

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO PLANNING COMMISSION
April 1, 2021**

A meeting of the Louisville Metro Planning Commission was held on April 1, 2021 at 1:00 p.m. via Cisco Webex Video Teleconferencing. On the recommendation of the Louisville Metro Department of Health and Wellness regarding congregate events and social distancing, the special Planning Commission meeting set for today was held online.

Commission members present:

Marilyn Lewis, Chair
Lula Howard, Vice-Chair
Jeff Brown
Rich Carlson
Robert Peterson
Ruth Daniels
Jim Mims
Patricia Clare
Pat Seitz
Te'Andrea Sistrunk

Staff Members present:

Emily Liu, Planning and Design Director
Joe Reverman, Planning and Design Assistant Director
Brian Davis, Planning and Design Manager
Joe Haberman, Planning and Design Manager
Julia Williams, Planning Supervisor
Cynthia Elmore, Planning Supervisor
Dante St. Germain, Planner II
Joel Dock, Planner II
Laura Ferguson, Legal Counsel
David Johnson, MSD
Pamela M. Brashear, Management Assistant

The following matters were considered:

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APPROVAL OF MINUTES

MARCH 18, 2021 PLANNING COMMISSION REGULAR MEETING MINUTES

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

RESOLVED, that the Planning Commission does hereby **APPROVE** the minutes of its meeting conducted on March 18, 2021.

The vote was as follows:

YES: Commissioners Brown, Carlson, Clare, Seitz and Lewis

ABSTAINING: Commissioners Daniels, Howard, Mims, Peterson and Sistrunk

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CONSENT AGENDA

CASE NO. BLD-WRE-21-00031

Project Name: Demolition Waiver - BLD-WRE-21-00031
Address: 2005 Northwestern Parkway
Applicant Name: LG&E
Municipality: Louisville Metro
Case Manager: Cynthia Elmore, Planning & Design Supervisor

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

Discussion

00:09:53 Cynthia Elmore gave an overview for this case.

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

On a motion by Commissioner Howard, seconded by Commissioner Carlson, the following resolution based on the testimony and evidence heard today was adopted.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the demolition waiver.

The vote was as follows:

YES: Commissioners Brown, Carlson, Clare, Daniels, Howard, Mims, Peterson, Seitz, Sistrunk and Lewis

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PUBLIC HEARING

CASE NO. 20-ZONE-0062

Request: Change in zoning from R-4 to C-2 for contractor's shop with detailed plan, variances and waiver
Project Name: Charlie Sondergeld Services
Location: 3618 Kramers Lane
Owner: Charlie Sondergeld Services, Inc & Charles Sondergeld, Jr.
Applicant: Charles Sondergeld, Jr.
Representative: Bardenwerper, Talbott, & Roberts, PLLC
Jurisdiction: Louisville Metro
Council District: 1 – Jessica Green
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. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

01:37:00 Joel Dock discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Paul B. Whitty, Bardenwerper, Talbott and Roberts, 1000 North Hurstbourne Parkway, Louisville, Ky. 40223

Summary of testimony of those in favor:

01:47:22 Paul Whitty gave a power point presentation. The request is to bring the site into compliance.

02:01:01 Commissioner Carlson requests a binding element regarding making noise early in the morning. Mr. Whitty agrees.

02:03:21 Chair Lewis said the chat box has a proposed binding element stating: There shall be no outdoor storage, sales or display.

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02:03:34 Mr. Dock read the following binding element: No power equipment that will cause a noise disturbance will be run between the hours of 10:00 p.m. and 6:00 a.m. Mr. Whitty agreed.

Deliberation

02:05:35 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 C-2

On a motion by Commissioner Howard, seconded by Commissioner Peterson, the following resolution based on the Plan 2040 Staff Analysis, testimony and evidence presented today was adopted.

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Community Form because, the proposed land use is located opposite Kramers Lane from an industrial land use and the general area contains large areas of industrial zoning and land uses. The proposal is not an industrial land use and does not encroach into a residential area more than is necessary for the proposed land use. The current use of the property is non-residential. The proposal does not result in displacement of residents or loss of affordable housing units. Traffic would not appear to have a significant impact based on the roadway classification, primary collector. The proposal will be required to comply with MSD standards for run-off and detention. The C-2 district does not allow for uses that produce significant odors or noises and the proposed use within the proposed district does not allow for outdoor storage or operation; the subject site is located with proximity to major transportation facilities and transit corridors, employment centers, in or near activity centers and other areas where demand and adequate infrastructure exists or is planned as the site has convenient access to I-264 and related industrial activities, as well as population centers; traffic would not appear to have a significant impact based on the roadway classification, primary collector. Residential roadways are not used for access; the C-2 district does not allow for uses that produce significant odors or noises and the proposed use within the proposed district does not allow for outdoor storage or operation; and

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WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Form because, the proposed district is the minimum necessary to allow for the continued operation of a contractors shop, and expansion of the development on site to allow for multi-tenant contractors shop without creating or introducing significant nuisances; access appears to be appropriate. Traffic would not appear to have a significant impact based on the roadway classification, primary collector. Residential roadways are not used for access; the land use introduces supportive services to the area that are supported by population and employment centers in the area. The proposal is compact and uses the site efficiently to provision a multi-tenant contractors shop; the land use introduces supportive services to the area that are supported by population and employment centers in the area. All modes of transportation are supported by required improvements of the proposal. Introduction of the land use does not reduce neighborhood vitality or sense of place given the larger context of the area – industrial; the proposal results in the rehabilitation of existing structures; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Community Form because, the site development will have a limited impact on natural features. All requirements of MSD will be satisfied by the proposed development plan and construction plans to minimize environmental degradation that may result from site development; no wet or highly permeable soils, severe, steep or unstable slopes appear to be present on site. MSD preliminary approval has been received; no changes to flood-prone areas and other features vulnerable to natural disasters are impacted by the proposed district. The site is not located within the floodplain. MSD preliminary approval has been received; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 4: Community Form because, the proposal results in the rehabilitation of existing structures; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Mobility because, the proposed higher intensity use is appropriately located for the continued operation of a contractors shop on the subject property. The general area includes industrial uses and zoning; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Mobility because, traffic would not appear to have a significant impact based on the roadway classification, primary collector. Residential roadways are not used for access; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Mobility because, the land use introduces supportive

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services to the area that are supported by population and employment centers in the area; all improvements to public ways required by the LDC and Transportation Planning will be addressed or mitigated; all improvements to public ways required by the LDC and Transportation Planning will be addressed or mitigated; the land use introduces supportive services to the area that are supported by population and employment centers in the area. All improvements to public ways required by the LDC and Transportation Planning will be addressed or mitigated; all improvements to public ways required by the LDC and Transportation Planning will be addressed or mitigated; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Facilities because, utilities appear to be available to serve the proposed land use; an adequate supply of potable water and water for fire-fighting purposes will be available; adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams will be provided as approved by MSD.

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to Metro Council the change in zoning from R-4, Single Family Residential to C-2, Commercial on property described in the attached legal description be **APPROVED**.

The vote was as follows:

YES: Commissioners Brown, Carlson, Clare, Daniels, Howard, Mims, Peterson, Seitz, Sistrunk and Lewis

Variances

1. Variance from land Development Code (LDC), section 5.1.8 for proposed structures to exceed the maximum setback of 80' and be located as shown on the development plan

WHEREAS, the requested variance will not adversely affect the public health, safety or welfare as the setback does not impeded the safe movement of pedestrians or vehicles; and

WHEREAS, the requested variance will not alter the essential character of the general vicinity as the existing structure will remain and new structures will be located and oriented appropriately on site to serve the use; and

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WHEREAS, the requested variance will not cause a hazard or nuisance to the public as the setback does not impeded the safe movement of pedestrians or vehicles and allows for the re-use of the existing structure without significant alternations; and

WHEREAS, the requested variance will not allow an unreasonable circumvention of the zoning regulations as the proposal will allow for the reuse the existing structure; and

WHEREAS, the requested variance does arises from special circumstances which do not generally apply to land in the general vicinity or the same zone as an existing structure is present along the frontage that is desired to be retained and provisioning additional or new structures on-site would either result in demolition of the structure or variance being requested; and

WHEREAS, the Louisville Metro Planning Commission finds, the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land as the proposal complies with Plan 2040 as demonstrated in the Plan 2040 Staff Analysis; and

WHEREAS, the Louisville Metro Planning Commission further finds the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as no development has occurred.

2. Variance from LDC, section 5.3.1.C.5 to reduce the non-residential to residential setback from 30' to 15' along the west property line.

On a motion by Commissioner Howard, seconded by Commissioner Peterson, the following resolution based on the Standard of Review and Staff Analysis, testimony and evidence presented today was adopted.

WHEREAS, the requested variance will not adversely affect public health, safety, or welfare as the proposed setback does not impact the safe movement of pedestrians or vehicles, or maintenance of facilities and grounds on-site or adjacent; and

WHEREAS, the requested variance will not alter the essential character of the general vicinity as the proposed development is in an area generally defined by industrial uses; and

WHEREAS, the requested variance will not cause a hazard or nuisance to the public as all required screening and plantings will be provisions per Ch. 10 of the land Development Code; and

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WHEREAS, the requested variance will not allow an unreasonable circumvention of zoning regulations as the use area is present on the opposite side of the site and the area of encroachment is used for parking; and

WHEREAS, the requested variance does not arise from special circumstances which do not generally apply to land in the general vicinity or the same zone the setback requirement is consistent across the form; and

WHEREAS, the Louisville Metro Planning Commission finds, the strict application of the provisions of the regulation would deprive the applicant of reasonable use of the land for the reasons previously stated in these findings; and

WHEREAS, the Louisville Metro Planning Commission further finds the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as no development has occurred.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** Variances: 1. Variance from land Development Code (LDC), section 5.1.8 for proposed structures to exceed the maximum setback of 80' and be located as shown on the development plan and 2. Variance from LDC, section 5.3.1.C.5 to reduce the non-residential to residential setback from 30' to 15' along the west property line.

The vote was as follows:

YES: Commissioners Brown, Carlson, Clare, Daniels, Howard, Mims, Peterson, Seitz, Sistrunk and Lewis

Waiver of LDC, section 10.2.4 land scape buffers areas (LBA) from 35' to 15' along side lines

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

WHEREAS, the waiver will not adversely affect adjacent property owners as all required plantings and screening will be provided; and

WHEREAS, 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,

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suburban, and rural areas. The proposed development will provide all required planting materials to protect the residences from visual intrusions; and

WHEREAS, the Louisville Metro Planning Commission finds, the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the development potential is substantially restricted with the full application of the buffer on each property line; and

WHEREAS, the Louisville Metro Planning Commission further finds the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as the development potential is substantially restricted with the full application of the buffer on each property line.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** a waiver of the Land Development Code, section 10.2.4 land scape buffers areas (LBA) from 35' to 15' along side lines.

The vote was as follows:

YES: Commissioners Brown, Carlson, Clare, Daniels, Howard, Mims, Peterson, Seitz, Sistrunk and Lewis

Detailed District Development Plan and Binding Elements

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

WHEREAS, the conservation of natural resources on the property proposed for development, including: trees and other living vegetation, steep slopes, water courses, flood plains, soils, air quality, scenic views, and historic sites will be provided. All tree canopy required by the Land development code will be provided, no karst features were noted on the plan, and MSD preliminary plan approval has bene received to reduce degradation that may be caused by storm events and run-off; and

WHEREAS, provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community will be provided. The area does not contain sidewalks on Kramers Lane, but the use is not a pedestrian oriented use. It does however, provide sidewalks or mitigate sidewalk construction through fee-in-lieu; and

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WHEREAS, the proposal is not required to provide open space. All tree canopy and detention will be provided as required; and

WHEREAS, 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 Louisville Metro Planning Commission finds, the proposal does not impact the character of the area as the area is generally industrial, and residential areas are disconnected from the primary corridor at Cane Run where residential neighborhoods are also located; and

WHEREAS, the Louisville Metro Planning Commission further finds the proposed development plan conforms to the Comprehensive Plan and all relief requested from the Land Development Code appears to be adequately justified. The subject site is located with proximity to major transportation facilities and transit corridors, employment centers, in or near activity centers and other areas where demand and adequate infrastructure exists or is planned as the site has convenient access to I-264 and related industrial activities, as well as population centers. The land use introduces supportive services to the area that are supported by population and employment centers in the area. All modes of transportation are supported by required improvements of the proposal. Introduction of the land use does not reduce neighborhood vitality or sense of place given the larger context of the area – industrial. All requirements of MSD will be satisfied by the proposed development plan and construction plans to minimize environmental degradation that may result from site development. The C-2 district does not allow for uses that produce significant odors or noises and the proposed use within the proposed district does not allow for outdoor storage or operation.

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. Before any permit (including but not limited to building, parking lot, change of use, site disturbance) is requested:

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a. The development plan must receive full construction approval from Louisville Metro Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.
b. Encroachment permits must be obtained from the Kentucky Transportation Cabinet, Bureau of Highways.

c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.

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. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.

6. There shall be no outdoor storage, sales or display.

7. No power equipment that will cause a noise disturbance will be run between the hours of 10:00 p.m. and 6:00 a.m.

The vote was as follows:

YES: Commissioners Brown, Carlson, Clare, Daniels, Howard, Mims, Peterson, Seitz, Sistrunk and Lewis

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CASE NO. 20-ZONE-0121

Request: Change in Zoning from R-4 to R-6, with Detailed District Development Plan and Binding Elements, and Waiver
Project Name: Smyrna Parkway Apartments
Location: 9301-9309 Smyrna Parkway, Parcels 066202630000, 066202760000
Owner: Robert & Pauline Penrod
Applicant: GKG Investments LLC
Representative: Dinsmore & Shohl LLC
Jurisdiction: Louisville Metro
Council District: 23 – James Peden
Case Manager: Dante St. Germain, AICP, Planner II

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

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

Agency Testimony:

Dante St. Germain presented a power point presentation providing an overview of the project.

The following spoke in favor of this request:

Cliff Ashburner, Dinsmore and Shohl, 101 South 5th Street, Louisville, Ky. 40202
Mike Hill,

Summary of testimony of those in favor:

Cliff Ashburner spoke in support of the application. Mr. Ashburner provided a power point presentation containing details of the project and explaining why the proposed rezoning is appropriate.

Mike Hill spoke in support of the application. Mr. Hill provided details about the layout of the project.

Dante St. Germain presented her power point presentation again due to a technical difficulty with the video.

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Rebuttal

02:34:16 Mr. Ashburner said the only 2 issues are the binding element regarding consultation with the adjoining property owners, adding the landscape plan will be mailed to those property owners and they'll have a 14-day period to comment on it. The applicant will provide proof to Planning and Design staff (as to notification). Ms. St. Germain modified binding element 4e as follows (at end): The colors of siding shall vary as presented from building to building. Regarding landscaping, modification of existing binding element 4c as follows (at end): The landscape plan shall include, at a minimum, plantings as presented at the April 1, 2021 Planning Commission public hearing. A new binding element #7 to read as follows: Final design of the fence on the southern and eastern property lines shall be approved by Planning and Design Services staff. The applicant/developer shall consult with the affected neighbors prior to submitting a design by mailing the proposal to the affected property owners and providing for a 14-day comment period. Mr. Ashburner agreed.

Deliberation

02:38:00 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-6

On a motion by Commissioner Brown, seconded by Commissioner Daniels, the following resolution based on the Plan 2040 Staff Analysis and testimony heard today was adopted.

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Community Form because, the site is on Smyrna Parkway, a primary collector at this location. A commercial activity center is located to the north and the south; appropriate transitions between the site and the adjacent properties will be provided; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Form because, the proposal would permit new development providing residential uses; and

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WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Community Form because, no wet or permeable soils, or severe, steep or unstable slopes are evident on the site; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 4: Community Form because, no distinctive cultural features are evident on the site; no historic assets are evident on the site; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Mobility because, the site is located near commercial uses in an activity center; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Mobility because, access to the site is via Smyrna Parkway, a primary collector; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Mobility because, the site is easily accessible by bicycle, car, pedestrians, and people with disabilities; Transportation Planning has approved the proposal; no direct residential access to high speed roadways is proposed; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Facilities because, the relevant utilities have approved the proposal; Louisville Water Company has approved the proposal; MSD has approved the proposal; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Livability because, no karst features are evident on the site; The site is not located in the regulatory floodplain; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Housing because, the proposal would increase the variety of housing types in the neighborhood; the proposal would support aging in place by increasing the variety of housing, and price points and ownership options in the neighborhood; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Housing because, the proposal would permit inter-generational mixed-income development; the site is within proximity to amenities providing neighborhood goods and services, and is located in an activity center; and

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WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Housing because, the proposed zoning district would increase the variety of ownership options and unit costs in Louisville Metro; the site is currently undeveloped and no existing residents will be displaced; the proposal would permit innovative methods of housing.

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

The vote was as follows:

YES: Commissioners Brown, Carlson, Clare, Daniels, Howard, Mims, Peterson, Seitz, Sistrunk and Lewis

Waiver from 5.9.2.A.1.a.v to omit a pedestrian connection between residential and adjacent non-residential uses (21-WAIVER-0015)

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

WHEREAS, the waiver will not adversely affect adjacent property owners as residents can reach the public sidewalk to move to the adjacent businesses; and

WHEREAS, the waiver will not violate specific guidelines of Plan 2040 as Plan 2040 encourages the provision of safe and convenient pedestrian connections between compatible uses. This is provided by the public sidewalk network; and

WHEREAS, the Louisville Metro Planning Commission finds, the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the required direct connection would have to cross a drainage ditch on the adjacent property; and

WHEREAS, the Louisville Metro Planning Commission further finds strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant by requiring the applicant to provide a pedestrian bridge across the drainage ditch, which is on the adjacent property.

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RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** a waiver from 5.9.2.A.1.a.v to omit a pedestrian connection between residential and adjacent non-residential uses (21-WAIVER-0015).

The vote was as follows:

YES: Commissioners Brown, Carlson, Clare, Daniels, Howard, Mims, Peterson, Seitz, Sistrunk and Lewis

Detailed District Development Plan and Binding Elements

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

WHEREAS, tree canopy exists on the site. The applicant has proposed a fee-in-lieu of preserving 20% of the existing canopy. No other natural resources or historic assets are evident on the 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 has approved the preliminary development plan; and

WHEREAS, required common and recreational open space is being provided for the future residents of the development; 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 is in compliance with the Land Development Code and is compatible with existing and projected future development in the vicinity. The site is located within an existing activity center, identified as a neighborhood node in the Highview Neighborhood Plan, providing neighborhood goods and services. The site plan provides required buffering between the development and existing adjacent single-family development; and

WHEREAS, the Louisville Metro Planning Commission further finds the development plan conforms to applicable guidelines and policies of the Land Development Code with the exception of the requested waiver.

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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, alteration permit or demolition permit) is requested:
 - a. The development plan must receive full construction approval from Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. A minor plat or legal instrument shall be recorded consolidating the parcels into one lot. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of the approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
 - 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 certificate of occupancy. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter. The landscape plan shall include, at a minimum, plantings as presented at the April 1, 2021 Planning Commission public hearing.
 - d. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
 - e. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the April 1, 2021 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. The colors of siding shall vary as presented from building to building.

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5. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.

6. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.

7. Final design of the fence on the southern and eastern property lines shall be approved by Planning and Design Services staff. The applicant/developer shall consult with the affected neighbors prior to submitting a design by mailing the proposal to the affected property owners and providing for a 14-day comment period.

The vote was as follows:

YES: Commissioners Brown, Carlson, Clare, Daniels, Howard, Mims, Peterson, Seitz, Sistrunk and Lewis

PLANNING COMMISSION MINUTES

April 1, 2021

PUBLIC HEARING

CASE NO. 20-DDP-0045

Request: Revised Detailed District Development Plan for multi-family development, with associated Binding Elements and Waivers
Project Name: Providence Point
Location: 2020 Herr Lane
Owner: Providence Point LLC
Applicant: Providence Point LLC
Representative: Bardenwerper, Talbott & Roberts
Jurisdiction: Louisville Metro
Council District: 7 – Paula McCraney
Case Manager: Dante St. Germain, 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.)

Agency Testimony:

02:47:24 Dante St. Germain discussed the case summary, standard of review and staff analysis from the staff report.

Ms. St. Germain answered questions from the commissioners.

The following spoke in favor of this request:

Bill Bardenwerper, Bardenwerper, Talbott and Roberts, 1000 Hurstbourne Parkway, Louisville, KY 40223

Matt McLaren, Gresham Smith and Partners, 111 W. Main Street #201, Louisville, KY 40202

Patrick Henry, Gresham Smith and Partners, 111 W. Main Street #201, Louisville, KY 40202

Diane Zimmerman, 12803 High Meadows Pike, Prospect, KY 40059

David Mindel, Mindel, Scott and Associates, 5151 Jefferson Boulevard, Louisville, KY 40219

Scott Hagan, Hagan Properties, 12911 Reamers Road, Louisville, KY 40245

Layson Hagan, Hagan Properties, 12911 Reamers Road, Louisville, KY 40245

Summary of testimony of those in favor:

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CASE NO. 20-DDP-0045

03:17:35 Mr. Bardenwerper gave a power point presentation. This property has been under consideration for about 5 decades. Mr. Bardenwerper gave a history of the site and compared the prior approved plan to the current plan.

03:37:40 Mr. McLaren continued the power point presentation discussing the roadway improvements and stormwater flow detention basin.

03:50:16 Diane Zimmerman discussed the traffic impact study.

Mr. Bardenwerper summarized the proposal.

03:59:51 The applicant representatives answered questions from the commissioners.

The following spoke neither for nor against the request:

Michael Allen, 1406 Community Way, Greymoor/Devondale

Summary of testimony of those neither for nor against:

04:20:12 Michael Allen asks what the change in traffic volume is from the current flow versus the proposed. Also, does the proposed 520 units comply with the zoning and acreage requirements?

The following spoke in opposition to this request:

Clarence H. Hixson, 1336 Hepburn Avenue, Louisville, Ky. 40204
Jackie Gedrose, 7108 Westboro Road, Louisville, Ky. 40222
Jacqueline Hersh, 2008 (Inaudible), Louisville, Ky. 40222
Cody Cobb, 7102 Glenn Arbor Road, Louisville, Ky. 40222
Pat Roles, 2208 Wynnwood Circle, Louisville, Ky. 40222
Derek Manns, 7101 Westboro Road, Louisville, Ky. 40222
Lynn Greene, 1605 Herr Lane, Louisville, Ky. 40222
Arthur McRay, 6900 Graymoor Road, Louisville, Ky. 40222
Jennifer Whitfield, 2010 Lynn Way, Louisville, Ky. 40222
Robert S. White, 7415 Westboro Road, Louisville, Ky. 40222
Whitney Van Vactor, 2014 Lynn Way, Louisville, Ky. 40222
Marcia Hicks, 4924 Grantham Place, Louisville, Ky. 40222
John Hicks, 4924 Grantham Place, Louisville, Ky. 40222

Summary of testimony of those in opposition:

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04:25:17 Clarence Hixson, attorney, discussed flooding and drainage issues. The road widening and accelerated drainage from this development are going to create a regional problem with flooding.

04:32:56 Jackie Gedrose is concerned about traffic and the density of the proposal.

04:43:35 Jacqueline Hersh said she is concerned about traffic, stormwater drainage and environmental protection of the ecosystem.

04:53:25 Cody Cobb discussed issues with the traffic impact study. Most of the requested waivers are counter-productive to the intent of the Comprehensive Plan 2040.

Ms. Cobb requests that the commission not increase the density and that parking remain in garages or beneath the building to maintain the character of the surrounding Town Center Form District.

04:58:36 Pat Roles said traffic is a major issue and has not been mitigated.

05:01:52 Derek Manns said he's neutral concerning the project, discussing some positive and negative aspects.

05:08:41 Lynn Greene is concerned about the traffic and emergency services.

05:11:55 Arthur McRay said he doesn't think the full impact of the development has been considered on the basin by Ballard. The Ballard basin overflows with a significant rainfall. Concerning traffic, the delays are significant and there needs to be consideration for how many cars will be traveling on the roadway with this new development. The development is too dense and the elevations aren't in the best interest of the town plan.

05:16:05 Jennifer Whitfield said she has the following concerns: traffic and traffic studies; MSD; density; height - 3-4 stories reduced to 2-3 stories; and light pollution.

05:20:08 Robert White said traffic is a major issue. It would be nice to donate the property and turn the land into a city park (tree canopy disappearing).

05:23:29 Whitney Van Vactor said the traffic studies didn't reflect the south bound lane. There are 4 schools in the area and completely stops traffic in the mornings. A park would be a better use for the property.

05:30:05 Marcia Hicks said her main concerns are traffic and density.

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CASE NO. 20-DDP-0045

05:33:25 John Hicks said the traffic study doesn't reflect the reality (insufficient).

Rebuttal

05:41:57 Mr. Bardenwerper said this case is a Revised Detailed District Development Plan, not a rezoning. The zoning change in 2002 has established the density. The plan has further reduced the runoff by 50% and reduced the traffic in the a.m. by 64% and in the p.m. by 70%. All other traffic issues were addressed in the traffic study. There is a demand for multi-family residential. The stormwater issue is a regulatory issue and we're complying.

The applicant representatives answered questions from the commissioners.

06:11:53 David Johnson, MSD, discussed requirements dealing with the wastewater and stormwater systems. The Corps. of Engineers will handle other issues dealing with wetlands, river rains and endangered species.

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.

RESOLVED, that the Louisville Metro Planning Commission does hereby **CONTINUE** this case to the April 15, 2021 Business Session of the Planning Commission meeting.

The vote was as follows:

YES: Commissioners Carlson, Clare, Howard, Mims, Peterson and Lewis
NOT PRESENT AND NOT VOTING: Commissioners Brown, Daniels, Seitz and Sistrunk

PLANNING COMMISSION MINUTES
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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 7:39 p.m.

DocuSigned by:

Marilyn Lewis

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Chair

DocuSigned by:

[Signature]

Planning Director