will contain open areas for passive recreation and leisure, as well as providing benches, picnic tables, and a gazebo. Detention basins will be landscaped around the perimeter to increase outdoor enjoyment and aesthetics; 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 development is compatible with existing land uses and the future growth of the area as the development is located along a future multi-use path and infills an area between a current multi-family development and the public roadway. Development along St. Andrews Church Road will be oriented to focus on the roadway with internal walks connecting to public ways. Parking lots are located away from roadway, internal to the subject site; and

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WHEREAS, the Commission further finds that the proposed development plan conforms to the Comprehensive Plan. It is compact and results in an efficient land use pattern and cost-effective infrastructure investment as the proposed structures occupies a large majority of the lot while also providing for open space. The proposal is designed to support easy access by bicycle, car and transit and by pedestrians and persons with disabilities as the development is located along a future multi-use path with express bus service. The orientation and design is compatible with the character of the area as provided in item 'e' above. The proposal encourages fair and affordable housing and expands opportunities for people to live in quality, variably priced housing; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the requested 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. Before any permit (including but not limited to building, parking lot, change of use, site disturbance) is requested:
 - a. The development plan must receive full construction approval from Develop Louisville, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. 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 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 minor plat or legal instrument shall be recorded consolidating the property into one lot. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services.

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- e. An access easement shall be secured to serve the development from Cardinal Oaks Drive. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services.
 - f. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the 6/20/19 Planning Commission meeting. A copy of the approved rendering is available in the case file on record in the offices of the Louisville Metro 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.
 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. 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.

The vote was as follows:

YES: Commissioners Tomes, Peterson, Daniels, Brown, Lewis, Carlson, and Jarboe.

NOT PRESENT: Commissioners Robinson, Smith, and Howard.

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CASE NO. 18ZONE1059

Request: Change in zoning from R-6 to R-8A with Detailed District Development Plan
Project Name: Zion Manor II
Location: 2217-2237 W. Muhammad Ali Boulevard
Owner: Zion Baptist Church Inc.; Zion Community Development
Applicant: The Housing Partnership, Inc and Zion Community Development
Representative: Cliff Ashburner – Dinsmore & Shohl, LLP
Jurisdiction: Louisville Metro
Council District: 4 – Barbara Sexton Smith

Case Manager: Joel P. Dock, 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. (The staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

00:47:28 Joel Dock presented the case and showed a Power Point presentation (See staff report and recording for detailed presentation.)

00:50:59 Commissioner Jarboe and Mr. Dock discussed the parking requirements for senior/assisted/ apartments (½ space per unit.)

The following spoke in support of this request:

Cliff Ashburner, Dinsmore & Shohl, 101 South Fifth Street Suite 2500, Louisville, KY 40202

Summary of testimony of those in support:

00:52:01 Cliff Ashburner, the applicant's representative, presented the case and showed a Power Point presentation (see recording for detailed presentation.)

00:56:11 In response to a question from Commissioner Daniels, Mr. Ashburner pointed out the location of existing houses on Eddy Street which back into the subject site. He said all three houses are occupied and will remain.

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CASE NO. 18ZONE1059

The following spoke in opposition to this request:

No one spoke.

Deliberation:

00:57:15 Commissioners' 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

01:00:12 On a motion by Commissioner Carlson, seconded by Commissioner Daniels, the following resolution, based on Plan 2040 Staff Analysis, the applicant's justification, and evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the intents of Community Form: Goal 1 because the proposed higher density district is located along an arterial roadway in a well-connected urban neighborhood with TARC routes 19, 11, & 22 available. Adequate infrastructure is or will be made available; and appropriate transitions will be provided as the site is along a block containing similar densities; and

WHEREAS, the Commission further finds that the proposal meets the intents of Community Form: Goal 2 because No structures are proposed to be removed by the proposal (the site is vacant); and

WHEREAS, the Commission further finds that the proposal meets the intents of Community Form: Goal 3 because the proposal is not located on a site with wet or highly permeable soils, severe, steep or unstable slopes; and

WHEREAS, the Commission further finds that the proposal meets the intents of Community Form: Goal 4 because no structures are proposed to be removed by the proposal (the site is vacant); and

WHEREAS, the Commission further finds that the proposal meets the intents of Mobility: Goal 1 because the proposed higher density use is located near commercial

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activities along W. Broadway and within close proximity to Downtown. Its location supports transit-oriented development and an efficient public transportation system; and

WHEREAS, the Commission further finds that the proposal meets the intents of Mobility: Goal 2 because Access to the subject road is along an arterial roadway intended to serve higher traffic volumes/densities. Access to the site which is located along a block containing similar densities would not create a significant nuisance due to its location along an arterial roadway; and

WHEREAS, the Commission further finds that the proposal meets the intents of Mobility: Goal 3 because the proposed district allows for improved mobility to reduce vehicle miles traveled and encourages a mix of use as it is located in a well-connected urban neighborhood having TARC service to goods, services, employment, and healthcare; the proposal is in infill project using and repairing existing infrastructure; the development will bear or share in rough proportionality the costs of transportation facilities and services made necessary by development; existing transportation facilities and services are adequate to serve a variety of intensities and densities; improvements, if any, will occur in accordance with long-range transportation plans and level of mobility criteria for all modes of travel; and the site is located in the traditional neighborhood form with rear street access. Direct access to the site will be obtained from rear streets and not the arterial roadway; and

WHEREAS, the Commission further finds that the proposal meets the intents of Community Facilities: Goal 2 because The development is located in an area served by existing utilities or capable of being served by public or private utility extensions. It is within the urban services district; the proposal will have an adequate supply of potable water and water for fire-fighting purposes; and the proposal will have adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams as determined by the Metropolitan Sewer District (MSD); and

WHEREAS, the Commission further finds that the proposal meets the intents of Livability: Goal 1 because tree canopy will be provided as required by the Land Development Code; the site does not appear to be susceptible to erosion or Karst terrain; and MSD has preliminarily approved the development plan; and

WHEREAS, the Commission further finds that the proposal meets the intents of Housing: Goal 1 because the proposed district increases the variety of housing types and densities available to the neighborhood and located near similar densities. The district encourages housing options and environments that support aging in place by increasing density available to concentrate independent living facilities and service; and

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WHEREAS, the Commission further finds that the proposal meets the intents of Housing: Goal 2 because the proposal encourages inter-generational, mixed-income and mixed-use development that is connected to the neighborhood and surrounding area by increasing density available to concentrate independent living facilities and services; the proposal is located within proximity to multi-modal transportation corridors providing safe and convenient access to employment opportunities, as well as within proximity to amenities providing neighborhood goods and services. The site is in a walkable urban neighborhood near downtown and W. Broadway commercial corridor. Multiple TARC routes are available at the site; and

WHEREAS, the Commission further finds that the proposal meets the intents of Housing: Goal 3 because the proposal encourages fair and affordable housing by increasing density options available; no residents will be displaced by the proposal and additional residents will be accommodated; and the proposed district allows a variety of styles and methods of provisioning housing; and

WHEREAS, the Commission further finds that the proposal meets the intents of the Community Form Plan Element. The subject property is located in the Traditional Neighborhood Form District, which the Comprehensive Plan states is a form "...[C]haracterized by predominantly residential uses ... [t]here is usually a significant range of housing opportunities, including multi-family dwellings.... Revitalization and reinforcement of the Traditional Neighborhood Form will require particular emphasis on . . . (b) in the case of new developments or redevelopments using traditional building scales and site layouts, (c) the preservation of the existing or establishing a new grid pattern of streets and alleys, and (d) preservation of or creation of new public open spaces." Here, the proposal is consistent with the Traditional Neighborhood Form District as it will bring a new multi-family development to an area of the Russell neighborhood that is already zoned for multi-family development. The proposed new construction will be consistent with the scale of the neighborhood, and the existing grid pattern of streets and alleys will not be disturbed. The proposal is also consistent with the pattern of development in the surrounding area. Indeed, the proposed development is being co-developed by the same entities-Zion Community Development Corporation and The Housing Partnership, Inc.-that developed the existing Zion Manor apartment facility on the west side of the subject block. That property was similarly re-zoned from R-6 to R-8A in 2004. The proposed development is also being designed by the same architect as the original Zion Manor facility, and will utilize many of the same common area features as that development. The proposed development will be designed to complement the surrounding area, the existing Zion Manor apartment facility on the other end of the block, and the Zion Baptist Church, which is directly across Muhammad Ali Boulevard from the subject Property; and

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WHEREAS, the Commission further finds that the proposal meets the intents of the Mobility Plan Element. The subject property is and will remain fully integrated into the urban grid of the Russell neighborhood. The proposal will not disturb the existing street grid along W. Muhammad Ali Blvd. The property fronts W. Muhammad Ali Blvd., which is a major east-west arterial that connects directly to Interstate 264. The proposal will retain the existing sidewalk along W. Muhammad Ali Blvd. Public transit is easily available via TARC stops along W. Muhammad Ali Blvd; and

WHEREAS, the Commission further finds that the proposal complies with the intent and applicable policies of the Community Facilities Plan Element. The subject property is and will remain well served by the existing community facilities in the Russell neighborhood. The subject property is adequately served by all utilities, including water and sewer; and

WHEREAS, the Commission further finds that the proposal complies with the intent and applicable policies of the Economic Development Plan Element. The proposal will create a new 34-unit affordable senior housing facility on what is currently a partially vacant site. The proposed facility will complement the existing Zion Manor apartment facility on the other end of the block, and the Zion Baptist Church, which is directly across Muhammad Ali Blvd. from the Property. The scale and site layout of the Property will be consistent with other developments in the Russell neighborhood; and

WHEREAS, the Commission further finds that the proposal complies with the intent and applicable policies of the Livability Plan Element. The proposal will not disturb the existing sidewalk network along W. Muhammad Ali Blvd. Public transit is easily available via TARC stops along W. Muhammad Ali Blvd. The proposal will comply with the tree canopy and open space requirements of the LDC. The proposal will not have any material adverse impact on any natural features; and

WHEREAS, the Commission further finds that the proposal complies with the intent and applicable policies of the Housing Plan Element. The proposal expands and ensures a diverse range of housing choices in the Russell neighborhood as it will create 34 units of apartment-style affordable senior housing. The proposal will create affordable and livable apartment-style housing options in the place of the lots that are currently either vacant or single-family uses; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the requested change in zoning from R-6 to R-8A,

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Multi-family Residential on property described in the attached legal description be **APPROVED.**

The vote was as follows:

YES: Commissioners Tomes, Peterson, Daniels, Brown, Lewis, Carlson, and Jarboe.

NOT PRESENT: Commissioners Robinson, Smith, and Howard.

Detailed District Development Plan with Binding Elements

01:01:05 On a motion by Commissioner Carlson, seconded by Commissioner Tomes, the following resolution, based on the Standard of Review and Staff Analysis, and the evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the proposal will provide tree canopy as required by the Land Development Code. No historic structures are located on site. The site does not contain erodible or wet soils and is not located in an area susceptible to karst terrain; and

WHEREAS, the Commission further finds that provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community are provided as the site is located in a well- connected urban neighborhood having sidewalks and TARC service, as well as a functional street grid; and

WHEREAS, the Commission further finds that sufficient open space to meet the needs of the development has been provided; 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 development is compatible with existing land uses and the future growth of the area as the development site is adjacent to an existing senior living facility on a vacant piece of land in a historically underserved community; and

WHEREAS, the Commission further finds that the proposed development plan conforms to the Comprehensive Plan. It is compact and results in an efficient land use

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pattern and cost-effective infrastructure investment as the proposed structures occupies a large majority of the lot while also providing for open space. The proposal is designed to support easy access by bicycle, car and transit and by pedestrians and persons with disabilities as the development is located in a well-connected urban neighborhood on multiple TARC routes. The orientation and design is compatible with the character of the area as demonstrated on an adjacent site providing similar services. The proposal encourages fair and affordable housing and expands opportunities for people to live in quality, variably priced housing while also aging in place; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the requested 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. Before any permit (including but not limited to building, parking lot, change of use, site disturbance) is requested:
 - a. The development plan must receive full construction approval from Develop Louisville, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - c. A minor plat or legal instrument shall be recorded consolidating the property into one lot. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services.
 - d. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the 6/20/19 Planning Commission meeting. A copy of the approved rendering is available in the

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case file on record in the offices of the Louisville Metro 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.
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. 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.

.The vote was as follows:

YES: Commissioners Tomes, Peterson, Daniels, Brown, Lewis, Carlson, and Jarboe.

NOT PRESENT: Commissioners Robinson, Smith, and Howard.

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CASE NO. 19DEVPLAN1087

Request: Revised District Development Plan with Binding Element Amendments
Project Name: American Auto Sales
Location: 7425 St. Andrews Church Road
Owner: Muayad al Hashimi
Applicant: Muayad al Hashimi
Representative:
Jurisdiction: Louisville Metro
Council District: 25 – David Yates

Case Manager: Jay Lockett, AICP, Planner I

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

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

Agency Testimony:

01:01:54 Jay Lockett presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.)

01:07:03 In response to a question from Commissioner Brown, Mr. Lockett put a darker, more easily-readable plan on the screen for viewing and also distributed a paper copy to the Commissioners. Commissioner Jarboe asked if the plan adheres to the LDC. Mr. Lockett said yes, and the site is already developed. The only changes would be within the ROW; the closure of entrances; restoring some sidewalks; adding fencing; delineating which areas are for sales and display, and striping some required parking along the front.

01:08:25 Commissioner Lewis asked about a zoning enforcement case mentioned in the staff report. Mr. Lockett explained more details about the zoning enforcement case (see recording for his detailed explanation.)

The following spoke in support of this request:

Muayad al Hashimi, 7425 St. Andrews Church Road, Louisville, KY 40214

Jennifer Lang, 1637 Dixdale Avenue, Louisville, KY 40210

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Nichole Pike, 7425 Cordon Junction Road, IN

Samson Sima, 1223 Bicknell Avenue, Louisville, KY 40215

Firas Tawa, 1639 Dixdale Avenue, Louisville, KY 40210

Summary of testimony of those in support:

01:09:26 Muayad al Hashimi, the applicant, presented his case and discussed photos of the site (see recording for detailed presentation.)

01:12:36 Jennifer Lange said this is not a junkyard; the applicant has cleaned the lot and done everything the neighbors asked of him. She mentioned that there have been some prejudiced comments from strangers. She said the applicant has corrected any problems brought to his attention.

01:15:10 Nichole Pike said she is the current office manager for American Auto Sales on St. Andrews Church Road. She said she went door-to-door to visit neighbors and ask what the applicant could do to accommodate them and address their concerns. She reiterated that the business is only to sell cars, not to do any maintenance or repairs.

01:16:36 Samson Sima spoke in support. He said the applicant has a body shop on Outer Loop and will not use this property to fix cars, only to sell them.

01:17:40 Firas Tawa, a Dixdale Avenue resident, discussed months of work needed to clean up and restore the property. He also said he does not understand what the neighbors' issues are.

01:19:12 Commissioner Jarboe asked about the zoning enforcement case. Mr. Luckett said he understood that the zoning enforcement action was for bringing cars onto the lot for sale without an approved development plan, and that selling cars would be in violation of binding elements #1 and #2. Selling cars would require a binding element modification.

01:21:40 In response to a question from Commissioner Lewis, Mr. Luckett said the previous owner used the lot for light auto repair. Major auto repair is not permitted. The Commissioners and Mr. Luckett discussed what is permitted here and what is not.

01:23:21 Commissioner Tomes discussed his recollection of this case from the DRC meeting.

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The following spoke in opposition to this request:

Councilman David Yates, 601 West Jefferson Street, Louisville, KY 40202

Larry Lambert, 7402 Colt Drive, Louisville, KY 40214

Karlton Rudolph, 7511 Jamaica Drive, Louisville, KY 40214

Rita Rudolph, 7511 Jamaica Drive, Louisville, KY 40214

Greg Lynch, 7503 Jamaica Drive, Louisville, KY 40214

Homer Lowry, 7411 Colt Drive, Louisville, KY 40214

Tony Rich, 7402 Royalwood Drive, Louisville, KY 40214

Amy Lannan, 7400 Ridan Way, Louisville, KY 40214

Chuck Embry, 7507 Pimlico Drive, Louisville, KY 40214

Robin Wilcher, 7312 Supremus Drive, Louisville, KY 40214

Chris and Paula Eichberger, 7420 Colt Drive, Louisville, KY 40214

Phil Henry, 7526 Pimlico Drive, Louisville, KY 40214

Summary of testimony of those in opposition:

01:24:08 Councilman David Yates said he is very familiar with this intersection. He said there was a variance that was granted to allow cars to park within five feet of the boundary line. He said this variance turned out to be a “big public safety issue.” He said there have been 16 accidents within the last two years at this intersection, and asked if this variance could be amended to alleviate this issue. He said there are 18 used-car sales businesses within a 5-mile radius of this site. He said the C-2 zoning was granted, with very restrictive binding elements, to allow light auto repair here. He said a car sales lot would alter the character of the neighborhood and hinder investment and positive development in this area.

01:29:31 Larry Lambert said there have been 18 accidents in 18 months in front of this site; there is a daycare across the street, and many school bus stops here. He discussed other traffic safety concerns. He presented pictures of the site to the Commissioners.

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01:33:10 Karlton Rudolph said this use will be a safety hazard for children (daycare drop-off and school bus stops.) He said no one from this business has come to their houses and talked to them.

01:34:36 Rita Rudolph said that, in recent years, the traffic on St. Andrews Church Road has greatly increased, particularly during peak hours. She said the only access to her subdivision is on Windemere Drive; will the applicant also be using Windemere Drive as the site's only access?

01:35:58 Greg Lynch said he has seen a lot of near-misses and traffic congestion. His concern is that cars parked right up to the edge of the street will compound visibility and traffic issues. He said that, even though the applicant has stated that only car sales will take place here, he is not sure it will remain that way. He is concerned about air quality.

01:40:15 Homer Lowry said his concerns are traffic, causing congestion on Windemere Drive, and pedestrian safety (daycare and school bus stops.)

01:42:11 Tony Rich said his concerns are the same - traffic safety and accidents in the area. He said this is a residential area, and that part of this property is zoned residential. Mr. Rich showed a zoning map. Commissioner Jarboe said this property is shown to be zoned C-2. Also this is not a rezoning case, it is a development plan case.

01:45:44 Amy Lannan, president of the Forest Hills Neighborhood Association, showed a zoning map they had received showing that part of this property is still zoned R-4. She said she later spoke with Mr. Luckett, who told her that this print is wrong. Mr. Luckett discussed the zoning confirmation and the LOJIC map. He stated that C-2 is the correct zoning category for the entire property. LOJIC has now fixed the map and it now shows the correct zoning.

01:49:17 Ms. Lannan resumed the podium and continued her presentation. She said the neighborhood association's primary concern is traffic safety issues, particularly at the only access point to Forest Hills. Where will the car haulers and trailers be parked for this business? She said there are many concerns about the business and a lack of adherence to binding elements and Code regulations. She said the owner of this property has been cited nine times for property violations.

01:54:09 Chuck Embry discussed the many facilities in this neighborhood, many of which serve children/families and the elderly. He said parked cars on this site cause a hazard because they block visibility to the left.

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01:55:28 Robin Wilcher said she agreed with other speakers.

01:55:32 Chris Eichberger said he agreed with the other speakers and added that, according to the KYDOT website, there are approximately 17,000 vehicles that drive through this area daily.

01:56:28 Paula Eichberger was called but said she had nothing to add.

01:56:34 Phil Henry was called but was not present.

01:56:57 Travis Fiechter, legal counsel for the Planning Commission, asked what was on the property prior to the 1999 rezoning to C-2. Mr. Lockett said it was the same muffler shop. See recording for Mr. Lockett's explanation of the rezoning that took place about that time.

01:57:39 Commissioner Jarboe asked Ms. Lannan what the neighborhood wants on this property. This is a C-2 zoned property. Ms. Lannan said the muffler shop was not a problem because it was owned by one person with very minimal traffic. She suggested an office use (real-estate; billing; insurance, etc.) even a small daycare. She added that the main issue is not allowing the binding elements to be changed.

The following spoke neither for nor against the request ("Other"):

No one spoke.

Rebuttal:

02:01:46 Mr. al Hashimi said he is also concerned about traffic safety, which is why he wants to close two entrances and leave two one entrances onto his property. He pointed out the locations of the entrances he wants to close, and explained why. He said a car lot is not the same as a gas station and will not have traffic constantly coming and going. He explained that his small business is not the same as the large dealerships.

02:04:25 Commissioner Lewis asked how the cars to be sold would be delivered to the site. Mr. al Hashimi said they would be delivered by truck, maybe one or two cars at a time (a single-car hauler).

02:05:58 In response to a question from Commissioner Daniels, Mr. al Hashimi described where on the lot a car delivery truck would park.

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Deliberation:

02:07:59 Commissioners' deliberation.

02:08:23 Commissioner Brown said that he was present at the DRC Committee when this case was heard. He said that much of what was discussed at DRC came up today – the dumpster binding element, the hours of operation binding element, etc. He said one major issue was asking for an updated, legible plan. He said the last plan was difficult to read, which could be a problem if this ever did have to go to Code Enforcement. He said that everyone, including the applicant, should clearly understand what he is required to do and that everyone abides by that agreement.

02:09:32 Commissioner Carlson agreed that the DRC Committee did want to see a more clear plan and that much of what was discussed at DRC came up today.

02:09:43 Commissioner Tomes said there had been much testimony at DRC about the fence that was put up, which has now been replaced. He said this site is zoned for C-2, but most C-2 uses have been bound out. He discussed sight-lines, and said this particular plan does not do enough to address that concern. He asked Commissioner Brown if the sight-lines have been improved to Public Works' satisfaction.

02:12:16 Commissioner Brown explained how Public Works measures sight distances. He said the edge of the travel lane on St. Andrews Church Road is going to change, because the State has a planned project to do a three-lane section. He said that he does not know how it will be after the State is done with their work. (See recording for his detailed explanation.)

02:14:31 Commissioner Tomes said he wanted a better, more-legible plan to help answer questions.

02:15:58 Commissioner Peterson agreed about the presented plan. He noted that the applicant has made improvements to the property; however, he also made improvements specifically to put in a used car lot without getting approval for that use.

02:17:20 Commissioner Daniels said she also agreed with Commissioner Peterson.

02:18:18 Commissioner Brown discussed the State project to widen St. Andrews Church Road to address the total number and type of accidents on this road. He said the amount of traffic generated from this site would be insignificant when the total volume of traffic on St. Andrews Church Road is examined, so he did not have concerns about this use generating too much traffic. However, he also said he wanted to see a better plan so that he could be assured that the applicant knows where he can park cars for sale, where customer parking is, what entrances need to be removed, the

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dimensional requirements, the sidewalk that is going to be restored, etc. There are other details that he thinks are not clearly reflected on the plan. He said he is not opposed to the use the applicant is requesting. Regarding congestion at this intersection, he said this is what happens when there is no connectivity between subdivisions.

02:20:00 Commissioner Lewis said she did not have a problem with the use, but could not approve the plan that was submitted today because it is almost illegible and does not address certain issues that were raised today, and at the DRC meeting.

02:20:46 Commissioner Carlson agreed that the submitted plan is a problem; also, he feels that the binding element should be changed. He said he has not heard any testimony to make the case to change the parameters under which the original C-2 zoning was granted. He also does not think that used-car sales is an appropriate use for this property.

02:22:43 Commissioner Jarboe discussed the issues of traffic congestion and connectivity. He said he agreed that the binding element should not be changed. He also wanted to see a professional, detailed plan that clearly shows what is being proposed for the site.

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.

Revised District Development Plan with revisions to Binding Elements.

02:25:14 On a motion by Commissioner Carlson, seconded by Commissioner Brown, the following resolution, based on the evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that, based on the evidence and testimony heard at the DRC meeting and today, and

WHEREAS, the Commission further finds that the proposal to revise the binding elements to allow a used-car sales use, based on the lack of testimony that used car sales uses are appropriate for this area; now, therefore be it

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RESOLVED, the Louisville Metro Planning Commission does hereby **DENY** the requested Revised Detailed District Development Plan and Binding Element Amendments.

The vote was as follows:

YES: Commissioners Tomes, Peterson, Daniels, Brown, Lewis, Carlson, and Jarboe.

NOT PRESENT: Commissioners Robinson, Smith, and Howard.

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PUBLIC HEARING

CASE NO. 19AMEND1003

***NOTE: Commissioner Daniels left the meeting at about 5:15 p.m. and was not present to hear or vote on the case.**

Request: THIS CASE WILL NOT BE HEARD BEFORE 3:00 –
Amendment to the Land Development Code Related to
Trees and Tress Canopy

Project Name: Tree Canopy LDC Amendment

Location: Louisville Metro

Applicant: Louisville Metro

Jurisdiction: Louisville Metro

Council District: All Council Districts

Case Manager: Julia Williams, AICP, Planning & Design Supervisor

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

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

Agency Testimony:

02:26:48 Julia Williams presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.)

02:45:17 Emily Liu, Director of Planning & Design Services, said public comments have been received since the publication of the staff report. She asked that the case be heard today, but requested that the case be continued to allow late comments/concerns to be heard and addressed. She asked for two weeks to allow comments to be addressed.

02:46:27 Ms. Williams noted that the “green” text in her staff report indicated new text; the “red” text that is crossed out is deleted text; and proposed text added after the publication of the staff report is in blue. Anything in black is already in the Land Development Code and is not proposed for change. She also described how the 40% for single-family and the 35% for multi-family and the non-residential uses (see recording for her detailed explanation.)

02:49:09 Commissioner Carlson suggested changing “TPA’s” to “TTPA’s” (Temporary Tree protection Areas.) He and Ms. Williams discussed the 10-E Appendix.

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Commissioner Carlson asked about tree removal on-site. Ms. Williams described the process already in place for clear-cutting (get permission from MSD, etc.) Commissioner Carlson and Ms. Williams also discussed transplanting trees.

02:54:19 Commissioner Brown asked why the Division of Community Forestry is not listed as one of the permitting agencies, since they are responsible for all trees in the public ROW. Ms. Williams said it will be left up to Public Works to name its designee, whether it is Division of Community Forestry or another department/division. Commissioner Brown and Ms. Williams discussed the issue that the DCF has its own standards for the spacing of street trees based on tree type which does not exactly match the standards listed in the proposed LDC amendments. Ms. Liu said these discrepancies are relatively small and can be worked out.

02:59:16 Commissioner Brown discussed the fee-in-lieu funds – how will those locations be determined? Ms. Liu said the Metro Council and Public Works can decide if the funds stay in the same council district or go elsewhere. Ms. Williams said there is an existing map showing areas of need. She discussed more about the Tree Account.

03:01:16 Commissioner Jarboe asked about waivers. Ms. Williams discussed the staff review process and how staff findings are reached before a case is presented to the Planning Commission.

The following spoke in support of this request:

Harrell Hurst, 16200 Taylorsville Road, Louisville, KY 40023

Jeff Frank, 16509 Bradbe Road, Louisville, KY 40023

Cindi Sullivan, 1914 Alfresco Place, Louisville, KY 40205

Summary of testimony of those in support:

03:03:07 Harrell Hurst is generally in support, but thinks that preservation of existing forested areas is not sufficient. The loss of the ash forests has been significant due to the emerald ash borer.

03:08:36 Jeff Frank, a member of the Future Fund and Louisville Audubon Society, discussed the importance of preserving 45% of our tree canopy county-wide. He is in support of these proposed amendments, but would like to see them go further.

03:11:25 Cindi Sullivan, Executive Director of Trees Louisville, spoke in support. She discussed data from the Urban Tree Canopy Assessment.

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The following spoke in opposition to this request:

Juva Barber, 1000 North Hurstbourne Parkway, Louisville, KY 40223

Greg Oakley, P.O. Box 7368, Louisville. KY 40257

Scott Hagan, 12911 Reamers Road, Louisville, KY 40245

David Mindel and Kent Gootee, 5151 Jefferson Boulevard, Louisville, KY 40219

Summary of testimony of those in opposition:

03:13:56 Juva Barber, Executive Vice President of the Building Industry Association of Greater Louisville, said builders have greatly increased tree canopy in the Louisville area since Tree Canopy Requirements were incorporated into the Land Development Code. However the building industry has some concerns, notably: changes will make land development much more complicated and expensive; concerns about the percentage requirements, particularly for industrial sites; the requirement to keep 20% of the tree canopy on the every site. Why should a builder be required to preserve trees, when they have a landscape plan and/or will be adding trees to the site? She said increased development costs will be passed on to the buyer, decreasing housing affordability and economic development.

03:20:27 Greg Oakley said he was concerned about potential impacts to commercial properties, particularly to his project, Blankenbaker Station. He said this project has been in the development phase for about 20 years and all of the infrastructure and planning has revolved around a finite amount of land to be developed. Changing tree canopy requirements would mean a change in the amount of land that can be used. He discussed the land and topography of his project, and the infrastructure that has already been built here. He discussed the possible impacts to developers and land buyers, especially to existing developments. He said it “would be crippling” to those trying to develop in Jefferson County and would force development out of the county.

03:26:36 Scott Hagan said he is aware of the importance of tree canopy and how landscaping enhances the value of properties. He also discussed some of the economic ramifications of these proposals – he said “it will kill jobs and make developments unaffordable.” He gave some examples of developments and said it would be burdensome to apply new landscaping/tree canopy rules to property that was zoned commercial years ago. He said the subjectivity of many items is “disturbing” and

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that developers need to know at the start what their costs are going to be. He discussed enforcement, and said landscaping requirements are not being met by other developers and are not being enforced by Metro Government. He said commercial developers got notification about these proposed changes two days ago.

****NOTE: Donnie Blake, who signed up to speak neither for nor against, spoke before those in opposition had completed their testimony. Opposition testimony resumes below.**

03:44:35 Commissioner Tomes asked Mr. Hagan about the "compromises" that he had referred to during his testimony. Mr. Hagan said Bill Bardenwerper had a list of things the developers wanted. Commissioner Jarboe discussed enforcement, and said that, due to budget constraints, Metro can only respond to complaints, not go out to look for violations. Commissioner Jarboe noted that these proposed revisions have been worked on for many months with developers present and participating at all of the meetings, so he was unclear about why Mr. Hagan only heard about these proposed revisions two days ago. He added that compromises have been made throughout the entire process.

03:47:16 Commissioner Jarboe asked Ms. Barber for clarification about her concerns regarding the two-year-lookback on a piece of property. What about due diligence? A person who is going to buy a piece of property will know its history. Ms. Barber expressed concerns about the possibility of enforcement action against developers (see recording for discussion.) Commissioner Jarboe explained that the Planning Commission can compromise only so much before the goals of increasing the tree canopy become impossible. Commissioner Carlson asked for clarification about what kind of "flexibility" the builders were asking for. Ms. Barber said the preservation requirement is too rigid, and asked for a lower percentage.

03:54:50 David Mindel discussed the "look-back" regulation. What if a site had been pre-cleared for agricultural use? Geotechnical engineers sometimes have to at least partially clear a site to do underground surveys. He said trees can only be planted once all of the infrastructure and housing/buildings have been completed. He also expressed concerns about some of these new requirements will add "substantially" to new housing costs, thus reducing affordable housing. He discussed manufacturing and other large developments, and showed a tree canopy comparison chart showing tree coverage for multi-family developments; subdivisions; and commercial/warehouse and office/retail. See recording for detailed presentation. He said that his studies show that development is increasing tree canopy, not decreasing it. Utility easements also can be problematic because trees cannot be planted there. He showed subdivisions and multi-family development plans where there is no more room for trees; also, the "big box" warehouse development plans with the same problem.

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04:09:57 Kent Gootee spoke in opposition and said the proposed street tree spacing regulations may be too tight to allow for growth.

***The Commission recessed for 10 minutes.**

The following spoke neither for nor against this request (“Other”):

(spoke earlier in the hearing) Donnie Blake, 11602 Conservation Trail, Louisville, KY 40291

Steve Skaggs, 8116 Wolf Pen Branch Road, Louisville, KY 40059

Kelli Jones, 608 South Third Street, Louisville, KY 40202

Mike Jones, 8908 Ayrshire Avenue, Louisville, KY 40222

Kevin Young, 503 Washburn Avenue, Louisville, KY 40222

Bill Bardenwerper, 1000 North Hurstbourne Parkway, Louisville, KY 40223

Amanda Fuller, 800 Goullion Court, Louisville, KY 40204

Mike Farmer, 15100 Old Taylorsville Road, Louisville, KY 40023

John Pacyga, 214 South Jane Street, Louisville, KY 40206

Jon Henney, 111 West Main Street, Louisville, KY 40202

Bert Stocker, 16313 Crooked Lane, Louisville, KY 40023

Summary of testimony of those neither for nor against:

03:39:20 Donnie Blake said he is concerned about the unintended impacts regarding this proposal, namely; the impacts on industrial/commercial properties, making affordable housing properties unaffordable; and how the proposed changes may affect existing plans. He asked how the 40% goal would be achieved – is there any way to simplify this? He noted that some older trees that may be in bad shape might have to be preserved instead of removed, which may cause problems for future homeowners. He discussed conservation subdivision developments and regulations and said that is

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not being utilized much today, and it should be. Wants more focus on street trees, perimeter trees, trees in landscape islands and green space areas.

(The remaining speakers spoke after those in opposition had finished.)

04:16:38 Steven Skaggs said he wants to see more trees, not fewer. He disputed some speakers in the development community who said their development is adding more tree canopy, and pointed out that Louisville is losing more tree canopy faster. He mentioned

04:20:49 Kelli Jones said she supports: changes to the traditional guidelines; the fee-in-lieu being more accepted; and street trees for everything. However, she said she is mostly concerned about how these proposals could affect industrial developments. She suggested giving more credit to industries which use green stormwater management, white roofs, concrete pavement, etc. Those things also decrease the heat island effect, in places where trees cannot be planted.

04:25:33 In response to a question from Commissioner Carlson, Ms. Jones clarified what “borrowing tree canopy” means in an industrial site project.

04:26:47 Mike Jones discussed the enforcement problem (complaint-driven system) and the “bad-actor” developers who do not follow through with regulations. Enforcement would greatly increase tree canopy, if all developers complied to regulations. He suggested giving credit for trees planted by the builder in residential developments. He discussed the cost of removing “invasives”. He agreed that everywhere should have more street trees; however, he thought the proposed spacing was too small and there should be more cubic feet of soil required to plant the trees to ensure their survival.

04:36:04 Kevin Young agreed that tree spacing is important to allow the trees room to grow. He asked that the proposal re-evaluate in the industrial sites. He also agreed that enforcement is extremely important.

04:37:58 Bill Bardenwerper also emphasized the need for enforcement, suggesting that, after a “defined period” after a Certificate of Occupancy is issued, the site should be certified as being in compliance with the approved landscape plan. He described specific exemptions that should be made for tree preservation (for example, for dead/dying trees, utilities, agricultural uses, etc.) He also discussed the two-year “lookback” issue (the affidavit that states that no trees have been removed within the last two years.) He suggested making the affidavit part of the application. The Planning Commission can hear evidence to determine whether an application can move forward. He suggested existing plan certain sites and existing, already-approved preliminary

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plans. He suggested 30-35% instead of 40% canopy. He distributed handouts with suggested specific wording changes to the Commissioners (on file).

04:51:20 Amanda Fuller said the Division of Community Forestry has recommended 45%, not 40%. She would like to see Traditional and Downtown form districts addressed; also putting more trees in parking lots. She emphasized the need for enforcement and accountability for developers who do not meet standards. Regarding builders who complain that they cannot develop as much of a site as they want to, she said that is part of the point of these regulations. The builders might own land that is partly not developable, and should know where it is appropriate to build and where it is appropriate to plant trees.

04:54:51 Mike Farmer emphasized the importance of “green infrastructure”, an increased tree canopy. He said the eastern part of Jefferson County is particularly declining in tree canopy due to building. He supports improved conservation subdivisions and low-impact development in heavily-wooded areas.

04:58:08 John Pacyga, a landscape architect, asked that these proposed revisions be continued indefinitely until some agreement can be reached. He said much of what is being heard today is based on a study that was done by a group/person based in Indianapolis. He said the reviewer he spoke with spent no time in Louisville; all the data was done via computers, not site visits. He supports flexible rules, instead of many waivers. He thinks areas of the County who want the two-year “lookback” should have it; however, it may not be right for the entire County. He discussed parking (Chapter 9 of the LDC) and suggested getting rid of parking minimums. He said irrigation is required in the LDC (Chapter 10). He discussed tree growth and current regulations for having a Tree Preservation Plan; he thought having a Tree Removal Permit would be redundant. He requested not acting on proposed Appendix 10-E until it is written. He thinks it would be more productive to put trees where they are needed, not restricted to the District of development. He said the “loss of 54,000 trees per year” number was deduced computer program via GIS, not a hands-on count. He handed out photos to the Commissioners showing a lot in south Hurstbourne (Dollar Tree) that has a parking lot with landscape islands without one tree planted there. He emphasized again the importance of enforcement of compliance.

05:05:50 Jon Henney said everyone who has spoken today can support increased tree canopy for almost every development, with the exception of industrial. The only dispute is the percentage. He expressed concern about tree canopy crowding out landscaping – look at appropriateness as well as feasibility.

05:07:56 Bert Stocker spoke and showed a Power Point presentation outlining his suggestions and proposals (see recording for his detailed presentation.)

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05:15:32 Commissioner Carlson asked Mr. Gootee about some of the charts discussed previously by Mr. Mindel, and showing some of the difficulties having planting trees in R-5 subdivisions. Doesn't the fee-in-lieu address that situation? Mr. Gootee said streamlining the fee-in-lieu process would help in situations where the applicant cannot fulfill their obligations for a particular site. He said applicants would prefer to do everything on the site, rather than ask for the fee-in-lieu. He discussed being told to remove trees that had been planted in detention basins due to maintenance issues.

05:20:31 Commissioner Tomes discussed some of Mr. Gootees testimony and said he had also had difficulty trying to plant in basins. He asked Mr. Jones about tree planting in two 10-plus-year old developments and about what size those trees are now.

Discussion:

05:24:17 Commissioners' discussion.

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.

05:35:05 On a motion by Commissioner Carlson, seconded by Commissioner Brown, the following resolution, based on the Plan 2040 Staff Analysis, the applicant's justification, and evidence and testimony heard today, was adopted:

RESOLVED, the Louisville Metro Planning Commission does hereby **CONTINUE** this case to a special meeting of the Planning Commission on **Wednesday, July 24, 2019** at 1:00 p.m. in the Old Jail Courtroom.

The vote was as follows:

YES: Commissioners Tomes, Peterson, Brown, Lewis, Carlson, and Jarboe.

NOT PRESENT: Commissioners Robinson, Smith, Howard, and Daniels.

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ADJOURNMENT

The meeting adjourned at approximately 7:00 p.m.

Chairman

Division Director