

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

A meeting of the Louisville Metro Planning Commission was held at 1:00 p.m. on Thursday, July 1, 2021 via Webex.

**Commission members present:**

Marilyn Lewis, Chair  
Lula Howard, Vice Chair  
Jeff Brown  
Rich Carlson  
Patricia Clare  
Ruth Daniels  
Jim Mims  
Te'Andre Sistrunk

**Commission members absent:**

Rob Peterson  
Patricia Seitz

**Staff Members present:**

Emily Liu, Director, Planning & Design Services  
Joe Reverman, Assistant Director, Planning & Design Services  
Joe Haberman, Manager, Planning & Design Services  
Julia Williams, Planning Supervisor  
Dante St. Germain, Planner II  
Laura Ferguson, Legal Counsel  
Beth Stuber, Transportation Planning  
Jay Lockett, Planner I  
Pamela M. Brashear, Management Assistant

The following matters were considered:

**PLANNING COMMISSION MINUTES**  
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**APPROVAL OF MINUTES**

**JUNE 17, 2021 PLANNING COMMISSION REGULAR MEETING MINUTES**

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

**RESOLVED**, that the Planning Commission does hereby **APPROVE** the minutes of its meeting conducted on June 17, 2021.

**The vote was as follows:**

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

**NOT PRESENT FOR THIS CASE: Commissioners Peterson and Seitz**

**JUNE 22, 2021 PLANNING COMMISSION SPECIAL MEETING MINUTES**

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

**RESOLVED**, that the Planning Commission does hereby **APPROVE** the minutes of its meeting conducted on June 17, 2021.

**The vote was as follows:**

**YES: Commissioners Brown, Clare, Daniels, Howard, Mims and Lewis**

**NOT PRESENT FOR THIS CASE: Commissioners Peterson and Seitz**

**ABSTAINING: Commissioners Carlson and Sistrunk**

**PLANNING COMMISSION MINUTES**  
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**CONSENT AGENDA**

**CASE NO. 21-STRCLOSURE-0005**

Project Name: Humana Alley Closure  
Location: Portion of an Unnamed Alley west of S 5th St parallel and to the south of E Main St  
Owner(s): Louisville Metro  
Applicant: Humana, Inc.  
Jurisdiction: Louisville Metro Council District: 4 – Jecorey Arthur  
Case Manager: Jay Lockett, AICP, Planner

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.)

**Discussion**

00:06:52 No 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.**

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

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** the closure of public right-of-way on a portion of an unnamed alley west of S. 5th St. parallel and to the south of E. Main St.

**The vote was as follows:**

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

**NOT PRESENT AND NOT VOTING: Commissioners Peterson and Seitz**

**PLANNING COMMISSION MINUTES**  
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**BUSINESS SESSION**

**CASE NO. BY-LAWS/POLICIES CHANGES 070121**

Project Name: Amendment to Planning Commission Bylaws and Policies  
Case Manager: Emily Liu, AICP, Planning & Design Director

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**

00:08:05 Emily Liu discussed the updates/changes (see recording for detailed presentation).

**ARTICLE VI Meetings**

..... Table 7.1 Guideline Level Threshold for Gatherings per Executive Order Evening Hearing Guidelines Level 1 Up to 100 people permitted at gatherings per Executive Order Evening hearings (designated in-person location with livestream viewing/participation available) shall be scheduled for rezoning cases described in 7.B and 7.C above. At least one member of the Planning Commission shall be present at the in-person evening hearing location. All other members may attend virtually. Evening hearing will be livestreamed via software approved by PDS Staff in consultation with Metro IT. All speakers are asked to pre-register at least 24 hours in advance of the start time of a scheduled meeting to assure adequate in-person space and online capacity is available. Speakers who are pre-registered will have priority regarding the order in which they speak. Those who do not pre-register will be allowed to speak at the discretion of the Chair and as time and space allow. Hearings shall be conducted in compliance with the applicable social distancing requirements outlined in the Kentucky Healthy at Work Guidance and Requirements for Venues and Public Spaces (available at <https://govstatus.egov.com/ky-healthy-at-work> ). Level 2 Greater than 100 people permitted at gatherings per Executive Order Evening hearings (designated in-person location with livestream viewing/participation available) shall be scheduled for rezoning cases described in 7.B and 7.C above. At least one member of the Planning Commission shall be present at the in-person evening hearing location. All Planning Commissioners may attend evening hearings at in-person meeting location\*. Evening hearings will be livestreamed via software approved by PDS Staff in consultation with Metro IT. All speakers are asked to pre-register at least 24 hours in advance of the start time of a scheduled meeting to assure adequate in person space and online capacity is available. Speakers who are pre-registered will have priority regarding the order in which they speak. Those who do not pre-register will be allowed to speak at the discretion of the Chair and as time and space allow. Hearings shall be conducted in compliance with the applicable social distancing requirements outlined in the Kentucky

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Healthy at Work Guidance and Requirements for Venues and Public Spaces (available at <https://govstatus.egov.com/ky-healthy-at-work> ). Level 3 End of State of Emergency or Capacity Restrictions are Lifted Public hearings resume normal scheduling and operating procedures.

**APPLICATION**

**PROCEDURES.....3.0**

.....

**3.03 Notice**

.....

**3.03.02** It shall be the duty of the person or persons making the application to furnish to the Division of Planning and Design Services (i) the names and addresses of the owners of all property described in this section, and (ii) the addresses for all dwelling units located on all property described in (i), to be addressed to “Current Resident.” Records maintained by the Jefferson County Property Valuation Administrator may be relied upon conclusively to determine the identity and address of said owner(s). Addresses for “Current Resident” shall be obtained using available data from Louisville Metro Government, and those records may be relied upon conclusively to determine the dwelling units to be included in the supplemental notice. In the event a property described in this section is held in a cooperative or condominium form of ownership, the person entitled to notice under this section on behalf of the owner shall be the president or chairman of the owner group that administers the property in common ownership. A joint notice may be mailed to two or more co-owners of a property described in this section where those co-owners are listed in the Property Valuation Administrator’s records as having the same address.

.....

**3.04 Notice of Filing of Application**

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**3.04.04** It shall be the duty of the applicant to furnish to the Division of Planning and Design Services the names and addresses of the parties, and in the case of the supplemental notice to be addressed to “Current Resident,” the

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addresses of the current residents, notified as required above and a copy of the notice sent within seven (7) calendar days after such notices are mailed. Records maintained by the Jefferson County Property Valuation Administrator (PVA) may be relied upon conclusively to determine the identity and address of said owners. Addresses for "Current Resident" shall be obtained using available data from Louisville Metro Government, and those records may be relied upon conclusively to determine the dwelling units to be included in the supplemental notice. In the event a property described in this section is held in a cooperative or condominium form of ownership, the person entitled to notice under this section on behalf of the owner shall be the president or chairperson of the owner group that administers the property in common ownership. A joint notice may be mailed to two or more co-owners of a property described in this section where those co-owners are listed in the Property Valuation Administrator's records as having the same address.

**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 Carlson, seconded by Commissioner Daniels, the following resolution was adopted.

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** the Amendments to Planning Commission Bylaws and Policies.

**The vote was as follows:**

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

**NOT PRESENT AND NOT VOTING: Commissioners Peterson and Seitz**

**PLANNING COMMISSION MINUTES**  
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**PUBLIC HEARING**

**CASE NO. 20-DDP-0054**

Request: **THIS CASE WILL BE CONTINUED TO THE JULY 15, 2021 PLANNING COMMISSION HEARING** - Revised Detailed District Development Plan with parking waiver, building design waiver, and parkway buffer waiver

Project Name: Cedar Creek Crossing

Location: 7704-7718 Bardstown Road & 7509 Cedar Creek Road

Owner: Real Properties Plus II, LLC; Park Community Credit Union; Cindy Sue daily

Applicant: Hogan Real Estate

Representative: Dinsmore & Shohl, LLP – Cliff Ashburner

Jurisdiction: Louisville Metro

Council District: 22 – Robin Engel

Case Manager: Joel P. Dock, AICP, Planner II

Julia Williams Presented: Planning Supervisor

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

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

**Agency Testimony:**

00:17:05 Julia Williams stated the applicant requests that this case be heard at the July 15, 2021 Planning Commission meeting.

**The following spoke in favor of this request:**

Cliff Ashburner, Dinsmore and Shohl, 101 South 5<sup>th</sup> street, Louisville, Ky. 40202

**Summary of testimony of those in favor:**

Cliff Ashburner said he is working with staff and requests this case be heard July 15, 2021.

**Deliberation**

Planning Commission deliberation.

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

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **CONTINUE** this case to the July 15, 2021 Planning Commission meeting.

**The vote was as follows:**

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

**NOT PRESENT AND NOT VOTING: Commissioners Peterson and Seitz**



**PLANNING COMMISSION MINUTES**  
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**PUBLIC HEARING**

**CASE NO. 20-ZONE-0060**

Request: Detailed District Development Plan/Major Preliminary Subdivision and Binding Elements, with associated Waiver  
Project Name: Cedar Creek Road Apartments  
Location: 8000 & 8006 Cedar Creek Road, Parcel ID 065600310000  
Owner: Angela Nicole Stivers, Stacey Nunez, Joseph Kevin Wright  
Applicant: Hagan Properties  
Representative: Bardenwerper Talbott & Roberts  
Jurisdiction: Louisville Metro  
Council District: 22 – Robin Engel  
Case Manager: Dante St. Germain, AICP, Planner II

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

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

**Agency Testimony:**

00:19:31 Laura Ferguson explained, the zoning portion of this case was denied by the Planning Commission (recommendation) but approved by Metro Council. Now, the waiver and Detailed District Development Plan/Major Preliminary Subdivision need to be acted upon. The zoning portion is not before the Planning Commission today.

00:21:30 Dante St Germain discussed the case summary, standard of review and staff analysis from the staff report.

**The following spoke in favor of this request:**

Bill Bardenwerper, Bardenwerper, Talbott and Roberts, 1000 North Hurstbourne Parkway, Louisville, Ky. 40223  
Kevin Young, Land Design Development, 503 Washburn Avenue, Louisville, Ky. 40222

**Summary of testimony of those in favor:**

Bill Bardenwerper gave a power point presentation. Metro Council overrode Planning Commission decision of denial. Staff agrees that the waiver is appropriate.

Mr. Bardenwerper asks that the commissioners review the very detailed finding of facts (see recording for detailed presentation).

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**CASE NO. 20-ZONE-0060**

Commissioner Howard asked if the utility company has given approval. Kevin Young said there have been discussions, but the applicant/representatives will have to get permitted to cross the gas line.

**The following spoke in opposition to this request:**

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

**Summary of testimony of those in opposition:**

Steve Porter cross-examined Bill Bardenwerper (see recording for detailed presentation).

Mr. Porter said the binding elements were not discussed because of the denial. He suggests postponing a decision today for this reason. Also, the Metro Council process was illegal and unethical (see recording for detailed presentation).

**Rebuttal**

Mr. Bardenwerper stated there was nothing illegal with Metro Council. It was standard procedure. The applicant will pay a fair share for the sidewalks.

Mr. Bardenwerper requests the use of Metro Council and the applicant/representative finding of facts (see recording for detailed presentation).

Commissioner Brown wants to discuss the binding elements. The \$100,000 contribution for sidewalks may or may not be enough. Also, the 5-year time limit will probably not be enough time to complete a project of this size (see recording for detailed presentation).

**Deliberation**

Planning Commission deliberation.

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

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

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**RESOLVED**, that the Louisville Metro Planning Commission does hereby **CONTINUE** this case to a date uncertain to give the applicant and Public Works an opportunity to resolve the sidewalk and stub road connection binding elements.

**The vote was as follows:**

**YES: Commissioners Brown, Carlson, Clare, Daniels, Mims, Sistrunk and Lewis**

**NOT PRESENT AND NOT VOTING: Commissioners Peterson and Seitz**

**ABSTAINING: Commissioner Howard**

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**PUBLIC HEARING**

**CASE NO. 21-DDP-0058**

Project Name: Dairy Queen  
Location: 5103 Outer Loop  
Owner(s): DFWM Outerloop LLC  
Applicant: Fourteen Foods  
Jurisdiction: Louisville Metro  
Council District: 24- Madonna Flood  
Case Manager: Julia Williams, AICP, Planning Supervisor

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:**

01:57:05 Julia Williams discussed the case summary, standard of review and staff analysis from the staff report.

**The following spoke in favor of this request:**

Bill Bardenwerper, Bardenwerper, Talbott and Roberts, 1000 North Hurstbourne Parkway, Louisville, Ky. 40223  
Marv Blomquist, 10529 Timberwood Circle, Suite D, Louisville, Ky. 40223

**Summary of testimony of those in favor:**

Bill Bardenwerper gave a power point presentation. This case was previously approved (2017) and extended to January 2021. There's adequate stacking per code. Commissioner Carlson said stacking is a major issue (see recording for detailed presentation).

Marv Blomquist explained how stacking is being handled (see recording for detailed presentation).

**Deliberation**

Planning Commission deliberation.

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**PUBLIC HEARING**

**CASE NO. 21-DDP-0058**

**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 Detailed District Development plan**

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

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

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

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

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

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

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

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

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1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. The development shall not exceed 4,900 square feet of gross floor area.
3. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
4. 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.
5. 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 Develop Louisville, Louisville Metro Public Works and the Metropolitan Sewer District.
  - b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
  - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
6. 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.
7. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
8. 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

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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.

9. The property owner shall provide a cross over access easement if the property to the west is ever re-developed for a nonresidential use. A copy of the signed easement agreement shall be provided to Planning Commission staff upon request.

10. The façade elevations shall be in accordance with applicable form district standards and shall be approved by PDS staff prior to construction permit approval.

11. No idling of trucks shall take place within 200 feet of single-family residences. No overnight idling of trucks shall be permitted on-site.

12. Customer service hours shall be limited to 6:30 a.m.-11:00 p.m. Parking lot pole lighting shall be cut off after customer service hours.

13. The style and design of the 8' screening wall shall be as shown at the 1/18/17 Planning Commission public hearing or as agreed to by the adjacent property owner to the north prior to landscape plan approval. Required trees shall be planted on the residential side of the screen wall.

14. The following C-1 uses shall be prohibited. Any amendment to this binding element shall be subject to full Planning Commission review and approval after a public hearing.

- Convenience grocery
- Auto service and repair
- Auto rental agencies
- Car washes
- Package liquor stores
- Gas station

15. The dumpster shall be screened with a masonry wall that matches the building materials. 6' evergreen trees shall also be planted in front of the dumpster screen to diminish its visibility from Outer Loop.

16. The applicant will allow reasonable access to the site for reasonable archeological investigation of the site prior to site disturbance.

17. There shall be no dumpster service between the hours of 7 pm and 7 am.

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18. The hours of operation for any drive-through on the subject site shall be limited to 6:30 am to 10 pm Sunday through Thursday and 6:30 am to 11 pm on Friday and Saturday.

19. Any change in use or amendment to binding elements shall have a public hearing before the Planning Commission and must be approved by Metro Council.

**The vote was as follows:**

**YES: Commissioners Brown, Clare, Daniels, Howard, Mims, Sistrunk and Lewis**

**NO: Commissioner Carlson**

**NOT PRESENT AND NOT VOTING: Commissioners Peterson and Seitz**



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**PUBLIC HEARING**

**CASE NO. 21-ZONE-0014**

Project Name: The Haymarket  
Location: 3020 River Road  
Owner(s): Riverbend Farms II, LLC  
Applicant: Ashbourne Farms  
Representative(s): Dinsmore & Shohl, LLP  
Jurisdiction: Louisville  
Metro Council District: 9 – Bill Hollander  
Case Manager: Joel P. Dock, AICP, Planner II

**NOTE: COMMISSIONER DANIELS LEFT AT APPROXIMATELY 3:26 PM AND DID NOT VOTE ON THIS CASE.**

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:**

02:39:44 Julia Williams discussed the case summary, standard of review and staff analysis from the staff report.

**The following spoke in favor of this request:**

Cliff Ashburner, Dinsmore and Shohl, 101 South 5<sup>th</sup> Street, Louisville, Ky. 40202  
Kelli Jones, Sabak, Wilson and Lingo, 608 South 3<sup>rd</sup> Street, Louisville, Ky. 40202  
Ed Krebs, 815 West Market Street, Suite 502, Louisville, Ky. 40202  
Steve Porter, 2406 Tucker Station Road, Louisville, Ky. 40299

**Summary of testimony of those in favor:**

Cliff Ashburner gave a power point presentation explaining the proposal (see recording for detailed presentation).

Kelli Jones discussed the parking along Mockingbird Valley Rd. with some right-of-way dedication as well as some dedication on River Rd. There will be planting of shrubs and trees to soften the view of the site from Mockingbird Valley Rd.

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Ms. Jones discussed the waiver requests, tree canopy, etc. (see recording for detailed presentation).

Mr. Ashburner stated the site is in the flood plain so the applicant can either use the existing buildings or create/build a platform for the building (see recording for detailed presentation).

Ed Krebs said fire sprinklers will be added to the building.

Steve Porter said he represents the Mockingbird Valley Preservation Alliance which is the neighborhood organization, and this property is within the boundaries of that organization's concern (see recording for detailed presentation).

**The following spoke in opposition to this request:**

Tom Halbleib, Stites and Harbison, 400 West Market Street, Louisville, Ky. 40202

**Summary of testimony of those in opposition:**

Tom Halbleib is counsel for River Fields. Additional C-1 zoning along this portion of River Rd. is inconsistent with its and the Ky. Dept. of Transportation's vision of a scenic by-way (see recording for detailed presentation).

**Rebuttal**

Mr. Ashburner said the proposed rezoning complies with Plan 2040 and the Mockingbird Valley Neighborhood Plan. There are no hours of operation set at this time – maybe 7:00 a.m. to 9:00 p.m. in the summertime (see recording for detailed presentation).

Ms. Williams said there is one binding element that may be troublesome – the exclusion of multiple family dwellings could become a fair housing issue. Mr. Ashburner agrees with removing it as a prohibited use. Mr. Porter agrees as well (see recording for detailed presentation).

**Deliberation**

Planning Commission deliberation.

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

**Zoning Change from R-5 to C-1**

On a motion by Commissioner Brown, seconded by Commissioner Carlson, 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 proposal does not encroach upon a residential area as evidenced by abutting zoning districts, roadways, and the interstate; the proposed district is appropriately located for its intensity adjacent to commercial activity centers and roadways providing access in multiple directions throughout Metro; adverse impacts of traffic will not result. The proposal is in an area of commercial development that is appropriate for expansion at this site; Adverse impacts of noise will not result. The proposal is in an area of commercial development that is appropriate for expansion at this site. The interstate abutting the site producing a large amount of noise; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Form because, the proposal is in an area of commercial development that is appropriate for expansion at this site given the abutting zoning districts, roadways, and the interstate. Utilities and improvements to the site will be made as required and needed for the proposal; the proposal is for non-residential development in the Neighborhood form district with access to an arterial roadway and the Louisville Loop; the proposed district results in the reuse of existing non-residential land and structures to encourage a more compact development pattern; the proposal incorporates additional land uses into an area that maintains a variety of uses with access to multiple modes of travel which supports alternative modes of travel and reduction of trips; the proposal provides commercial reuse of non-residential structures; the district is appropriately located adjacent to commercial development and arterial roadways having shared-use pedestrian paths; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Community Form because, development proposals will need to be cognizant of the floodplain regulations and karst potential that overlaps the site to avoid adverse impacts to nearby properties and the environment; MSD preliminary approval has been received to limit the potential for adverse impacts in areas having wet or permeable soils or areas with erosion; MSD preliminary approval

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has been received to minimize negative impacts of development within the floodplain. If Karst features are discovered during site development and that feature will be disturbed, the developer will need to proceed in accordance with LDC 4.9; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 4: Community Form because, this parcel abuts a cultural resource site 15JF90 to the west, which appears to be located at 1039-1041 Zorn Ave. However, maps do not show defined boundaries of this site. If human remains are discovered during the excavation or development of a site, the applicant shall immediately cease excavation activities and notify the Louisville Metro Coroner and the Jefferson County Historic Landmarks Commission; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Mobility because, the proposed district is appropriately located for its intensity adjacent to similar districts. The site is along the path of the Louisville Loop which provides shared-use connectivity to parks and the downtown area; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Mobility because, access to the subject property is via arterial level roadway through areas of similar or higher intensity or density; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Mobility because, a mix of complementary uses is provided. The proposed district is appropriately located for its intensity adjacent to similar districts. The site is along the path of the Louisville Loop which provides shared-use connectivity to parks and the downtown area; to improve mobility, and reduce vehicle miles traveled and congestion, encourage a mixture of compatible land uses the proposed district is appropriately located for its intensity adjacent to similar districts. The site is along the path of the Louisville Loop which provides shared-use connectivity to parks and the downtown area; the proposed district is appropriately located for its intensity adjacent to similar districts. The site is along the path of the Louisville Loop which provides shared-use connectivity to parks and the downtown area. While TARC service is not available at this location. TARC service would greatly benefit the use of nearby parks and amenities; all improvements to the sidewalk and transportation network will be made during development of the site; all improvements made necessary by the development will be provided to ensure adequate levels of services and access; all improvements made necessary by the development will be provided to ensure adequate levels of services and access. As the development progresses changes to the network may be needed as the needs of the Louisville Loop may progress in the area; and

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**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Facilities because, utilities would appear to be available based on existing development; the area would appear to have adequate levels of water for firefighting purposes. Any improvements required by the local fire district will be incorporated; MSD preliminary approval has been received to ensure adequate means of sewage treatment and disposal to protect public health and to protect water quality; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Livability because, MSD preliminary approval has been received to limit negative impacts to the floodplain and water quality; MSD preliminary approval has been received to limit negative impacts to the integrity of the floodplain and reduce disturbance of water systems.

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council the change in zoning from R-5, Single Family Residential to C-1, Commercial on property described in the attached legal description be **APPROVED**.

**The vote was as follows:**

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

**Waivers:**

- 1. Waiver of LDC, section 5.6.1.C to not provide 50% clear windows or doors along facades facing the public street**

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

**WHEREAS**, the waiver will not adversely affect adjacent property owners as the requested waiver does not reduce any elements that are intended to provide transition between uses or reduce potential nuisances upon adjacent property; and

**WHEREAS**, the waiver will not violate related guidelines of Plan 2040 as Community Form, Goal 1, Policy 4 seeks to ensure new development and redevelopment are compatible with the scale and site design of nearby existing development and with the desired pattern of development within the Form District. Quality design and building

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materials should be promoted to enhance compatibility of development and redevelopment projects. The proposed rendering demonstrates a high level of design and consideration to the character of the area, as well as the desired farm-like aesthetic. Outdoor market areas will be in front of the structure and the structure is setback considerable from the right-of-way; thus, reducing the need to maintain views into this commercial development; 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 renderings provided meet the needs of the proposed development and do not detract from the overall quality of design expected or existing in the area; and

**WHEREAS**, the Louisville Metro Planning Commission further finds the applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived as a silo, barn-like entryway, and outdoor market areas will be provided which create an attractive and inviting space for the public.

**2. Waiver of LDC, section 5.9.2 to omit the vehicular connection between the subject site and the adjacent development**

**WHEREAS**, the waiver will not adversely affect adjacent property owners as each site provides sufficient parking and pedestrian pathways will be provided between the two properties; and

**WHEREAS**, the waiver will not violate related guidelines of Plan 2040 as Mobility Goal 1, Policy 1. promotes healthy lifestyles and reduce congestion, new development and redevelopment should provide for the movement of pedestrians, bicyclists and transit users, where appropriate. Mobility Goal 3, Policy 20 promote joint access and circulation systems for development sites comprised of more than one building site or lot. Pedestrian circulation between sites will be provided and each site has sufficient parking and access to reduce the need for vehicles passing between the site but to allow for pedestrian interaction; 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 grade changes in the area of potential connection and connection might be limited by the existing conditions on the adjacent site. Pedestrian connection is provided; 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

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applicant as each site has parking facilities and pedestrian connection is being maintained.

#### **3. Waiver of LDC, section 10.2.12 to encroach 5' into the 15' vehicle use area (VUA) landscape buffer areas (LBA) along Mockingbird Valley Road**

**WHEREAS**, the waiver will not adversely affect adjacent property owners as all required plantings and screening will be provided and the request is adjacent to a roadway; and

**WHEREAS**, the waiver will not violate specific guidelines of Plan 2040. Community form Goal 1, Policy seeks to ensure an appropriate transition between uses that are substantially different in scale and intensity or density of development. The transition may be achieved through methods such as landscaped buffer yards, vegetative berms, compatible building design and materials, height restrictions and setback requirements. Policy 12 calls for the parking, loading and delivery areas located adjacent to residential areas to minimize adverse impacts from noise, lights, and other potential impacts. The encroachment will not reduce the required plantings or screening requirements and will continue to ensure that visual intrusions are minimized and transitions to roadways are provided; 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 site was required to dedicate right-of-way; thus, reducing the area that could be used to comply with the landscape requirements; 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 encroachment will not reduce the required plantings or screening requirements and will continue to ensure that visual intrusions are minimized and transitions to roadways are provided.

#### **4. Waiver of Land Development Code (LDC), section 10.3.5 to encroach 3' into the parkway buffer at an intersection**

**WHEREAS**, the waiver will not adversely affect adjacent property owners as the reduction does not reduce any elements that are intended to provide transition between uses or reduce potential nuisances upon adjacent property, and all screening and planting requirements will be met; and

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**WHEREAS**, Plan 2040 defines a parkway as roadways with a designation used to protect existing scenic roadways, to ensure a quality visual experience on developing corridors and to improve the visual experience on established roads with area-wide significance. Mobility goals call for development, preservation, and maintenance of an interconnected system of scenic corridors and parkways and encourages the preservation of important cultural resources, landscapes and scenic vistas in the design, maintenance and development of major thoroughfares and parkways. Existing conditions encroach upon the parkway and right-of-way without appropriate screening, consideration for the parkway, or the general safety of users of the parkway. The proposal will greatly improve these conditions and comply with the parkway buffer applicable to the frontage road but not fully with the parkway buffer extension required for intersections on parkways. All planting and screening will be provided as required. A 10' VUA LBA is provided on the remainder of Mockingbird Valley Road; 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 area of encroachment is necessary to provide the needed width of the drive lane to serve parking in this area; 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 relief does not violate specific guidelines of Plan 2040, adversely impacts adjacent property owners, and all plantings and screening will be provided.

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** the following waivers: 1. Waiver of LDC, section 5.6.1.C to not provide 50% clear windows or doors along facades facing the public street.; 2. Waiver of LDC, section 5.9.2 to omit the vehicular connection between the subject site and the adjacent development; 3. Waiver of LDC, section 10.2.12 to encroach 5' into the 15' vehicle use area (VUA) landscape buffer areas (LBA) along Mockingbird Valley Road; and 4. Waiver of Land Development Code (LDC), section 10.3.5 to encroach 3' into the parkway buffer at an intersection.

**The vote was as follows:**

**YES: Commissioners Brown, Carlson, Clare, Howard, Mims and Lewis**

**NOT PRESENT AND NOT VOTING: Commissioners Daniels, Peterson and Seitz**

**ABSTAINING: Commissioner Sistrunk**

**Detailed District Development Plan**



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

**WHEREAS**, 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, MSD preliminary approval has been received to minimize adverse impacts to water courses, and cultural resources will be preserved as needed; and

**WHEREAS**, provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community will be provided. Sidewalks and pedestrian connection will be provided in the public right-of-way and connect from the right-of-way to the buildings. Pedestrian connection will also be provided to an adjacent center; and

**WHEREAS**, large portions of the site will be left open to the sky and used for a market or garden; 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 is compatible with the overall character of the area and design of the form district. The proposed rendering demonstrates a high level of design and consideration to the character of the area, as well as the desired farm-like aesthetic. Outdoor market areas will be in front of the structure to encourage pedestrian interaction; 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.

**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

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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 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.
  - d. The property shall be consolidated by minor plat or legal instrument as shown on the approved development plan.
  
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. Hours of operation shall be from 7:00 a.m. to 9:00 p.m. The gated entrances shown on the approved Plan shall be opened and remain open during operating hours. The gate along River Road shall be opened from the exterior only. Gates along Mockingbird valley Road shall be opened from the interior only.
  
7. Pedestrian connection from the subject site to the adjacent center shall be provided prior to occupancy of the subject site.

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8. If human remains are discovered during the excavation or development of the site, the applicant shall immediately cease excavation activities and notify the Louisville Metro Coroner and the Jefferson County Historic Landmarks Commission.

9. The following uses are specifically excluded from the property:

- Animal race tracks
- Athletic facilities
- ATV courses
- Automobile rental agencies or sales
- Automobile parking areas as a principal use
- Automobile service stations
- Boarding and lodging houses and group housing
- Bowling alleys
- Camping areas or RV parks
- Cannabis sales
- Car washes
- Communication towers
- Community service facility
- Consignment sales
- Convents and monasteries
- Country clubs
- Crematories
- Day care centers, day nurseries, nursery schools
- Department stores
- Drug stores or pharmacies
- Dwelling, multiple family (3 or more units per building)
- Extended stay lodging
- Family care home
- Firearms or ammunition sales
- Flea markets
- Funeral homes
- Health club, fitness center
- Health spa
- Heliport
- Homeless shelter
- Hotels and motels
- Ice storage houses
- Kennels, commercial
- Laundries or laundrettes, self-service
- Medical laboratories
- Mobile home park

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Motorcycle sales or rentals  
Nursing homes, homes for aged and infirm  
Off-premise signs (except for the existing sign)  
Outdoor firearms ranges  
Package liquor stores  
Pawn shop  
Pet grooming, training  
Pet shop  
Radio and television stores  
Rehabilitation homes  
Religious buildings  
Residential care facilities  
Restaurants, fast-food  
Retail or variety stores that carry a wide variety of inexpensive merchandise, some of it priced at one dollar or less  
Short term rentals  
Storage pods or trucks, except temporary  
Tanning salons  
Transitional housing  
Variety stores

10. All uses currently permitted in the C-2 zone (but not permitted in C-1) or permitted in industrial zones are specifically excluded from the property.

11. The following uses are permitted only as secondary or ancillary uses to the main use: Clothing sales Furniture sales Groceries Rental businesses

12. The following uses are specifically allowed on the property:

Agricultural uses  
Antique shops  
Art galleries  
Artisan shops  
Bakeries  
Bed and breakfasts  
Bicycle sales and service  
Bookstores  
Boutique  
Catering kitchen/ bakery  
Confectionary, ice cream or candy stores  
Craft  
Design Studio with sales  
Drive-through coffee shop

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Dwellings, single-family or two-family  
Florist shops  
Home occupations  
Interior decorating shops  
Jewelry stores  
Libraries, museums  
Nurseries, retail  
Offices  
Parks, playgrounds, community centers  
Photographic shops  
Photography studios  
Physical fitness instruction  
Restaurants, tea rooms and cafes  
Stationery stores  
Tailor  
Veterinary hospital

13. No earthen fill shall be brought to the property to raise the ground level.
14. No new building on the property shall exceed two stories or one floor above the flood elevation at the time of construction.
15. Any newly constructed or reconstructed building(s) shall not exceed the current building(s)' footprint square footage by more than twenty percent.
16. No perimeter fencing shall obstruct the view of the property from River Road or Mockingbird Valley Road.
17. Lighting a. All exterior lighting, whether freestanding or attached to any structure, including lot lights and lighting for any signage, shall be fully shielded, shall utilize flat or hidden lenses, and shall be pointed directly to the ground with the exception of low voltage architectural accent lighting. b. No LED lighting shall have a correlated color temperature (CCT) exceeding 3000 degrees Kelvin. c. No parking lot light fixtures shall be more than sixteen feet high, measured from ground level.
18. Signage
  - a. No lighted signage shall be placed above the first-floor level, except it shall be allowed on a gable over an entrance if fully shielded and pointed directly to the ground and not backlit.
  - b. No changing image or moving signs shall be permitted.
  - c. All freestanding signage shall not exceed six feet in height, measured from ground level, and shall not exceed 60 square feet in area.

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d. The existing outdoor advertising sign may remain on the property, but no additional such signs are allowed

19. Any proposed changes to the binding elements shall be heard at a public hearing before the Planning Commission.

**The vote was as follows:**

**YES: Commissioners Brown, Carlson, Howard, Mims and Lewis**

**NO: Commissioner Clare**

**NOT PRESENT AND NOT VOTING: Commissioners Daniels, Peterson and Seitz**

**ABSTAINING: Commissioner Sistrunk**

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**CASE NO. 20-ZONE-0017**

Project Name: 9418 Pirouette Avenue  
Location: 9418 Pirouette Avenue  
Owner(s): Corcoran Home Building and Remodeling  
Applicant: Corcoran Home Building and Remodeling  
Representative(s): Bardenwerper, Talbott, & Roberts, PLLC  
Jurisdiction: Louisville  
Metro Council District: 13 – Mark Fox  
Case Manager: Joel P. Dock, AICP, Planner II  
Presented By: Julia Williams, Planning Supervisor

**NOTE: COMMISSIONER DANIELS RETURNED AT ~5:00 AND VOTED ON THIS CASE**  
**COMMISSIONER SISTRUNK LEFT ~5:00 AND DID NOT VOTE ON THIS CASE**

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.)

**NOTE:** This case was continued from the June 22, 2021 Planning Commission meeting and the discussion will be limited to the tree canopy and any plan changes.

**Agency Testimony:**

04:12:08 Julia Williams discussed the updates (see recording for detailed presentation).

**The following spoke in favor of this request:**

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

**Summary of testimony of those in favor:**

Nick Pregliasco gave a power point presentation. The only change is the tree canopy area and additional binding element modifications.

**The following spoke in opposition to this request:**

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Jessica Norris, 411 Echappe Lane, Fairdale, Ky. 40118  
James Norris, 411 Echappe Lane, Fairdale, Ky. 40118

**Summary of testimony of those in opposition:**

Jessica Morris stated the tree canopy doesn't block the view from her back yard and the apartment.

James Morris had questions about the tree line (see recording for detailed presentation).

**Rebuttal**

Mr. Pregliasco said there is now a tree canopy preservation area behind the Norris home that was not there before (see recording for detailed presentation).

**Deliberation**

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 PRD to R-6**

On a motion by Commissioner Brown, seconded by Commissioner Mims, 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 proposed district is located near employment centers, Jefferson Memorial Forest, I-265, and TARC route #6 connecting to Downtown (although trips are limited at the nearest stop to the subject site), as well as the village center of Fairdale where demand and adequate infrastructure exists or is planned; all required landscape buffers and setbacks will be provided as required to provide an appropriate transition between the proposed district and lower intensity residential properties; and



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**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Form because, a vacant lot is proposed for development; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Community Form because, jurisdictional wetlands are present at the entrance to the site. ACOE approval will be required prior to construction plan approval to minimize the potential for property damage or environmental degradation; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 4: Community Form because, minimum requirements for tree canopy will be provided, including preservation of 20% of the existing canopy; the site does not contain any apparent historic or cultural resources; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Mobility because, the proposed district is located near employment centers, Jefferson Memorial Forest, I-265, and TARC route #6 connecting to Downtown (although trips are limited at the nearest stop to the subject site), as well as the village center of Fairdale to support transit-oriented development and an efficient public transportation system; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Mobility because, vehicular access to the site will cross through a small segment of lower intensity zones before reaching the subject site. This would not appear to create a significant nuisance based on the limited travel required on local roads; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Mobility because, the proposal will provision all necessary improvements to facilitate accessibility by bike, car, foot, or transit. Except for a short sidewalk gap at New Cut Road and Pirouette Avenue, the existing public network supports a mixture of compatible land uses that are easily accessible by bicycle, car, transit, pedestrians and people with disabilities; all improvements to the transportation network required of the development will be provided; development of the site will bear or share in rough proportionality the costs of transportation facilities and services made necessary by development. Connectivity to provide appropriate access within, and through, the district will be provided; a sidewalk gap at New Cut Road and Pirouette Avenue will be closed by the developer prior to occupancy of the subject property; there do not appear to be any long-range plans which impact the development proposal; no direct residential access to high speed roadways will be provided; and

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**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Facilities because, the proposal is in an area served by existing utilities or planned for utilities; the proposal would appear to have access to an adequate supply of potable water and water for fire-fighting purposes; MSD has reviewed and approved the proposed development to ensure that all development has adequate means of sewage treatment and disposal to protect public health and to protect water quality; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Livability because, minimum requirements for tree canopy will be provided, including preservation of 20% of the existing canopy; the subject property is not located within a karst prone area per LOJIC and no further karst investigation was required of the applicant; areas of the subject site that contain local or FEMA floodplain are in the north corner of the site where detention will be located to minimize disturbance; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Housing because, the current zoning district supports a variety of housing types, including attached, zero-lot, and clustering. The proposed district expands opportunities for multi-family, accessory apartments and a mixing of housing styles that reflect the pattern of the form district; the current PRD district supports housing options that support aging in place. The proposal expands upon available types and styles for provisioning housing for aging adults near shopping and transit routes; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Housing because, the existing PRD districts supports mixed-income development. The proposal expands upon the ability to provision a wider range of housing for differing income levels; the subject site is within proximity to multi-modal transportation corridors providing safe and convenient access to employment opportunities, as well as being within proximity to amenities providing neighborhood goods and services. The proposed district is located near employment centers, Jefferson Memorial Forest, I-265, and TARC route #6 connecting to Downtown (although trips are limited at the nearest stop to the subject site), as well as the village center of Fairdale; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Housing because, the proposed district expands upon available opportunities to build fair and affordable housing and expand opportunities for people to live in quality, variably priced housing in locations of their choice. A wider range of income levels could be accommodated for when the zoning district provides greater flexibility for multi-family, two-family, attached, clustering, and

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co-housing then is currently available in the PRD district; the proposed district is located on an infill lot within an existing residential area. The proposed residential use will allow for an increase in the residential population in this neighborhood resulting in no displacement; the existing PRD district provides flexibility from the traditional standards of single-family residential site design, but it is limited in its ability to include multi-family, accessory apartments, and/or co-housing. The proposed district encourages a wider range of flexibility in design options.

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council the change from PRD, Planned Residential Development to R-6, Multi-family Residential on property described in the attached legal description be **APPROVED**.

**The vote was as follows:**

**YES: Commissioners Brown, Clare, Daniels, Howard, Mims and Lewis**

**NO: Commissioner Carlson**

**NOT PRESENT AND NOT VOTING: Commissioners Peterson, Seitz and Sistrunk**

**Revised Detailed District Development Plan and Binding Elements**

On a motion by Commissioner Brown, seconded by Commissioner Mims, the following resolution based on the Standard of Review and Staff Analysis and testimony heard today 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 required landscape buffers and setbacks will be provided to offer an appropriate transition between the proposed district and lower intensity residential properties abutting the site. Minimum requirements for tree canopy will be provided, including preservation of 20% of the existing canopy. Areas of the subject site that contain local or FEMA floodplain are in the north corner of the site where detention will be located to minimize disturbance; and

**WHEREAS**, provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community will be provided. Connectivity in compliance with the Land Development Code has been demonstrated on the revised development plan; and

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**WHEREAS**, the proposal meets or exceeds the minimum requirements for open space, tree canopy, and landscaping; and

**WHEREAS**, Metropolitan Sewer District approval will be required to will ensure the provisioning 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 is compatible with the overall site design, land uses, and future development of the area as the site is located within proximity to the Fairdale Village Center, similar densities of development, and all necessary improvements to facilitate accessibility by bike, car, foot, or transit. A sidewalk gap at New Cut Road and Pirouette Avenue will be closed by the developer prior to occupancy of the subject property; and

**WHEREAS**, the Louisville Metro Planning Commission further finds the proposed development plan conforms to the Comprehensive Plan and the Land Development Code.

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** the Revised 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 require a public hearing by the Planning Commission with final approval by the Louisville Metro Council; any changes/additions/alterations not so approved 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:

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- a. The development plan must receive full construction approval from Louisville Metro Department of Codes and Regulations Construction Permits and Transportation Planning Review and the Metropolitan Sewer District.
  - b. 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 Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
  - d. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the June 3, 2021 Planning Commission public hearing. A copy of the approved rendering is available in the case file on record in the offices of the Louisville Metro Planning Commission.
  - e. A minor subdivision plat or legal instrument in a form acceptable to the Planning Commission legal counsel shall be recorded to create the 30' Public Access Way as shown on the development plan. A copy of the recorded instrument shall be submitted to the Planning and Design Services.
5. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
6. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
7. Open space to comply with LDC Chapter 5, Part 11 shall remain as open space in perpetuity, unless approved by the Louisville Metro Planning Commission.
8. An 8-foot privacy-style fence shall be provided and maintained in good condition at all property lines abutting existing residences.

**PLANNING COMMISSION MINUTES**  
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**PUBLIC HEARING**

**CASE NO. 20-ZONE-0017**

9. Any substantial change in the development plan i.e. density, elevation of units, or change in use shall require approval of the Louisville Metro Council after a public hearing by the Planning Commission.

10. Prior to the issuance of a Certificate of Occupancy, construction plans for a roughly 60' gap in the public sidewalk at New Cut Road and Pirouette Avenue shall be reviewed and approved by Louisville Metro Department of Public Works and Transportation Planning, and the sidewalk shall be installed.

11. Prior to developer requesting a Certificate of Occupancy ("CO") on the first apartment building, developer shall request Metro Public Works ("Public Works") to inspect the road infrastructure within the 30' Public Access Easement leading from Pirouette Avenue to the stub connection to the north property line to determine what amount of bond, if any, the developer shall be required to post prior to CO issuance. The access roadway to the stub connection at the north property line shall be built to the terminus at the north property line prior to release of said bond, if applicable the developer can request a bond release and Public Works to inspect the road infrastructure for the access roadway for same whenever the road infrastructure construction is complete.

12. The 30' Public Access Easement access roadway connection to the north property line shall remain open and available to thru traffic. Developer shall plant trees on either side of the 30' Public Access Easement a maximum of 50' apart with the trees staggered such that there shall be a tree approximately every 25' along the 30' Public Access Easement.

13. Building 5 on the development plan shall not have balconies on the second floor on the southeast side of the building facing the adjoining residential lots.

**The vote was as follows:**

**YES: Commissioners Brown, Clare, Daniels, Howard, Mims and Lewis**

**NO: Commissioner Carlson**

**NOT PRESENT AND NOT VOTING: Commissioners Peterson, Seitz and Sistrunk**

**PLANNING COMMISSION MINUTES**  
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**PUBLIC HEARING**

**CASE NO. 21-CAT3-0002/21-WAIVER-0079/21-PARKWAIVER-0002**

Request: Category 3 Development Plan with a pedestrian connection waiver and a parking waiver  
Project Name: Realty Link  
Location: 6001 Camp Ground Rd  
Owner: Atkemix Ten Inc  
Applicant: KY Campground Rd LLC  
Representative: Arnold Consulting Engineers  
Jurisdiction: Louisville Metro  
Council District: 1 – Jessica Green  
Case Manager: Jay Lockett, AICP, Planner I

**NOTE: COMMISSIONER SISTRUNK RETURNED AT ~5:30 AND VOTED ON THIS CASE**

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:**

04:33:16 Jay Lockett discussed the case summary, standard of review and staff analysis from the staff report.

**The following spoke in favor of this request:**

Colby Price, 201 River Place, Suite 400, Greenville, SC 29601  
Brandy Zackery, Arnold Consulting Engineering, 1136 South Park Drive, Bowling Green, Ky. 42103

**Summary of testimony of those in favor:**

Brandy Zackery is here to answer questions.

Colby Price is here to answer questions.

**Deliberation**

**PLANNING COMMISSION MINUTES**  
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**PUBLIC HEARING**

**CASE NO. 21-CAT3-0002/21-WAIVER-0079/21-PARKWAIVER-0002**

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.**

**Waiver (21-WAIVER-0079) of Land Development Code section 5.9.2.A.1.b.i to not provide the pedestrian connection to the Camp Ground Rd right-of-way.**

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

**WHEREAS**, the waiver will not adversely affect adjacent property owners, as there are no sidewalks in the immediate vicinity and the applicant is paying a fee-in-lieu of construction; and

**WHEREAS**, the waiver will not violate specific guidelines of the Comprehensive Plan. There are no sidewalks or transit service along this portion of Camp Ground Rd. The development is not expected to generate significant pedestrian traffic. The waiver will allow for development with minimal disturbance of environmentally sensitive areas of the site; 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 all other site design standards of the Land Development Code will be met on the subject site except for the parking waiver request; and

**WHEREAS**, the Louisville Metro Planning Commission further finds the strict application would create an unnecessary hardship on the applicant, as installation of the pedestrian walk would require additional clearing and grading within environmentally sensitive areas.

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** the Waiver (21-WAIVER-0079) of Land Development Code section 5.9.2.A.1.b.i to not provide the pedestrian connection to the Camp Ground Rd. right-of-way.

**The vote was as follows:**

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



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**PUBLIC HEARING**

**CASE NO. 21-CAT3-0002/21-WAIVER-0079/21-PARKWAIVER-0002**

**NOT PRESENT AND NOT VOTING: Commissioners Peterson and Seitz**

**Parking Waiver (21-PARKWAIVER-0002) to reduce required parking from 127 spaces to 29 spaces.**

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

**WHEREAS**, the proposal would allow for the development of an industrial site with minimal disturbance of environmentally sensitive areas on the subject site. The reduction of parking minimums is consistent with Plan 2040, as is the reduction of impervious surface and preservation of wetlands on the subject site; and

**WHEREAS**, the applicant has provided as many spaces as they need on the subject site; and

**WHEREAS**, the requested waiver is the smallest possible reduction of parking spaces that would accommodate the proposed use, as they have provided as much as they need on site; and

**WHEREAS**, adjacent or nearby properties will not be adversely affected, as most of the adjacent properties are industrial in nature. Significant adjacent lands are owned by the same owner and vacant. If a future potential user required additional parking, appropriately zoned vacant land is available that could be developed into additional parking; and

**WHEREAS**, the Louisville Metro Planning Commission finds, the requirements found in table 9.1.2 do not accurately depict the parking needs of the proposed use. The Institute of Transportation Engineers considers employee level to be an acceptable method for determining parking need for industrial uses, and many other cities utilize that method for determining parking needs for industrial sites; and

**WHEREAS**, the Louisville Metro Planning Commission further finds there are no public or on-street parking spaces available in the area. The site is not expected to generate additional parking demand.

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council the Parking Waiver (21-PARKWAIVER-0002) to reduce required parking from 127 spaces to 29 spaces be **APPROVED**.

**PLANNING COMMISSION MINUTES**  
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**PUBLIC HEARING**

**CASE NO. 21-CAT3-0002/21-WAIVER-0079/21-PARKWAIVER-0002**

**The vote was as follows:**

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

**NOT PRESENT AND NOT VOTING: Commissioners Peterson and Seitz**

**Category 3 Development Plan**  
**Review of Outdoor Amenity Area Design standards**

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

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** the Category 3 Development Plan and Review of Outdoor Amenity Area Design standards, **SUBJECT** to the following condition of approval:

1. Louisville Metro Council must approve the parking waiver in accordance with the Land Development Code. Planning and Design Services must receive a copy of the final signed ordinance from the Metro Council Clerk prior to final transmission of the approved plans.

**The vote was as follows:**

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

**NOT PRESENT AND NOT VOTING: Commissioners Peterson and Seitz**

**PLANNING COMMISSION MINUTES**  
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**PUBLIC HEARING**

**CASE NO. 21-DDP-0050**

Request: Revised Detailed District Development Plan with a landscape waiver  
Project Name: 7770 and 7800 Dixie Auto Sales and Service  
Location: 7770 and 7800 Dixie Hwy  
Owner: BHPH Properties LLC  
Applicant: N3 Property Advisors LLC  
Representative: BTM Engineering, Inc.  
Jurisdiction: Louisville Metro  
Council District: 25 – Amy Holton Stewart  
Case Manager: Jay Lockett, AICP, Planner I

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

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

**Agency Testimony:**

04:53:18 Jay Lockett discussed the case summary, standard of review and staff analysis from the staff report.

**The following spoke in favor of this request:**

John Addington, BTM Engineering, 3001 Taylor Springs Drive, Louisville, Ky. 40220  
Colleen Thelen, 1240 North Kimball Avenue, South Lake, Texas 76092

**Summary of testimony of those in favor:**

John Addington gave a power point presentation. The applicant/representatives are trying to do as much planting as possible on their own property.

Mr. Addington also discussed the following: sign; lighting; removal of 14 feet pavement; existing fence; and hours of operation – Mon. – Fri. 7 a.m. to 7 p.m., Sat. and Sun. 8 a.m. to 6 p.m. (see recording for detailed presentation).

Colleen Thelen said she is here to answer questions.

**Deliberation**

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**PUBLIC HEARING**

**CASE NO. 21-DDP-0050**

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.**

**Waiver of Land Development Code section 10.2.10 to allow existing and proposed parking areas to encroach into the required 15' Vehicle Use Area Landscape Buffer Area**

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

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** the Waiver of Land Development Code section 10.2.10 to allow existing and proposed parking areas to encroach into the required 15' Vehicle Use Area Landscape Buffer Area.

**The vote was as follows:**

**YES: Commissioners Clare, Howard and Mims**

**NO: Commissioners Brown, Carlson, Daniels, Sistrunk and Lewis**

**NOT PRESENT AND NOT VOTING: Commissioners Peterson and Seitz**

**MOTION FAILED**

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

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

**The vote was as follows:**

**YES: Commissioners Brown, Carlson, Clare, Daniels, Mims, Sistrunk and Lewis**

**NOT PRESENT AND NOT VOTING: Commissioners Peterson and Seitz**

**ABSTAIN: Commissioner Howard**

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**PUBLIC HEARING**

**CASE NO. 21-ZONE-0051**

Request: Change in zoning from R-6, CM, & M-2 to EZ-1 with district development plan and landscape waiver  
Project Name: Linley Properties  
Location: 317 Wabasso Avenue; 4701 & 4719 Louisville Avenue; 306, 310 & 318 Woodlawn Avenue  
Owner: Linley Properties I, LLC  
Applicant: Linley Properties I, LLC  
Representative: Wyatt Tarrant & Combs, LLP – Jon Baker  
Jurisdiction: Louisville Metro  
Council District: 21 – Nicole George  
Case Manager: Joel P. Dock, AICP, Planner II  
Presented By: Julia Williams, Planning Supervisor

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

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

**Agency Testimony:**

05:48:52 Julia Williams discussed the case summary, standard of review and staff analysis from the staff report.

**The following spoke in favor of this request:**

Jon Baker, Wyatt, Tarrant and Combs, 400 West Market Street, Suite 2000, Louisville, Ky. 40202

**Summary of testimony of those in favor:**

Jon Baker gave a power point presentation. The zoning needs to be one designation for 3 properties. The existing use is a contractor's yard with some offices and storage space (inside and outside). The current user is cleaning up the zoning for a new user (see recording for detailed presentation).

**Deliberation**

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**PUBLIC HEARING**

**CASE NO. 21-ZONE-0051**

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-6, CM and M-2 to EZ-1**

On a motion by Commissioner Brown, seconded by Commissioner Carlson, 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 proposal does not encroach upon residential areas or zones. No residential uses are located adjacent to, or in the immediate vicinity. Residential zones that abut the site and located north of the site are mostly consolidated and owned by the Louisville Regional Airport Authority; the proposed district is appropriately located adjacent to like zones and uses; the proposal is in a workplace form adjacent to similar and like industrial uses readily served by infrastructure and transportation facilities; the proposal concentrates like uses and zones adjacent to the airport and no disadvantaged populations are within the immediate vicinity; the site is concentrated in an industrial area adjacent to the airport. No residences, schools, parks or vulnerable populations will be impacted; traffic entering the area will not need to pass through residential areas to access the interstate or arterial roadways; the proposal is in a workplace form adjacent to similar and like industrial uses located away from residential areas; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Community Form because, the site is developed. It would not appear to contain natural resources that may be harmed as a result of development; the subject site is in a combined sewer flood prone area. No improvements are proposed. MSD preliminary review and approval to ensure the safety and welfare of users within flood prone areas has been received; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Mobility because, the proposal is in a workplace form adjacent to similar and like industrial uses readily served by infrastructure and transportation facilities to support transit-oriented development; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Mobility because, the proposal is in a workplace form

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adjacent to similar and like industrial uses readily served by infrastructure and transportation facilities. Housing is in nearby residential areas; the proposal is in a workplace form adjacent to similar and like industrial uses readily served by infrastructure and transportation facilities. Development would have a limited impact on the transportation network; upon development of the subject site, any improvements necessary to the transportation network will be made; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Facilities because, the site is development and appears to be capable or is served by utilities; MSD preliminary approval has been received to ensure adequate means of sewage treatment and disposal to protect public health and to protect water quality; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Economic Development because, the proposal is in a workplace form adjacent to similar and like industrial uses readily served by infrastructure and transportation facilities; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Livability because, MSD preliminary approval has been received to mitigate negative development impacts to the integrity of the regulatory floodplain.

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council the change in zoning from R-6, CM and M-2 to EZ-1 on property described in the attached legal description be **APPROVED**.

**The vote was as follows:**

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

**NOT PRESENT AND NOT VOTING: Commissioners Peterson and Seitz**

**Waiver of Land Development Code (LDC), section 10.2 to omit the 15' vehicle use area landscape buffer area (VUA LBA)**

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

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**WHEREAS**, the waiver will not adversely affect adjacent property owners as the subject property is in a developed industrial area and site conditions presently encroach into the buffer; and

**WHEREAS**, the waiver will not violate specific guidelines of Plan 2040. Community form Goal 1, Policy seeks to ensure an appropriate transition between uses that are substantially different in scale and intensity or density of development. The transition may be achieved through methods such as landscaped buffer yards, vegetative berms, compatible building design and materials, height restrictions and setback requirements. Policy 12 calls for the parking, loading and delivery areas located adjacent to residential areas to minimize adverse impacts from noise, lights, and other potential impacts. The encroachment is a result of existing conditions and no improvements have been proposed which create greater non-compliance or worsen the impacts of the viewshed along this roadway having industrial on both sides; 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 encroachment is present and triggered by the requested change in zoning. Upon re-development of the subject site, landscape buffers and tree canopy may be required; 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 no development is being requested and the waiver is the result of existing encroachments.

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** the Waiver of Land Development Code (LDC), section 10.2 to omit the 15' vehicle use area landscape buffer area (VUA LBA).

**The vote was as follows:**

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

**NOT PRESENT AND NOT VOTING: Commissioners Peterson and Seitz**

**District Development Plan and Binding Elements**

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



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**PUBLIC HEARING**

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**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. The subject property is developed and does not contain natural resources; and

**WHEREAS**, provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community will be provided. Sidewalks on Wabasso Avenue are available and serve primary entrances. No other improvements to the site are proposed; and

**WHEREAS**, the development site is built-out and does not require open space; 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 is compatible with the overall character of the area and design of the form district. The development site is built out and concentrates industrial activities in an industrial area adjacent to the airport; 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.

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** the 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. Prior to development (includes clearing and grading) or redevelopment of any portion of the site, the applicant, developer, or property owner shall obtain approval of a detailed district development plan in accordance with Chapter 11, Part 6. Each plan shall be in adequate detail and subject to additional binding elements

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**CASE NO. 21-ZONE-0051**

3. 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 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. 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 prior to obtaining a building permit.
  
4. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
  
5. The applicant, developer, or property owner shall provide copies of these binding elements to 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.
  
6. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.

**The vote was as follows:**

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

**NOT PRESENT AND NOT VOTING: Commissioners Peterson and Seitz**

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**PUBLIC HEARING**

**CASE NO. 20-ZONE-0123**

Request: Change in zoning from R-4 to R-6, with Detailed District Development Plan and Binding Elements and Variance  
Project Name: 907 Ormsby Lane Condos  
Location: 907 Ormsby Lane  
Owner: John C Reed Jr.  
Applicant: Meridian Construction  
Representative: Bardenwerper, Talbott & Roberts  
Jurisdiction: City of Lyndon  
Council District: 18 – Marilyn Parker  
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:**

06:28:30 Dante St. Germain discussed the case summary, standard of review and staff analysis from the staff report.

**The following spoke in favor of this request:**

John Talbott, Bardenwerper, Talbott and Roberts, 1000 North Hurstbourne Parkway, Louisville, Ky. 40223  
David Weis, 15304 Timmons Way, Louisville, Ky. 40245  
Tim Thomas, Milestone Design Group, 108 Daventry Lane, Suite 300, Louisville, Ky. 40223

**Summary of testimony of those in favor:**

John Talbott gave a power point presentation. The area has a mixed variety of uses. Flooding is an issue, but this proposal won't affect it in a positive or negative way.

David Weis said they have worked with MSD and come up with the best solution.

John Talbott continued the presentation (see recording for detailed presentation).

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Tim Thomas discussed the following: the 8 buildings; easement; 100-year flood plain; detention basin; buffering and mulch path; preserving some trees; roadway improvements; and sidewalks (see recording for detailed presentation).

**The following spoke in opposition to this request:**

Cynthia Matherly, 8907 Lyndon Lakes, Louisville, Ky. 40242  
Nancy Stephen, 8302 Bellis Way, Louisville, Ky. 40242  
Jennifer Barker, 9011 Old Whipps Mill Road, Louisville, Ky. 40242

**Summary of testimony of those in opposition:**

Cynthia Matherly is president of the Lyndon Lakes Homeowner's Association. Everyone's happy about the changes but would like the Planning Commission to ask for the following: city of Lyndon make a commitment to the road improvements before proceeding; requiring a traffic study after the apartments are fully developed; and surety bonds for additional flooding (see recording for detailed presentation).

Nancy Stephen is a resident of the Holly Point Condominiums on the corner of New LaGrange and Ormsby.

Nancy Stephen asked someone to explain the recommendation being made by the Planning Commission to the city of Lyndon. Also, can the developer change his mind in the future about selling, leasing or renting? (see recording for detailed presentation)

Jennifer Barker is concerned about the road improvements and drainage issues (see recording for detailed presentation).

Dante St. Germain addressed the process for making recommendations to the city of Lyndon and the question regarding developers selling or renting (see recording for detailed presentation).

**Rebuttal**

John Talbott said the city of Lyndon recognizes Tim Thomas as an expert regarding flooding issues (working very closely with MSD). There is modest opposition today. A traffic study is not required or necessary (see recording for details).

**Deliberation**

Planning Commission deliberation.

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**PUBLIC HEARING**

**CASE NO. 20-ZONE-0123**

**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 Carlson, 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 located on Ormsby Lane, a local road. The site is located in relative proximity to New Lagrange Road, which is a commercial corridor; 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

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Community Form because, no wet or highly 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 in proximity to New Lagrange Road, a commercial corridor; 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 Ormsby Lane, a local road; 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

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**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, tree canopy in the rear of the site will be preserved; only one potential karst feature was found on the site. This feature was determined to be unlikely to be a sinkhole or similar; a small portion of the site is located in the regulatory floodplain. Development avoids the 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 not within proximity to New Lagrange Road, a commercial corridor providing neighborhood goods and services;

**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 vacant 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 the city of Lyndon that 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, Sistrunk and Lewis**

**NOT PRESENT AND NOT VOTING: Commissioners Peterson and Seitz**

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**PUBLIC HEARING**

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**Variance from 5.1.12.B.2.a to allow structures to exceed the required infill front yard setback (21-VARIANCE-0070)**

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

**WHEREAS**, the requested variance will not adversely affect public health, safety or welfare as the increase in setback will either improve or have no impact on sight lines at the site entrance; and

**WHEREAS**, the requested variance will not alter the essential character of the general vicinity as the area between the buildings and the roadway is the location of an overhead power easement, with the result that the area is already cleared; and

**WHEREAS**, the requested variance will not cause a hazard or nuisance to the public as the increase in setback is already observed by the existing building on the lot, which has presented no hazards or nuisances to the public; and

**WHEREAS**, the requested variance will not allow an unreasonable circumvention of zoning regulations as the requested variance is needed due to an overhead power transmission easement located at the front of the property. There is no reasonable way to put structures in the easement; and

**WHEREAS**, the requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone because the overhead power transmission easement impedes the use of the front of the lot; 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 or create an unnecessary hardship on the applicant because there is no reasonable way to build structures in the easement; 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 construction has yet taken place and the variance is being sought at this time.

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** the Variance from 5.1.12.B.2.a to allow structures to exceed the required infill front yard setback (21-VARIANCE-0070).

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**The vote was as follows:**

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

**NOT PRESENT AND NOT VOTING: Commissioners Peterson and Seitz**

**Detailed District Development Plan and Binding Elements**

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

**WHEREAS**, tree canopy will be preserved on the site as required by the Land Development Code. No other natural resources 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 to meet the needs of the proposed 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 compatible with existing and projected future development of the area. The site is close to an existing neighborhood commercial activity center, and the site design is oriented so that parking is located interior to the lot. Required screening between the parking and the adjacent single-family development will shield the single-family homes from headlights; and

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

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



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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. 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.
  - c. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
  - d. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the July 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.
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

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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. Ormsby Lane shall be widened along the property frontage to a minimum of 18 feet prior to the issuance of a building permit.

**The vote was as follows:**

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

**NOT PRESENT AND NOT VOTING: Commissioners Peterson and Seitz**

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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 8:49 p.m.

DocuSigned by:

*Marilyn Lewis*

**Chair**

DocuSigned by:

*Ryan*

**Planning Director**