

**MINUTES OF THE MEETING  
OF THE  
LOUISVILLE METRO PLANNING COMMISSION MEETING  
November 18, 2021**

zqA meeting of the Louisville Metro Planning Commission was held on Thursday, November 18, 2021 via Webex.

**Commissioners present:**

Lula Howard, Acting Chair  
Jeff Brown (left the meeting at 5:15 p.m.)  
Jim Mims  
Rich Carlson  
Patricia Clare  
Patricia Seitz (left the meeting at 7:45 p.m.)  
Te'Andre Sistrunk  
Rob Peterson  
Ruth Daniels (arrived at 1:50 p.m.; left at 5:30 p.m.))

**Commissioners absent:**

Marilyn Lewis, Chair

**Staff members present:**

Emily Liu, Director, Planning & Design Services  
Joe Reverman, Assistant Director, Planning & Design Services  
Joe Haberman, Planning & Design Manager  
Brian Davis, Planning & Design Manager  
Julia Williams, Planning Supervisor  
Dante St. Germain, Planner II  
Joel Dock, Planning Coordinator  
Zach Schwager, Planner I  
Jay Lockett, Planner I  
Laura Ferguson, Legal Counsel  
Travis Fiechter, Legal Counsel  
Beth Stuber, Metro Transportation Planning  
Chris Cestaro, Management Assistant

The following matters were considered:

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**APPROVAL OF MINUTES**

**Approval of the Minutes for the November 4, 2021 Planning Commission public hearing.**

00:05:00      On a motion by Commissioner Carlson, seconded by Commissioner Mims, the following resolution was adopted:

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** the minutes of the Planning Commission hearing conducted on November 4, 2021.

**The vote was as follows:**

**YES: Commissioners Mims, Clare, Carlson, Seitz, and Howard.**

**ABSTAINING: Peterson, Brown, and Sistrunk.**

**NOT PRESENT: Commissioners Lewis and Daniels.**

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

**CASE NO. 21-PARKWAIVER-0003 / 21-JPOP-0001**

Request:	<b>APPEAL</b> of a Planning Director approval of a <b>PARKING WAIVER</b> that reduced the minimum number of parking spaces from 47 to 42, a 10.6% waiver, for a proposed 72,614 sq. ft. hotel at 730 E. Market Street with an off-site parking agreement at 221 S. Shelby Street
Project	Name: Bunkhouse Hotel
Location:	730 E. Market Street
Owner:	Green Building, LLC
Applicant:	Charles Stephen Wendell - Mountain & River City, LLC
Jurisdiction:	Louisville Metro
Council District:	4 - Jecorey Arthur
<b>Case Manager:</b>	<b>Zach Schwager, Planner I</b>

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

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

**Agency Testimony:**

00:06:31 Zach Schwager presented the case and showed a Power Point presentation. This is an appeal of a Director-approved decision. He answered questions from the Commissioners. See staff report and recording for detailed presentation and discussion.

**The following spoke in support of the appeal:**

Don Cox, 500 West Jefferson Street, Louisville, KY 40202

**Summary of testimony of those in support of the appeal:**

00:21:28 Don Cox, the appellant's representative, presented the appellant's case. He stated that his clients were "required" to build a parking garage; why aren't the people across the street being required to build a garage? He also said that the Planning Commission requested more information on traffic, but did not get it because of the Director's approval.

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#### **CASE NO. 21-PARKWAIVER-0003 / 21-JPOP-0001**

00:28:08 Commissioners questioned Mr. Cox (see recording for full discussion.) The parking garage accepts public parking, in addition to their hotel guests. The Memorandum/lease was discussed. Joe Reverman, Assistant Director of Planning & Design Services, noted that the lease agreement falls under the purview purview of Planning & Design Services with review by the County Attorney's Office, not the Planning Commission. It is reviewed by the County Attorney's Office and by Planning & Design staff to ensure compliance with parking requirements of the Land Development Code.

#### **The following spoke in opposition to the appeal:**

Steven Wendell, 7 South Portland Avenue, Brooklyn, NY 11217

#### **Summary of testimony of those in opposition to the appeal:**

00:36:58 Steven Wendell, the representative of the developer/s of the Bunkhouse Hotel, said they bought and own the land they will be parking on. He did not understand Mr. Cox's clients' objection to this.

#### **Rebuttal:**

00:40:00 Mr. Reverman presented rebuttal from staff. He stated that the off-site parking agreement is regulated by the Land Development Code, and the agreement meets all of those standards. He stated that no evidence has been found to substantiate the claim that the hotel across the street was required to construct a parking garage by anyone from the City. He stated that this appeal was accepted in an abundance of caution to assure the appellant had every opportunity to argue their case. He stated that the Planning Commission's review of the parking waiver in August, in which it requested additional information including a parking study, was a larger parking waiver to waive 19 parking spaces. And that it is important to note that the waiver approved by staff was for only 5 spaces, which the Land Development Code does not require a parking study. That staff level parking waiver of 5 parking spaces is what is being appealed today. In response to questions from the Commission. Emily Liu, Director of Planning & Design Services, discussed the process of the Director's approval. See recording for detailed discussion.

#### **Deliberation:**

00:57:09 Commissioners' deliberation.

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**CASE NO. 21-PARKWAIVER-0003 / 21-JPOP-0001**

**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.**

01:15:48      On a motion by Commissioner Mims, seconded by Commissioner Sistrunk, the following resolution was adopted:

**RESOLVED**, the Louisville Metro Planning Commission does hereby **DENY** the requested appeal and does hereby **AFFIRM** the Planning Director approval of a Parking Waiver that reduced the minimum number of parking spaces from 47 to 42, a 10.6% waiver, for a proposed 72,614 sq. ft. hotel at 730 E. Market Street.

**The vote was as follows:**

**YES: Commissioners Mims, Peterson, Clare, Howard, Carlson, and Sistrunk.**

**NO: Commissioner Brown.**

**ABSTAIN: Commissioner Seitz.**

**ABSENT: Commissioner Lewis.**

**PRESENT BUT NOT VOTING: Commissioner Daniels.**

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**PUBLIC HEARING**

**CASE NO. 21-ZONE-0113**

Request:	Change in zoning from R-4 to R-5A, with Detailed District Development Plan and Binding Elements, and Waiver
Project Name:	14015 Old Henry Trail Rezoning
Location:	14015 Old Henry Trail
Owner:	One Fourteen LLC
Applicant:	One Fourteen LLC
Representative:	Land Design and Development
Jurisdiction:	Louisville Metro
Council District:	19 - Anthony Piagentini
<b>Case Manager:</b>	<b>Dante St. Germain, AICP, Planner II</b>

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

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

**Agency Testimony:**

01:19:50 Dante St. Germain presented the case and showed a Power Point presentation. She answered questions from the Commissioners. See staff report and recording for detailed presentation and discussion.

**The following spoke in support of the request:**

Kevin Young, Land Design & Development, 503 Washburn Ave # 101, Louisville, KY 40222

**Summary of testimony of those in support:**

01:29:30 Kevin Young, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation and discussion.)

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

Mary Dries, 15510 Champion Lakes Place, Louisville, KY 40245

Steve Pence, 14309 Willow Falls Court, Louisville, KY 40245

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Gary Stephan, 15004 Sycamore Falls Drive, Louisville, KY 40245

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

01:42:52 Steve Pence discussed ways he feels that this plan does not comply with the Old Henry Road Sub-Area Plan (see recording.)

01:49:28 Mary Dries discussed the landscaping and berms along Old Henry Road and requested that this developer do the same. She requested real stone and real brick on the structures, not veneer. She said this area already has many apartment developments but could use more patio homes and single family homes.

01:56:38 Gary Stephan also discussed ways in which he feels this development does not comply with the Old Henry Road Sub-Area Plan, and also showed a Power Point presentation. He reiterated that other developments in the area have followed the Neighborhood Plan. He requested at least 200 feet of setback, more generous screening, buffering, and landscaping (see recording.)

**Rebuttal:**

02:10:57 Mr. Young presented rebuttal (see recording.)

02:14:53 Mr. Pence and Mr. Young discussed the Neighborhood Plan, specifically regarding density and landscaping (see recording for discussion.)

02:17:30 The Commissioners discussed the detention basin, density, and other issues with Mr. Young.

**Deliberation:**

02:25:10 Commissioners' deliberation.

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

**Zoning**

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#### CASE NO. 21-ZONE-0113

02:36:46 On a motion by Commissioner Mims, seconded by Commissioner Seitz, the following resolution, based on the Standard of Review and Staff Analysis, and evidence and testimony heard today, was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Community Form: Goal 1 because the site is located along Old Henry Road, a minor arterial at this location, and relatively near an employment center and a growing activity center; and the proposed zoning district and the surrounding development are not substantially different in scale or intensity; and

**WHEREAS**, the Commission further finds that the proposal meets Community Form: Goal 2 because the proposal would provide new developments providing residential uses; and

**WHEREAS**, the Commission further finds that the proposal meets Community Form: Goal 3 because no wet or highly permeable soils, or severe, steep or unstable slopes are evident on the site; and

**WHEREAS**, the Commission further finds that the proposal meets Community Form: Goal 4 because no distinctive cultural features are evident on the site; and no historic assets are evident on the site; and

**WHEREAS**, the Commission further finds that the proposal meets Mobility: Goal 1 because the proposal is not for higher density or intensity zoning; and

**WHEREAS**, the Commission further finds that the proposal meets Mobility: Goal 2 because access to the site is via Old Henry Road, a minor arterial at this location. Traffic into the site will travel only a short way down Old Henry Trail; and

**WHEREAS**, the Commission further finds that the proposal meets Mobility: Goal 3 because the site is easily accessible by car. The site is not easily accessible by bicycle, transit, pedestrians and people with disabilities; Transportation Planning has approved the proposal; and no direct residential access to high-speed roadways is proposed; and

**WHEREAS** the Commission further finds that the proposal meets Community Facilities: Goal 2 because the relevant utilities have approved the proposal; Louisville Water Company has approved the proposal; and MSD has approved the proposal; and

**WHEREAS**, the Commission further finds that the proposal meets Livability: Goal 1 because tree canopy will be provided on the site utilizing native species; no karst features are evident on the site; and the site is not located in the floodplain; and



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**WHEREAS**, the Commission further finds that the proposal meets Housing: Goal 1 because the proposal would increase the variety of housing types and price points in the neighborhood; and the proposal would support aging in place by increase the variety of ownership options and price points in the neighborhood, allowing aging populations to downscale without leaving their neighborhood; and

**WHEREAS**, the Commission further finds that the proposal meets Housing: Goal 2 because the proposal would encourage inter- generational mixed-income development that is connected to the neighborhood and surrounding area; and the proposal is not for higher density zoning. The site is in proximity to an employment center and a growing activity center; and

**WHEREAS**, the Commission further finds that the proposal meets Housing: Goal 3 because the proposal would encourage provision of fair and affordable housing by increasing the variety of ownership options and unit costs in Louisville Metro. No existing residents will be displaced by the proposal; and the proposed zoning district would permit innovative methods of housing; now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the requested change in zoning from R-4 Single Family Residential to R-5A Multi-Family Residential be **APPROVED**.

**The vote was as follows:**

**YES: Commissioners Mims, Peterson, Howard, Carlson, Daniels, Seitz, and Sistrunk.**

**NO: Commissioners Brown and Clare.**

**ABSENT: Commissioner Lewis.**

**Waiver**

02:38:26 On a motion by Commissioner Mims, seconded by Commissioner Seitz, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that the waiver will not adversely affect adjacent property owners as the applicant is not requesting a waiver for the planting requirement and the required parkway plantings will be provided; and

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**WHEREAS**, the Commission further finds that the waiver will not violate specific guidelines of Plan 2040 as the required parkway plantings will be provided along Old Henry Road and Old Henry Trail; and

**WHEREAS**, the Commission further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the site drains naturally toward the location of the proposed detention basin and making the lot drain toward another location would require extensive regrading; and

**WHEREAS**, the Commission further finds that strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant by requiring re-grading the lot, which would be costly and would require the removal of the remainder of the trees on the lot; now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Waiver from 10.3.5.A.7 to permit a retention or detention basin to occupy more than 50% of the width of a parkway buffer area.

**The vote was as follows:**

**YES: Commissioners Mims, Peterson, Howard, Carlson, Daniels, Seitz, and Sistrunk.**

**NO: Commissioners Brown and Clare.**

**ABSENT: Commissioner Lewis.**

#### **Detailed District Development Plan with Binding Elements**

02:40:31 On a motion by Commissioner Mims, seconded by Commissioner Seitz, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that the site is lightly wooded and few natural resources exist on the site currently. Required tree canopy will be provided; and

**WHEREAS**, the Commission further finds that provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community

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has been provided, and Metro Public Works has approved the preliminary development plan; and

**WHEREAS**, the Commission further finds that open space is being provided in compliance with the requirements of the Land Development Code; and

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

**WHEREAS**, the Commission further finds that the overall site design is in compliance with existing and planned future development in the area. The proposal would provide an increase in the variety of housing in the neighborhood by permitting medium-density multi-family housing in a mixed-density neighborhood which already provides multi-family housing; and

**WHEREAS**, the Commission further finds that the development plan conforms to applicable guidelines and policies of the Land Development Code and Plan 2040 with the exception of the requested waiver; now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Detailed District Development Plan, **SUBJECT** to the following binding elements:

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

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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 November 18, 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 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.

**The vote was as follows:**

**YES: Commissioners Mims, Peterson, Carlson, Daniels, Seitz, Sistrunk, and Howard.**

**NO: Commissioners Brown and Clare.**

**ABSENT: Commissioner Lewis.**

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**CASE NO. 21-ZONE-0103**

**CASE NO. 21-AMEND-0009**

**NOTE: These cases were heard together, but voted on separately.**

**Case No. 21-ZONE-0103**

Request: Change in zoning from PEC to M-3 with detailed plan and variance  
Project Name: Blankenbaker Station II Lots 11 & 12  
Location: Schutte Station Place (Parcel #0039 - 0551 - 0000)  
Owner: Hosts Developments, LLC  
Applicant: Foresee Investment, LLC  
Representative: Bardenwerper, Talbott, & Roberts, PLLC  
Jurisdiction: Louisville Metro  
Council District: 20 - Stuart Benson  
**Case Manager: Joel Dock, AICP, Planning Coordinator**

**Case No. 21-AMEND-0009**

Request: Amendment to Binding Element for Blankenbaker Station II, last revised by case 14489, to allow for an M-3 industrial use magnet manufacturing - associated with case 21-ZONE-0103  
Project Name: Blankenbaker Station II Lots 11 & 12  
Location: Blankenbaker Station II (Plantside Drive - Tucker Station Road to Rehl Road), including Schutte Station Place (Parcel ID 0039 - 0551 - 0000)  
Owner: Multiple Owners  
Applicant: Foresee Investment, LLC  
Representative: Bardenwerper, Talbott, & Roberts, PLLC  
Jurisdiction: Louisville Metro  
Council District: 20 - Stuart Benson  
**Case Manager: Joel Dock, AICP, Planning Coordinator**

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

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

**Agency Testimony:**

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**CASE NO. 21-AMEND-0009**

02:42:57 Joel Dock presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.)

#### **The following spoke in support of the request:**

Bill Bardenwerper, Bardenwerper Talbott & Roberts PLLC, 1000 North Hurstbourne Parkway, Louisville, KY 40222

Kent Gootee, Mindel Scott & Associates, 5151 Jefferson Boulevard, Louisville, KY 40222

#### **Summary of testimony of those in support:**

02:52:02 Bill Bardenwerper, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.)

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

Steve Porter, 2426 Tucker Station Road, Louisville, KY 40219

#### **Summary of testimony of those neither for nor against:**

02:57:25 Steve Porter discussed issues that were of concern to the Tucker Station Neighborhood Association, whom he represents. He said there was concern about what was planned for the third building, which Mr. Bardenwerper addressed.

03:03:05 Kent Gootee, an applicant's representative, discussed the timing of the proposed creek crossing. Mr. Porter said that his concerns were answered and at this time had no opposition to the rezoning.

#### **Deliberation:**

03:04:22 Commissioners' deliberation.

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

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**CASE NO. 21-ZONE-0103**

**CASE NO. 21-AMEND-0009**

#### **Case No. 21-AMEND-0009 (Amendment to Binding Element)**

03:07:10 On a motion by Commissioner Carlson, seconded by Commissioner Peterson, the following resolution, based on the applicant's justification and findings of fact, and evidence and testimony heard today, was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal complies with Plan Element 4.1, its 5 Goals and their Objectives plus the following Policies:

As to Goal 1, Policies 2, 2.1, 3.1.10, 4, 6, 7, 8, 9 10, 11, 12, 14, 16, 17, 18, 19, 20, 21, 22 and 23, it complies as follows, in addition to the other ways set forth above and below:

**WHEREAS**, the site is located in the Suburban Workplace Form District which is characterized by mostly industrial and office buildings which are set back from streets in a landscaped setting; these buildings are often large scale uses, significant in size, which this plan proposes; public transportation is always desirable but not necessarily always fully available because of limited government funding; here public transportation is available, although to a limited extent; and pedestrian and bicycle access to nearby retail is desired, and the infrastructure here has and will provide for it; and

**WHEREAS**, Land Development Code required size and height restrictions, interior and perimeter landscaping, minimum parking, maximum lighting and signage, and required setbacks will also be met; and

**WHEREAS**, located as this proposed manufacturing plant is just a short drive in all directions from sizeable and ever-growing population centers, travel distances for workers are reduced, and walking and biking become very real possibilities, especially over time as sidewalk extensions are completed; this helps contribute to improved air quality; and

**WHEREAS**, quality building components and a design compatible with other buildings in the Blankenbaker Station business park and surrounding area will assure compatibility with nearby workplace buildings, development sites and also remaining residentially occupied properties; quality landscaping and effective screening and buffering also help assure context- appropriateness and design-compatibility for the larger area and proximate residential neighborhoods; and

**WHEREAS**, partly as a consequence of what surrounds this proposal and the fact that this is a proposed industrial plant, much like its surrounding land uses, impacts such as traffic, odors, lighting, noise and aesthetic factors will not prove to be nuisance factors;

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after all, this area has been almost entirely built out as Suburban Workplace development; but to the extent that this manufacturing plant involves equipment and processes that raise any potentially objectionable noise, vibration, heat, odor and/or air quality issues, these plant-specific, potential nuisances will be mitigated, as the manufacturing process was explained in the 8-step process presented in the PowerPoint at the public hearing; and

**As to Goal 2, Policies 1, 2, 7 and 17, it complies as follows, in addition to the other ways set forth above and below:**

**WHEREAS**, the proposed manufacturing plant will be located in a Suburban Workplace Form District and will adjoin already built Workplace facilities of a similar kind to this one; as such and with good and improving pedestrian and vehicular access inside the Blankenbaker Station business park and also along Blankenbaker and Bluegrass Parkways, Plantside Drive and other area streets, there already exist convenient vehicular, bicycle and pedestrian connections to other like-kind developments, commercial establishments and nearby residential neighborhoods; indeed the proposed manufacturing plant is part of a large mixed use activity center that extends from Middletown south down Blankenbaker Parkway to Jeffersontown, west along Shelbyville Road and I-64 to Hurstbourne, St. Matthews and downtown Louisville, and east to Middletown, Frankfort and Lexington; thus, it will access the mix of diverse residential communities nearby that provide a workforce; plus this plant will have easy access to Louisville's interstate highway system, which leads to and from the UPS Worldport facility and is within a day's drive of a significant portion of the United States; and

**WHEREAS**, this location adds to the opportunities existing and planned in this high growth area to work in close and convenient proximity to places of residence, food and shopping within easy driving distances in all directions along I-64 and the Snyder Freeway; and

**As to Goal 3, Policies 3, 6 and 9, it complies as follows, in addition to the other ways set forth above and below:**

**WHEREAS**, the detailed district development plan (DDDP) filed with the rezoning application for this proposed manufacturing plant includes an outdoor community space for workers to congregate; and

**As to Goal 4**, the applicant/developer submits that no historic structures exist on this site; and



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**As to Goal 5**, the proposed manufacturing plant is not of the kind intended nor public enough to include an element of public art; and

### **PLAN ELEMENT 4.2: MOBILITY**

**This Application Package complies with Plan Element 4.2, its 3 Goals and their Objectives plus the following Policies:**

**As to Goal 1, Policies 1, 2, 3, 4 and 6; Goal 2, Policies 1, 2, 3, 4, 5, 6, 7, 8 and 9; and Goal 3, Policies 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 14, 15, 17, 18, 19, 20 and 21, it complies as follows, in addition to the other ways set forth above and below:**

**WHEREAS**, this proposed industrial plant (located as it is within an existing and growing mixed use Suburban Workplace area proximate to other large facilities of this kind, with good access off both arterial and collector level streets and thereby well connected as it is proposed to be close to restaurants, retail shopping and other nearby residential developments and communities) is plainly part and parcel of good pedestrian, bicycle and road networks; locating its development along and with access to and from those networks, Quadrant, at its cost, will assure the provision of sidewalks; and in doing so, it will prepare construction plans that will assure safe access with good site distances and turning radii; and

**WHEREAS**, bike racks and handicapped parking spots will be installed as and where required near buildings; and all drive lanes, parking spaces and stub connections will be designed in accordance with Metro Public Works and Transportation Planning (MPW&TP) requirements; and these are preliminarily depicted on the DDDP filed with this application; and

**WHEREAS**, all of the traffic and transportation studies and improvements anticipated for Blankenbaker Station II were conducted and made at earlier stages of review and development of this larger project; and

**WHEREAS**, existing TARC service is generally available in this area; and

**WHEREAS**, further, all necessary utilities are located proximate to this site and accessible by it via public right of way or easements; and

**WHEREAS**, Schutte Station Road is required to be built through this site to service other properties, including a future one that the applicant's representatives explained at the public hearing; and, as a consequence, Schutte Station Road will extend across an

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existing stream and through existing open space, which was contemplated at the time the DDDP was approved in Docket No. 15ZONE1028; and

**PLAN ELEMENT 4.3: COMMUNITY FACILITIES**

**This Application Package complies with Plan Element 4.3, its 3 Goals and their Objectives plus the following Policies:**

**As to Goal 2, Policies 1, 2 and 3, it complies as follows, in addition to the other ways set forth above and below:**

**WHEREAS**, the suburban cities of Jeffersontown and Middletown have assured that necessary community facilities are located nearby, including fire stations; and

**PLAN ELEMENT 4.4: ECONOMIC DEVELOPMENT**

**This Application Package complies with Plan Element 4.4, its 2 Goals and their Objectives, plus the following Policies:**

**As to Goal 1, Policies 1, 2, 4 and 5 and as to Goal 2, Policies 1 and 3, it complies as follows, in addition to the other ways set forth above and below:**

**WHEREAS**, as Louisville Metro's population continues to grow, so does demand for workplaces of all types; this proposed manufacturing plant is part of a Hollenbach-Oakley developer response to that demand, which largely results from the UPS Worldport facility at Louisville's central location along the I-64, I-65 and I-71 corridors; this particular plant promises increased opportunities for employment initially in the building trades and ultimately in the manufacturing business; and

**WHEREAS**, it also increases the Metro Louisville tax base essential to the provision of government services; and

**PLAN ELEMENT 4.5: LIVABILITY**

**This Application Package complies with Plan Element 4.5, its 4 Goals and their Objectives plus the following Policies:**

**As to Goal 1, Policies 5, 7, 8, 10, 11, 12, 13, 15, 16, 23, 26, 27, 28, 30, 31, 32, 33 and 35; and**

**Goal 4, Policies 1 and 2, it complies as follows, in addition to the other ways set forth above and below:**

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**WHEREAS**, the DDDP filed with this application contemplates that storm water will be accommodated by way of detention either on-site or otherwise already constructed within the Blankenbaker Station business park; sanitary sewer service is available at the nearby Floyds Fork regional wastewater treatment plant; and it can be accessed via lateral extension to and from an existing nearby manhole; and

**WHEREAS**, measures will also be taken during construction to assure that erosion and sediment impacts are fully controlled and/or mitigated; and

**WHEREAS**, as mentioned above, given the location of this proposed manufacturing plant in and near a large existing and expanding activity center, and nearby residential living opportunities, air quality impacts will be minimized because vehicle miles travelled are reduced; and

**PLAN ELEMENT 4.6: HOUSING**

**This Application Package complies with Plan Element 4.6, its 3 Goals and their Objectives:**

**WHEREAS**, as to these Goals, Objectives and Policies generally, while they don't specifically address developments of this kind, this manufacturing plant proposal nevertheless complies in that it will bring additional high-quality workplace opportunities to Greater Louisville and this area so as to assure more good jobs proximate to where people live; and

**WHEREAS**, for all the reasons explained at LD&T and the Planning Commission public hearing and also in the public hearing exhibit books, on the approved detailed district development plan, this application also complies with all other applicable Goals, Objectives and Policies of Plan 2040; now therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE** the requested binding element amendment, to read as follows:

14. Use of the subject site (except as stated in BE# 15 below) shall be limited to uses permitted in the PEC district. ~~with the following exceptions:~~ **The following uses are also prohibited:** residential uses; trailer courts or recreation vehicle campgrounds; junk yards; drilling for and removing of oil, gas or other hydrocarbon substances; refining of petroleum products; commercial petroleum storage yards; commercial excavation of building or

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construction materials (except as excavation is necessary in the course of construction of this site); distillation of bones; dumping, disposal, incineration or reduction of garbage, sewer, dead animals or other refuse; fat rendering; stockyard or slaughter of animals; smelting of iron, tin, zinc or other ores; cemeteries; jail or honor farms; labor or migrant worker camps; foundries; animal or poultry farms; production of insecticides, fungicides or disinfectants; bus garages and repair shops; fairgrounds; flea markets; coal and coke storage and sales. **The land use restrictions described by this binding element shall be applicable to lots 11 & 12 (Schutte Station Place), except that the manufacturing of magnets, an M-3, Industrial land use as described in case 21-ZONE-0103 shall be permitted.** Notice of a request to amend this binding element shall be given in accordance with the Planning Commission's policies and procedures. The Planning Commission may require a public hearing on the request to amend this binding element.

15. Uses on Lot 8 and the portion of Lot 24 identified on the development plan shall be limited to those uses permissible in the PRO zoning district. Modified by the Development Review Committee on September 22, 2010, case # 14489

**The vote was as follows:**

**YES: Commissioners Mims, Peterson, Brown, Clare, Howard, Carlson, Seitz, and Sistrunk.**

**ABSTAIN: Commissioner Daniels.**

**ABSENT: Commissioner Lewis.**

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**Deliberation**

03:09:47 Commissioners' deliberation.

**Zoning**

03:12:42 On a motion by Commissioner Carlson, seconded by Commissioner Seitz, the following resolution, based on testimony heard today and at the November 4, 2021 Planning Commission meeting, and on the applicant's justification, was adopted:

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**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal complies with Plan Element 4.1, its 5 Goals and their Objectives plus the following Policies:

As to Goal 1, Policies 2, 2.1, 3.1.10, 4, 6, 7, 8, 9 10, 11, 12, 14, 16, 17, 18, 19, 20, 21, 22 and 23, it complies as follows, in addition to the other ways set forth above and below:

**WHEREAS**, the site is located in the Suburban Workplace Form District which is characterized by mostly industrial and office buildings which are set back from streets in a landscaped setting; these buildings are often large scale uses, significant in size, which this plan proposes; public transportation is always desirable but not necessarily always fully available because of limited government funding; here public transportation is available, although to a limited extent; and pedestrian and bicycle access to nearby retail is desired, and the infrastructure here has and will provide for it; and

**WHEREAS**, Land Development Code required size and height restrictions, interior and perimeter landscaping, minimum parking, maximum lighting and signage, and required setbacks will also be met; and

**WHEREAS**, located as this proposed manufacturing plant is just a short drive in all directions from sizeable and ever-growing population centers, travel distances for workers are reduced, and walking and biking become very real possibilities, especially over time as sidewalk extensions are completed; this helps contribute to improved air quality; and

**WHEREAS**, quality building components and a design compatible with other buildings in the Blankenbaker Station business park and surrounding area will assure compatibility with nearby workplace buildings, development sites and also remaining residentially occupied properties; quality landscaping and effective screening and buffering also help assure context- appropriateness and design-compatibility for the larger area and proximate residential neighborhoods; and

**WHEREAS**, partly as a consequence of what surrounds this proposal and the fact that this is a proposed industrial plant, much like its surrounding land uses, impacts such as traffic, odors, lighting, noise and aesthetic factors will not prove to be nuisance factors; after all, this area has been almost entirely built out as Suburban Workplace development; but to the extent that this manufacturing plant involves equipment and processes that raise any potentially objectionable noise, vibration, heat, odor and/or air quality issues, these plant-specific, potential nuisances will be mitigated, as the manufacturing process was explained in the 8-step process presented in the PowerPoint at the public hearing; and

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**As to Goal 2, Policies 1, 2, 7 and 17, it complies as follows, in addition to the other ways set forth above and below:**

**WHEREAS**, the proposed manufacturing plant will be located in a Suburban Workplace Form District and will adjoin already built Workplace facilities of a similar kind to this one; as such and with good and improving pedestrian and vehicular access inside the Blankenbaker Station business park and also along Blankenbaker and Bluegrass Parkways, Plantside Drive and other area streets, there already exist convenient vehicular, bicycle and pedestrian connections to other like-kind developments, commercial establishments and nearby residential neighborhoods; indeed the proposed manufacturing plant is part of a large mixed use activity center that extends from Middletown south down Blankenbaker Parkway to Jeffersontown, west along Shelbyville Road and I-64 to Hurstbourne, St. Matthews and downtown Louisville, and east to Middletown, Frankfort and Lexington; thus, it will access the mix of diverse residential communities nearby that provide a workforce; plus this plant will have easy access to Louisville's interstate highway system, which leads to and from the UPS Worldport facility and is within a day's drive of a significant portion of the United States; and

**WHEREAS**, this location adds to the opportunities existing and planned in this high growth area to work in close and convenient proximity to places of residence, food and shopping within easy driving distances in all directions along I-64 and the Snyder Freeway; and

**As to Goal 3, Policies 3, 6 and 9, it complies as follows, in addition to the other ways set forth above and below:**

**WHEREAS**, the detailed district development plan (DDDP) filed with the rezoning application for this proposed manufacturing plant includes an outdoor community space for workers to congregate; and

**As to Goal 4**, the applicant/developer submits that no historic structures exist on this site; and

**As to Goal 5**, the proposed manufacturing plant is not of the kind intended nor public enough to include an element of public art; and

### **PLAN ELEMENT 4.2: MOBILITY**

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**This Application Package complies with Plan Element 4.2, its 3 Goals and their Objectives plus the following Policies:**

**As to Goal 1, Policies 1, 2, 3, 4 and 6; Goal 2, Policies 1, 2, 3, 4, 5, 6, 7, 8 and 9; and Goal 3, Policies 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 14, 15, 17, 18, 19, 20 and 21, it complies as follows, in addition to the other ways set forth above and below:**

**WHEREAS**, this proposed industrial plant (located as it is within an existing and growing mixed use Suburban Workplace area proximate to other large facilities of this kind, with good access off both arterial and collector level streets and thereby well connected as it is proposed to be close to restaurants, retail shopping and other nearby residential developments and communities) is plainly part and parcel of good pedestrian, bicycle and road networks; locating its development along and with access to and from those networks, Quadrant, at its cost, will assure the provision of sidewalks; and in doing so, it will prepare construction plans that will assure safe access with good site distances and turning radii; and

**WHEREAS**, bike racks and handicapped parking spots will be installed as and where required near buildings; and all drive lanes, parking spaces and stub connections will be designed in accordance with Metro Public Works and Transportation Planning (MPW&TP) requirements; and these are preliminarily depicted on the DDDP filed with this application; and

**WHEREAS**, all of the traffic and transportation studies and improvements anticipated for Blankenbaker Station II were conducted and made at earlier stages of review and development of this larger project; and

**WHEREAS**, existing TARC service is generally available in this area; and

**WHEREAS**, further, all necessary utilities are located proximate to this site and accessible by it via public right of way or easements; and

**WHEREAS**, Schutte Station Road is required to be built through this site to service other properties, including a future one that the applicant's representatives explained at the public hearing; and, as a consequence, Schutte Station Road will extend across an existing stream and through existing open space, which was contemplated at the time the DDDP was approved in Docket No. 15ZONE1028; and

### **PLAN ELEMENT 4.3: COMMUNITY FACILITIES**

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**This Application Package complies with Plan Element 4.3, its 3 Goals and their Objectives plus the following Policies:**

**As to Goal 2, Policies 1, 2 and 3, it complies as follows, in addition to the other ways set forth above and below:**

**WHEREAS**, the suburban cities of Jeffersontown and Middletown have assured that necessary community facilities are located nearby, including fire stations; and

**PLAN ELEMENT 4.4: ECONOMIC DEVELOPMENT**

**This Application Package complies with Plan Element 4.4, its 2 Goals and their Objectives, plus the following Policies:**

**As to Goal 1, Policies 1, 2, 4 and 5 and as to Goal 2, Policies 1 and 3, it complies as follows, in addition to the other ways set forth above and below:**

**WHEREAS**, as Louisville Metro's population continues to grow, so does demand for workplaces of all types; this proposed manufacturing plant is part of a Hollenbach-Oakley developer response to that demand, which largely results from the UPS Worldport facility at Louisville's central location along the I-64, I-65 and I-71 corridors; this particular plant promises increased opportunities for employment initially in the building trades and ultimately in the manufacturing business; and

**WHEREAS**, it also increases the Metro Louisville tax base essential to the provision of government services; and

**PLAN ELEMENT 4.5: LIVABILITY**

**This Application Package complies with Plan Element 4.5, its 4 Goals and their Objectives plus the following Policies:**

**As to Goal 1, Policies 5, 7, 8, 10, 11, 12, 13, 15, 16, 23, 26, 27, 28, 30, 31, 32, 33 and 35; and**

**Goal 4, Policies 1 and 2, it complies as follows, in addition to the other ways set forth above and below:**

**WHEREAS**, the DDDP filed with this application contemplates that storm water will be accommodated by way of detention either on-site or otherwise already constructed within the Blankenbaker Station business park; sanitary sewer service is available at the



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nearby Floyds Fork regional wastewater treatment plant; and it can be accessed via lateral extension to and from an existing nearby manhole; and

**WHEREAS**, measures will also be taken during construction to assure that erosion and sediment impacts are fully controlled and/or mitigated; and

**WHEREAS**, as mentioned above, given the location of this proposed manufacturing plant in and near a large existing and expanding activity center, and nearby residential living opportunities, air quality impacts will be minimized because vehicle miles travelled are reduced; and

**PLAN ELEMENT 4.6: HOUSING**

**This Application Package complies with Plan Element 4.6, its 3 Goals and their Objectives:**

**WHEREAS**, as to these Goals, Objectives and Policies generally, while they don't specifically address developments of this kind, this manufacturing plant proposal nevertheless complies in that it will bring additional high-quality workplace opportunities to Greater Louisville and this area so as to assure more good jobs proximate to where people live; and

**WHEREAS**, for all the reasons explained at LD&T and the Planning Commission public hearing and also in the public hearing exhibit books, on the approved detailed district development plan, this application also complies with all other applicable Goals, Objectives and Policies of Plan 2040; now therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the requested change in zoning from PEC, Planned Employment Center to M-3, Industrial on property described in the attached legal description be **APPROVED**.

**The vote was as follows:**

**YES: Commissioners Mims, Peterson, Brown, Clare, Howard, Carlson, Seitz, and Sistrunk.**

**ABSTAIN: Commissioner Daniels.**

**ABSENT: Commissioner Lewis.**

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#### Variance

03:14:57 On a motion by Commissioner Carlson, seconded by Commissioner Seitz, the following resolution, based on the Standard of Review and Staff Analysis, the applicant's justification, and testimony heard today and at the November 4, 2021 Planning Commission hearing, was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that the requested variance will not adversely affect adjacent property owners as the structure will be located adjacent to other industrial users, not on the edge of the form district, and several hundred feet from the nearest residential structure; and

**WHEREAS**, the Commission further finds that the requested variance will not alter the essential character of the general vicinity as the structure will be placed away from Plantside Drive and also several hundred feet from the nearest residence. Tree massing is also present along Tucker Station to prevent views from existing residences of the extra height; and

**WHEREAS**, the Commission further finds that the requested variance will not cause a hazard or nuisance to the public as no pedestrian or vehicular movement is impacted; and

**WHEREAS**, the Commission further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the regulations allow for additional height if certain standards have been met. While those standards have not been met, the structure does not appear to negatively impact adjacent owners, character, or cause a hazard; and

**WHEREAS**, the Commission further finds that the requested variance does not arise from special circumstances which do not generally apply to land in the general vicinity or the same zone as the workplace form is subject to these standards and options remain available to meet special standards for height; and

**WHEREAS**, the Commission further finds that the strict application of the provisions of the regulation would not deprive the applicant of the reasonable use of the land as the workplace form allows additional height if the building façade is stepped back 1' for every additional 4' of height. This option remains available to the applicant; and

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**WHEREAS**, the Commission further finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as no development has occurred; and

**WHEREAS**, the variance will not adversely affect the public health, safety or welfare because this is an aesthetic code requirement; the building has been set back an additional 20' from the required front yard setback such that, according to the Suburban Form District guidelines, an additional 4' of height is arguably allowed per 1' of additional setback; therefore, the 67' height would be conceptually be permitted with an additional 5' of front yard setback; as a result of the attempt to comply with the intent of LDC 5.2.4.d.4.a., there will not be any adverse effects on the public health, safety, or welfare, particularly because there is no evidence that the extra height will cause any traffic or other safety problems; the site is in the Blankenbaker Station II development and thus subject to the strict covenants, conditions, and restrictions for all properties within the development; and the building will meet the same standards the other properties owners expect for buildings within the development; and

**WHEREAS**, the variance will not alter the essential character of the general vicinity this is an aesthetic code requirement and, as said, the property is subject to the Blankenbaker Station II covenants, conditions and restrictions prepared and recorded to ensure all properties in the development meet certain design standards; and

**WHEREAS**, the variance will not cause a hazard or a nuisance to the public because this is an aesthetic code requirement and the proposed building height is similar to other buildings in the business park; and

**WHEREAS**, the variance will not allow an unreasonable circumvention of the requirements of the zoning regulations because this is an aesthetic code requirement; the additional setback being provided is anticipated to allow additional building height, and because the building will be in compliance with the Blankenbaker Station II CCRs; and

**WHEREAS**, the Variance arises from special circumstances, which do not generally apply to land in the general vicinity because building height is already governed by private deed restrictions, which does not apply to all properties in this area of town; and

**WHEREAS**, strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create unnecessary hardship because this is an aesthetic code requirement, which is already regulated by private restrictions; and

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**WHEREAS**, the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the regulation, but rather are a result of a constrained site for the proposed use; now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE** the requested **Variance** from Land Development Code, section 5.3.4 to allow for the building to exceed the maximum height of 50' and be 67' in height.

**The vote was as follows:**

**YES: Commissioners Mims, Peterson, Brown, Clare, Howard, Carlson, Seitz, and Sistrunk.**

**NO: Commissioners**

**ABSTAIN: Commissioner Daniels.**

**ABSENT: Commissioner Lewis.**

### Detailed District Development Plan

03:16:14 On a motion by Commissioner Carlson, seconded by Commissioner Seitz, the following resolution, based on evidence and testimony heard today and at the November 4, 2021 Planning Commission hearing, and on the Standard of Review and Staff Analysis, was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that 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. Landscaping and tree canopy will be provided as required and MSD buffers for intermittent streams have been provided; and

**WHEREAS**, the Commission further finds that provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community are provided; and

**WHEREAS**, the Commission further finds that outdoor amenities for employees will be provided. Tree canopy is preserved to the rear of the development area; and

**WHEREAS**, the Commission further finds that the Metropolitan Sewer District has approved the preliminary development plan and will ensure the provisions of adequate

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drainage facilities on the subject site in order to prevent drainage problems from occurring on the subject site or within the community; and

**WHEREAS**, the Commission further finds that the proposal is generally compatible with the overall site design and with the future use of the area; and

**WHEREAS**, the Commission further finds that the proposal conforms with Plan 2040 and the Land Development, except where relief has been requested; now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Detailed District Development Plan, **SUBJECT** to the following binding elements:

#### **Binding Elements (21-ZONE-0103)**

**All general plan binding elements approved under docket 14489 and 21-AMEND-0009 are applicable to the requested change in zoning and revised detailed district development plan, in addition to the following:**

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. 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.
3. 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 Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.
  - b. A minor subdivision plat or legal instrument shall be recorded (creating the lot lines as shown on the approved development plan)
  - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
  - d. A reciprocal access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be created between the adjoining property owners and recorded. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services prior to obtaining a building permit.
  - e. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the November 4, 2021 Planning Commission meeting. A copy of the approved rendering shall be available in the case file on record in the offices of the Louisville Metro Planning Commission.
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. The site shall be limited to uses permitted in the PEC district and Magnet Manufacturing, an M-3 Industrial Use. No other uses shall be allowed unless approved by the Planning Commission in a public hearing.

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**The vote was as follows:**

**YES: Commissioners Mims, Peterson, Brown, Clare, Howard, Carlson, Seitz, and Sistrunk.**

**NO: Commissioners**

**ABSTAIN: Commissioner Daniels.**

**ABSENT: Commissioner Lewis.**

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**CASE NO. 21-LDC-0013**

**NOTE: This case was taken out of agenda order. It was heard immediately following Case No. 21-ZONE-0103 and 21-AMEND-0009.**

**Commissioner Brown left the meeting at 5:15 p.m. and did not hear or vote on this case.**

Request:	Changes to the Child Care Regulations - Land Development Code Text Amendment
Location:	Louisville Metro
Applicant:	Louisville Metro
Jurisdiction:	Louisville Metro
Council District:	All Council Districts
<b>Case Manager:</b>	<b>Joel P. Dock, AICP, Planning Coordinator</b>

Notice of this public hearing appeared in the Courier-Journal.

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

**Agency Testimony:**

03:17:53 Joel Dock presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.) Mr. Dock discussed issues in response to Commissioners' questions, including: state regulations pertaining to staff to child ratio and number of employees present; public outreach and process; conditional use permits, and home based care in the PRD zoning district. Mr. Dock stated for the record that all public comment were provided to the Commissioners in advance of today's hearing, including any public comments received after publication of the meeting materials. See recording for detailed discussion.

**The following spoke in support of the request:**

Liz McQuillen, GLI, 614 W Main Street, Louisville, KY 40202

Mandy Simpson, 507 West Tenny Avenue, Louisville, KY 40204

Asia Rivers, 7909 Nottaway Circle, Louisville, KY 40214

Tony Peyton, 1922 Lowell Ave, Louisville, KY 40205



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Jason Adkins, 100 Alpine Drive, Shelbyville, KY 40065

**Summary of testimony of those in support:**

03:38:42 Liz McQuillen spoke in support (see recording.)

03:40:48 Mandy Simpson, Chief Policy Officer at Metro United Way, spoke in support (see recording.)

03:44:09 Asia Rivers, a childcare provider, spoke in support and emphasized the importance of eliminating as many barriers as possible to childcare center locations (see recording.)

03:48:35 Tony Peyton spoke in support (see recording.)

03:51:17 Jason Adkins, Director of Development of the Ohio Valley Educational Cooperative, spoke in support (see recording.)

03:55:10 Mr. Dock discussed the revised fee schedule for the Conditional Use Permit for childcare (see recording.) Ms. Howard said this was also discussed at the Planning Committee meeting as well.

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

Ann Ramser 307 East Kenwood Drive, Louisville, KY 40214

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

03:56:03 Ann Ramser spoke in opposition (see recording.)

Commissioner Brown and Mr. Dock discussed Metro Public Works / Transportation Planning evaluation of facilities. Commissioner Sistrunk and Mr. Dock discussed parking determinations for child care which would include an evaluation of staff, pickup-drop off, etc. In response to questions from Commissioner Carlson, Mr. Dock explained that not all proposed childcare facilities are automatically guaranteed by right. Depending on the location, they still have to go through a process of review and possibly a public hearing, as well as conforming with state child care regulations. See recording for detailed discussion.

**Deliberation:**

04:06:55 Commissioners' deliberation.

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### PUBLIC HEARING

#### CASE NO. 21-LDC-0013

**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.**

04:13:00 On a motion by Commissioner Carlson, seconded by Commissioner Seitz, the following resolution, based on the staff report and evidence and testimony heard today, was adopted:

**A RESOLUTION BY THE PLANNING COMMISSION RECOMMENDING APPROVAL OF TEXT AMENDMENTS TO THE LAND DEVELOPMENT CODE RELATED TO CHANGES IN THE CHILD CARE REGULATIONS TO THE LOUISVILLE METRO COUNCIL AND OTHER JURISDICTIONS WITH ZONING AUTHORITY.**

**WHEREAS**, Planning and Design Services (PDS) conducted a review of zoning regulations within the Land Development Code (LDC) that restrict the location, capacity, and delivery of child care and proposed recommendations to provide greater and more equitable access to child care; and

**WHEREAS**, the Planning Commission finds that the proposed text amendments advance the goals and objectives of Plan 2040 and provide for the appropriate expansion of child care at dispersed locations throughout Louisville Metro to help meet the needs of families and child care providers; and

**WHEREAS**, the Commission further finds that the proposed amendments respond to trends in the child care environment that have also been adversely impacted by Covid-19; and

**WHEREAS**, the Commission further finds that the amendments promote infill development and re-use by allowing child care to occupy non-residential structures and corner lots, which also promotes diverse land uses to create walkable neighborhoods where access to child care can be readily provided close to home and at a greater capacity than was previously allowed; and

**WHEREAS**, the Commission recognizes that the child care industry has specific needs and targeted changes can be made to increase access and availability of child care; and

**WHEREAS**, the Commission further finds that the amendments promote small business and entrepreneurship as in-home providers can explore an increased capacity without the burden of application fees and public hearings associated with a conditional use permit; and

**WHEREAS**, the Commission further finds that the allowing for expanded child care also intersects housing affordability and the workforce as the amendments will allow for child care to be provided in closer proximity to homes and employers; and

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### CASE NO. 21-LDC-0013

**WHEREAS**, the Commission further finds that the proposed amendments allow neighborhoods to have the resources to maintain health and well-being – accessible child care; now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council and legislative bodies of cities with zoning authority that the proposed text amendments be **APPROVED** as follows:

## Chapter 1, Part 2 Definitions

\*\*\*\*

### 1.2.2 Definitions

For the purposes of Chapters 1 through 11 the following terms, phrases, words, and their derivations shall have the meaning contained herein, except where the context clearly requires otherwise.

\*\*\*\*

**Adult Care Center** – Supervision and care regularly provided for adults during part of the day and less than 24 hours. This term includes adult day care, adult day health care, and Alzheimer's respite care. This term does not include family care home (mini-home), rehabilitation home, residential care facility, nursing homes and homes for the infirm or aged, assisted living residences, hospital, or clinic. Adult Care is further regulated by Kentucky Administrative Regulations Title 907 (907 KAR).

\*\*\*\*

**Child Care Center** – See “Day Care Center.”

**Child Care** – Care for a child in a center or home that regularly provides full or part-time care, day and/or night, and includes developmentally-appropriate play and learning activities. This term includes nursery and kindergartens but does not include schools, care provided as an accessory to a school, provided during services conducted in a religious building, or other exemption authorized by the Commonwealth of Kentucky. Child Care is further regulated by Kentucky Administrative Regulations Title 922 (922 KAR).

**Child Care Center** – Child care for any size group of children.

**Child Care Home** – Child care for up to 12 children at the primary residence of the care giver. The use shall be clearly incidental and secondary to the primary use as a residence.

\*\*\*\*

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**Day Care Center** — Any facility whatsoever which cares for more than eight clients not related to the operator by blood, marriage, adoption or foster care responsibility and usually under 18 years old, away from the client's own home, for periods of less than twenty-four hours per day per client. Occasional extended stays may also be provided. Such facilities may be for profit or non-profit. This term includes Adult Day Care Center, Child Care Centers, Nursery Schools and Kindergartens, when not accessory to an elementary school; but does not include Group Care Facilities, Residential Social Service Facilities, any center under the jurisdiction of the State Board of Education, any private school except those solely below first grade level or any center operated by a religious institution on the same lot as the religious assembly structure.

**Day Care** – See “Child Care” or “Adult Care Center”

\*\*\*\*

**Chapter 2, Part 2 Residential Zoning Districts**

\*\*\*\*

**2.2.1 R-R Rural Residential District**

\*\*\*\*

**A. Permitted Uses**

\*\*\*\*

**Child Care Homes**

\*\*\*\*

**2.2.2 R-E Residential Estate District**

\*\*\*\*

**A. Permitted Uses**

\*\*\*\*

**Child Care Homes**

\*\*\*\*

**2.2.3 R-1 Residential Single Family District**

\*\*\*\*

**A. Permitted Uses**

\*\*\*\*

**Child Care Homes**

\*\*\*\*

**2.2.8 U-N Urban Neighborhood District**

\*\*\*\*

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Child Care Homes

\*\*\*\*

*Note: All uses permitted in the R-1 Residential Single Family District are permitted in the R-2, R-3, R-4, R-5, U-N, R-5A, R-5B, R-6, & R-7 districts; thus, child care homes would be permitted in each district.*

**2.2.13 R-8A Residential Multi Family District**

\*\*\*\*

A. Permitted Uses

\*\*\*\*

Adult Care Centers

\*\*\*\*

Child Care Centers

\*\*\*\*

~~Day care centers, day nurseries, nursery schools and kindergartens~~

\*\*\*\*

**Chapter 2, Part 3 Office/Residential Zoning Districts**

\*\*\*\*

**2.3.1 OR Office/Residential District**

\*\*\*\*

A. Permitted Uses

\*\*\*\*

Adult Care Centers

\*\*\*\*

Child Care Centers

\*\*\*\*

~~Day care centers, day nurseries, nursery schools and kindergartens~~

\*\*\*\*

*Note: All uses permitted in the OR Office/Residential District are permitted in the OR-1, OR-2, OR-3, & OTF districts; thus, adult care centers, child care homes and child care centers would be permitted in each district.*

**Chapter 2, Part 4 Commercial Zoning Districts**

\*\*\*\*

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**2.4.1 C-N Neighborhood Commercial District**

\*\*\*\*

**A. Permitted Uses**

\*\*\*\*

**Adult Care Centers**

\*\*\*\*

**Child Care Centers**

\*\*\*\*

~~Day care centers, day nurseries, nursery schools and kindergartens~~

\*\*\*\*

**2.4.2 C-R Commercial Residential District**

\*\*\*\*

**A. Permitted Uses**

All uses permitted in the R-7 Residential Multi Family District, as well as the following use(s):

\*\*\*\*

**Adult Care Centers**

\*\*\*\*

**Child Care Centers**

\*\*\*\*

~~Day care centers, day nurseries, nursery schools and kindergartens~~

\*\*\*\*

**2.4.3 C-1 Commercial District**

\*\*\*\*

**A. Permitted Uses**

\*\*\*\*

**Adult Care Centers**

\*\*\*\*

**Child Care Centers**

\*\*\*\*

~~Day care centers, day nurseries, nursery schools and kindergartens~~

\*\*\*\*

*Note: All uses permitted in the C-1 Commercial District are permitted in the C-2, C-3, C-M, PEC, & EZ-1 districts; thus, adult care centers, child care homes and child care centers would be permitted in each district.*

**Chapter 2, Part 6 Special Purpose Districts**

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**2.6.2 PRO Planned Research/Office District**

\*\*\*\*

**A. Permitted Uses**

\*\*\*\*

Adult Care Centers

\*\*\*\*

Child Care Centers

\*\*\*\*

~~Day care centers, day nurseries, nursery schools and kindergartens~~

\*\*\*\*

**Chapter 2, Part 7 Planned Zoning Districts**

\*\*\*\*

**2.7.1 Planned Village Development**

\*\*\*\*

**2.7.1.C Development Guidelines and Standards – Table 2.7.1.**

\*\*\*\*

~~day care center~~ Child and Adult Care Centers

~~family day care home~~ Child Care Homes

\*\*\*\*

**2.7.2 Planned Transit Development (PTD) District**

\*\*\*\*

PTD District Land Use Table

\*\*\*\*

Civic use

\*\*\*\*

~~Day care center, day nurseries~~ Child and Adult Care Centers

~~family day care center~~ Child Care Homes

**2.7.3 Planned Residential Development (PRD) District**

\*\*\*\*

**A. Permitted Uses**

\*\*\*\*

Child Care Homes

\*\*\*\*

**2.7.4 Traditional Neighborhood Zoning District – General Provisions**

\*\*\*\*

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**TNZZ Land Use Table**

\*\*\*\*

Land Use Category	Neighborhood General	Neighborhood Transition-Center	Neighborhood Center
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\*\*\*\*

<i>Home Occupations</i>	P	P	P
<i>Child Care Homes</i>	<u>P</u>	<u>P</u>	<u>P</u>

\*\*\*\*

<del>Day Care Centers</del> <u>Child and Adult Care Centers</u>	✕ <u>P/CU</u>	P	✕ <u>P/CU</u>
<del>Family Day Care Home</del>	✕	P	✕

\*\*\*\*

**2.7.5 Traditional Neighborhood Zoning District – Old Louisville/Limerick**

\*\*\*\*

**Table 2.7.5: Table 1 Old Louisville/Limerick TNZZ Land Uses - General**

TNZZ Land Use Category	<i>Neighborhood General</i>	<i>Neighborhood Transition- Center</i>	<i>Neighborhood Center</i>	<i>Neighborhood Center Transition: Edge Transition</i>	<i>Neighborhood General Campus Edge Transition</i>	<i>LDC Section Providing Special or Conditional Use Standards</i>
---------------------------	---------------------------------	--	--------------------------------	--	--	---

\*\*\*\*

Home occupations	PS	PS	PS	PS	NP	4.4.5
<u>Child Care Homes</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>NP</u>	<u>n/a</u>

\*\*\*\*

<del>Day care centers, nurseries and Kindergartens</del> <u>Child and Adult Care Centers</u>	<del>NP</del> <u>P/CU</u>	P	P	P	<del>NP</del> <u>P/CU</u>	<u>4.2.19</u>
--	---------------------------	---	---	---	---------------------------	---------------

\*\*\*\*

**2.7.5 Table 2 Old Louisville/Limerick TNZZ - Uses Permitted in the Neighborhood  
General**

\*\*\*\*



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<b><i>Land Use Category</i></b>	<b><i>Description of Permitted Uses</i></b>
---------------------------------	---

\*\*\*\*

<b><i>Other Uses</i></b>	
Accessory Uses	A use which is clearly incidental to, customarily found in association with, and serves a principal use; is subordinate in purpose, area, or extent to the principal use served; and is located on the same building site as the principal use, including parking areas.
<u>Child Care Homes</u>	<u>Child care for up to 12 children at the primary residence of the care giver. The use shall be clearly incidental and secondary to the primary use as a residence.</u>

\*\*\*\*

**Table 2.7.5: Table 4 Old Louisville/Limerick TNZD - Uses Permitted Where Mapped in the Neighborhood General**

\*\*\*\*

<b><i>Land Use Category</i></b>	<b><i>Description of Uses Permitted Where Mapped</i></b>
<b><i>Commercial Uses</i></b>	

\*\*\*\*

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Corner Lot Commercial	<p>Corner Lot Commercial Uses, as listed below, are permitted where mapped, subject to the following standards.</p> <p>The following uses are permitted for existing structures, originally built as corner lot commercial buildings, on the first floor only. Any floor may be used for office uses as permitted for Neighborhood Center—Transition and/or for residential uses.</p> <p>New construction is permitted only where Corner Lot Commercial uses are identified on the District Plan Map, provided total gross floor area of commercial/retail use does not exceed 5,000 square feet on the first floor and is accessible from the public sidewalk. Any floor may be used for office and/or residential uses.</p> <p>Replacement structures shall not to exceed the footprint of the previous contributing principal structure, unless approved by governing authorities in accordance with standards for new construction.</p> <p>Corner lot Commercial Uses  ****</p> <p><del>20. Day care centers, day nurseries, nursery schools and kindergartens</del> <u>Child and Adult care Centers</u>  ****</p>
-----------------------	--

\*\*\*\*

**Table 2.7.5: Table 5 Old Louisville/Limerick TNZD - Uses Permitted as Conditional Uses in the Neighborhood General**

\*\*\*\*

<b>Land Use Category</b>	<b>Description of Uses Permitted as Conditional Uses</b>
<b>Other Uses</b>	
Bed and Breakfast Inns	Bed and Breakfast Inns as permitted by Section 4.2.9 of this Land Development Code.
<u>Child and Adult Care Centers</u>	<u>Child and Adult Care Centers as permitted by Section 4.2.19 of this Land Development Code</u>
Nursing Homes	Nursing Homes and Homes for the Infirm and Aged as permitted by Section 4.2.38 of this Land Development Code.

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and Homes for the Infirm and Aged	
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\*\*\*\*

**Table 2.7.5: Table 6 Old Louisville/Limerick TNZD - Uses Permitted in the Neighborhood Transition—Center**

\*\*\*\*

<b><i>Land Use Category</i></b>	<b><i>Description of Permitted Uses</i></b>
---------------------------------	---

\*\*\*\*

<del>Day care centers, day nurseries, nursery schools, and kindergartens</del>	<u>Child and Adult Care Centers</u>
--	-------------------------------------

\*\*\*\*

**Table 2.7.5: Table 9 Old Louisville/Limerick TNZD - Uses Permitted in the Neighborhood Center**

\*\*\*\*

<b><i>Land Use Category</i></b>	<b><i>Description of Permitted Uses</i></b>
---------------------------------	---

\*\*\*\*

<del>Day care centers, day nurseries, nursery schools, and kindergartens</del>	<u>Child and Adult Care Centers</u>
--	-------------------------------------

\*\*\*\*

**Table 2.7.5: Table 13 Old Louisville/Limerick TNZD - Uses Permitted in the Neighborhood Center Transition: Edge Transition**

\*\*\*\*

<b><i>Land Use Category</i></b>	<b><i>Description of Permitted Uses</i></b>
---------------------------------	---

\*\*\*\*

<del>Day care centers, day nurseries, nursery schools, and kindergartens</del>	<u>Child and Adult Care Centers</u>
--	-------------------------------------

\*\*\*\*

**Table 2.7.5: Table 18 Old Louisville/Limerick TNZD - Uses Permitted as Conditional Uses in the Neighborhood General Campus Edge Transition**

\*\*\*\*

<b><i>Other Uses</i></b>
--------------------------

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Community Service Facility	Community service facility as permitted by Section 4.2.54 of the Land Development Code.
<u>Child and Adult Care Centers</u>	<u>Child and Adult Care Centers as permitted by Section 4.2.19 of this Land Development Code</u>
Nursing Homes and Homes for the Infirm and Aged	Nursing Homes and Homes for the Infirm and Aged as permitted by Section 4.2.38 of this Land Development Code.

\*\*\*\*

**Chapter 4, Part 2 Conditional Uses**

\*\*\*\*

**4.2.1 Intent and Applicability**

\*\*\*\*

The following uses are subject to the Conditional Use Permit process:

\*\*\*\*

4.2.19	<del>Day Care Facilities (providing care for 8 or more persons)</del> <u>Child and Adult Care Centers</u>
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\*\*\*\*

**4.2.19 Day Care Facilities (providing care for more than 6 children) Child and Adult Care Centers**

~~Day Care Facilities may be allowed in the R-R, R-E, R-1, R-2, R-3, U-N, R-5A, R-5B, R-6, and R-7 districts upon the granting of a Conditional Use Permit and in compliance with the listed requirements.~~

- A. ~~Signs~~ - There shall be allowed one non-illuminated sign identifying the name and use, which sign shall be limited in size to four square feet and be placed on the building.
- B. ~~Residential Structure~~ - The structure shall remain or shall be constructed so that the exterior design and ornamentation is residential in character and compatible with the immediate neighborhood, so that there is no evidence from the street that the use is other than residential (except for the sign).
- C. ~~Alterations or Improvements to the Structure~~ - Where such a use is permitted in a structure which has been used as a residence, the permittee shall make no substantial alterations or improvements to the structure which would impair the

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~~structure's use as a residence at a later time.~~

- ~~D. On-Site Drop-off and Pick-up Area—An on-site area shall be provided where passengers from automobiles may safely exit the automobile and enter the building and vice versa. The design of this area must be approved by the appropriate agency responsible for transportation planning.~~
- ~~E. Parking Spaces—The appropriate number of parking spaces shall be provided for members of the day care center staff. The number of parking spaces required pursuant to this section shall be determined by the Board of Zoning Adjustment, and may thereafter be modified by the Board of Zoning Adjustment by petition from the owner of the premises granted a Conditional Use Permit or upon recommendation from the zoning inspector or other authorized personnel after an annual inspection of the premises or other such inspection. The parking layout must be approved by the appropriate agency responsible for transportation planning.~~
- ~~F. Drainage Control—The development plan shall have the approval of the appropriate agency responsible for surface drainage control.~~
- ~~G. All buildings and structures shall conform to the requirements of the zoning and form district in which they are located.~~
- ~~H. Fence—A fence with a minimum height of 4 feet shall be erected around the outdoor play area.~~
- ~~I. Alterations or Improvements to the Property—Where such a use is permitted on a lot with an existing residential structure; the residential character of the lot shall not be disturbed by exterior changes to the property that are visible from the public street. Off-street parking shall not be located within the front and/or street-side yards. Drop-off and pick-up shall not be located in front yard and/or street-side yard of the existing residential structure, except for driveways approved by Metro Public Works.~~
- ~~J. Conditional use permits for Day Care Facilities in R-4 and R-5 zoning districts issued prior to the effective date of this ordinance (March 9, 2011) may continue to operate as authorized under the approved conditional use permit. Upon request by an applicant, such conditional use permits may be modified in any manner the Board determined, in its discretion, to be appropriate.~~

Child and Adult Care Centers may be allowed in the R-R, R-E, R-1, R-2, R-3, R-4, R-5 U-N, R-5A, R-5B, R-6, PRD, R-7, TNZD, M-1, M-2, and M-3 districts upon the granting of a Conditional Use Permit and in compliance with the listed requirements:

#### A. Existing Residential Structure

1. The structure shall remain, or property improved so that the exterior design and ornamentation is residential in character and compatible with

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the immediately surrounding neighborhood and form district(s).

2. Should the structure remain, there shall be no alterations or improvements which would impair future use of the structure as a residence.
3. Associated off-street parking shall not be located between the principal structure and the front property line or within the street side yard setback, except on driveways leading to the home, rear yard, or garage
4. Outdoor activities shall be limited to the rear yard, except that corner lots may utilize the street side yard. No play equipment in excess of 4' in height is allowed in the required street side yard of the form district.

#### B. Industrial Zoning Districts

1. Child care centers on the same development site as a use permitted within the M-1, M-2, and M-3 zoning districts that do not meet the provisions of Section 4.3.11 of this LDC:
  - a. All special standards outlined within Section 4.3.11 are met unless relief is granted by the Board. Applications requesting relief from special standards in Section 4.3.11 shall provide written justification demonstrating the reasons why relief should be granted and how such relief would ensure the public health, safety, and welfare of staff and children.
2. Areas designated for outdoor activity shall not be located within 200 feet of any area used for heavy truck idling, loading, or the operation of other heavy equipment.
3. Review by the Air Pollution Control District (APCD) shall be required. APCD may impose conditions as necessary to protect human health and the environment.

#### C. Pick-up/drop-off – An area(s) designated for the safe loading and unloading of passengers shall be assigned off-street or on-street.

1. The location of this area shall be determined by the Planning Director or designee upon consultation with Transportation Planning. The determination should consider hours for pick-up/drop-off, street classification, area of the lot and availability for off-street designation, and vehicle queuing.
2. If an on-street area is to be used, approval shall also be received from Louisville Metro Public Works. The applicant/developer/owner shall be responsible for all costs associated with an on-street designation.

#### D. Parking Spaces - Parking for employees shall be required as determined by the Planning Director or designee. This determination should consider staff-to-child

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ratios for the age group served, maximum group size limits, licensed capacity, availability of on-street parking within the area, public transit routes, and/or the use of nearby facilities for shared parking.

- E. Drainage Control – Preliminary plan approval must be received by the Louisville Metropolitan Sewer District (MSD).
- F. Fence - A fence shall enclose all areas for outdoor activity.
- G. Signs – In residential zoning districts, there shall be allowed one non-illuminated attached business sign not exceeding 4 square feet in area, regardless of the form district. No changing image signs shall be permitted
- G. Hours – No outdoor activities shall occur between the hours of 9 P.M and 7 A.M, except for pick-up/drop-off.
- H. Buildings – All buildings and structures shall conform to the requirements of the zoning and form district in which they are located.

\*\*\*\*

**Chapter 4 Part 3 Permitted Uses with Special Standards**

\*\*\*\*

**4.3.11 Day Care Centers in the M-1 Zoning District** ~~Child Care Centers in Industrial Districts~~

~~A single day care center may be permitted within the M-1 Industrial District provided the operation is in accordance with the following standards:~~

- ~~A. The access to the day care center shall be separate and apart from any access to a use permitted in an industrial, commercial or office use.~~
- ~~B. Heavy equipment shall not be stored or utilized by a business on the same property as the day care center.~~
- ~~C. No hazardous material may be stored on-site.~~
- ~~D. No truck idling shall be permitted on-site.~~
- ~~E. On-site Drop-off and Pick-up Area. An on-site area shall be provided where passengers from automobiles may safely exit the automobile and enter the building and vice versa. The design of this area must be approved by the agency responsible for transportation planning.~~

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~~F. The appropriate number of parking spaces shall be provided for members of the day care center staff. The number of parking spaces required pursuant to this section shall be in accordance with Chapter 9, Part 1 of the LDC. The parking layout must be approved by the appropriate agency responsible for transportation planning.~~

~~G. Fence. A fence with a minimum height of 4 feet shall be erected around the outdoor play area.~~

~~H. The applicant shall receive approval from the Air Pollution Control District which may condition its approval as may be necessary and appropriate to protect human health and the environment consistent with applicable laws and regulations relating to ambient air quality.~~

A child care center may be permitted as a primary use on the same development site as a use permitted within the M-1, M-2, and M-3 zoning districts subject to the following standards:

A. Entrances – The center shall maintain a building entrance independent from the industrial user of the development site, which includes a designated off-street pick-up/drop-off area set aside for the sole use of the center. This area must be connected to the center’s entrance by an ADA accessible walkway.

B. Use Restrictions – Any industrial user(s) of the development site shall not manufacture, process, treat or store potentially hazardous or nuisance uses as described in Section 4.2.42 of this LDC and shall not hold a conditional use permit to allow a greater intensity of use than is ordinarily permitted within the M-3 zoning district, including scrap metal processing facilities and junkyards, or development sites containing a solid waste management facility or refuse disposal operation.

C. Trucks and Equipment – Areas designated for outdoor activity shall not be located within 200 feet of any area used for heavy truck idling, loading, or the operation of other heavy equipment.

D. Fence – A fence shall enclose all areas for outdoor activity.

E. Parking – Parking for employees shall be required as determined by the Planning Director or designee. This determination should consider staff-to-child ratios for the age group served, maximum group size limits, licensed capacity, availability of on-street parking within the area, public transit routes, and/or the use of nearby facilities for shared parking.



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F. Air Pollution – Review by the Air Pollution Control District (APCD) shall be required. APCD may impose conditions as necessary to protect human health and the environment.

G. Plan – A plan of adequate detail to demonstrate compliance with these requirements shall be reviewed and approved by Planning and Design Services staff. Should the proposal meet the thresholds for Community Design Review, the procedures described by Section 11.6.4 of this LDC shall be followed.

\*\*\*\*

#### 4.3.26 Smoking Retail Store

\*\*\*\*

A. No Smoking Retail Store shall be located within one thousand (1,000 feet) of the boundary of any parcel occupied by any of the following uses (as measured in a straight line from parcel boundary to parcel boundary):

\*\*\*\*

#### ~~6. Day Care Center~~ Child or Adult Care Centers

\*\*\*\*

#### 4.3.28 Child Care Centers in Residential Zones

A child care center is permitted in any residential zoning district subject to the following standards:

##### A. Permitted Locations

1. On any lot where a non-residential structure is present and in existence prior to the adoption of these standards, including structures for religious buildings, schools, professional offices, and clubhouses but not including child care centers subject to an existing conditional use permit.
2. A lot may be designated for a child care center within any proposed residential subdivision containing 50 or more residential building lots. The lot shall be shown on all preliminary and final subdivision plats and may be subject to conditions of approval and/or binding elements. The area of this lot may be amended in accordance with Section 7.1.91 of this LDC.
3. On a multi-family building or development site, new or existing, consisting of 1 or more acres and at least 20 dwelling units. For new development,

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dwelling units shall be subject to the maximum density of the applicable zoning district.

4. On a corner lot.

B. Existing Residential Structure

1. Existing primary residential structure(s) shall remain.

2. There shall be no alterations or improvements which would impair future use of the structure as a residence

3. Exterior alterations and improvements to the structure or property shall comply with the residential dimensional, site, and building design standards of the applicable zoning and form district.

4. Associated off-street parking shall not be located between the principal structure and the front property line or within the street side yard setback, except on driveways leading to the home, rear yard, or garage.

C. Outdoor Activity – Outdoor activity shall be limited to the rear yard; except that corner lots may utilize the street side yard. No play equipment in excess of 4' in height is allowed in the required street side yard of the form district.

D. Fence – A fence shall enclose all areas for outdoor activity.

E. Hours – No outdoor activity shall occur between the hours of 9 P.M and 7 A.M, except for pick-up/drop-off

F. Pick-up/drop-off – An area designated for the safe loading and unloading of passengers shall be assigned either off-street or on-street. If an on-street area is to be designated, approval must be received from Louisville Metro Public Works. The applicant/developer/owner shall be responsible for all costs associated with an on-street designation.

G. Parking – Parking for employees shall be required as determined by the Planning Director or designee. A parking determination should consider ratio requirements for staff to children for the age group served, maximum group size limits, licensed capacity, availability of on-street parking within the area, public transit routes, and the use of nearby facilities for shared parking. Parking should not be located within the front or street side yard.

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H. Plan – A plan of adequate detail to demonstrate compliance with these requirements shall be reviewed and approved by Planning and Design Services staff. Should the proposal meet the thresholds for Community Design Review, the procedures described by Section 11.6.4 of this LDC shall be followed.

**Chapter 4 Part 4 Accessory Uses and Miscellaneous Standards**

\*\*\*\*

**4.4.5 Home Occupations**

\*\*\*

A. Intent.

The intent of this Section is to allow an occupant or occupants of a residence located on residentially zoned property to engage in a home occupation, trade, profession or business within said residence and its accessory structure(s) provided that such an activity does not adversely affect adjacent or nearby residents or the neighborhood as a whole.

\*\*\*\*

G. Permitted Locations and Maximum Size/Area. ~~(This section does not apply to In-Home Day Care Home Occupations.)~~

\*\*\*\*

H. Hours of Operation.

\*\*\*\*

3. ~~While In-Home Day Care Home Occupations may operate 24 hours a day, all associated outdoor activity other than pick-up and drop-off of children shall be prohibited between 9 P.M. and 7 A.M.~~

\*\*\*\*

*NOTE: Uses generally acceptable as home occupations include:*  
*~~In-Home Day Cares (6 or fewer individuals)\*(in effect within Louisville Metro only)~~*  
*~~In-Home Day Cares (7 or fewer individuals)\*(not in effect within Louisville Metro and the City of Prospect)~~*

- Mail Order Operations
- Woodshops
- Beauticians

*The offices of the following professionals:*

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*Accountants, Architects, Attorneys, Engineers, Real estate brokers,  
Sales and Manufacturing Representatives, Financial advisors,  
Insurance agents, Landscape architects Counselors, Mediators  
Travel agents, Therapists, Chiropractors, Psychologists, and  
Psychiatrists*

*~~\*Plus up to four individuals related to the operator. 922 KAR 2:100  
defines "related" as  
having one of the following relationships with the provider: child,  
grandchild, niece,  
nephew, sibling, step-child, or child in legal custody of the provider.~~*

\*\*\*\*

**J. Prohibited Home Occupations**

The following uses/activities are prohibited as home occupations unless expressly permitted by other provisions of this Section. If, in the opinion of the permit issuing authority, a use or activity that is proposed as a home occupation is not specifically listed as prohibited, but has characteristics of a use or uses that are listed and could negatively impact the residential character of the neighborhood in which it is proposed, then that use/activity shall be prohibited as a home occupation. Such determinations may be appealed to the Board of Zoning Adjustment.

\*\*\*\*

~~Daycare Facilities (except as otherwise permitted) Child or Adult care Centers~~

\*\*\*\*

**K. Registration of Home Occupations.**

Prior to the establishment of any home occupation that (i) serves customers, clients or pupils at the site, or (ii) has one or more non- resident employees, the proprietor shall register the occupation. ~~Day care centers as a home occupation shall require a home occupation registration.~~ The registration shall not be transferable and shall not run with the land; it shall terminate upon sale or transfer of the property to a new owner or tenant. The Planning Director shall maintain records of registered home occupations. The registration form shall be the basis for determining compliance with the requirements of this section 4.4.5. Home occupation proprietors shall be responsible for updating their registration forms, at such time as their operations change from the activities described in the registration documents. Any home occupation meeting either criteria (i) or (ii) above that was established before the effective date of this

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Section shall have one year from the effective date of this Section to register the home occupation.

\*\*\*\*

*Note: The Department of Community Based Services, Division of Child care requires written documentation from the local authority showing compliance with local zoning requirements. Planning and Design Services confirms zoning for child care centers through a “zoning Confirmation” letter. The current process for home occupation registration is generally the same process. All child care operations will require zoning confirmation.*

**Chapter 5 Part 2 Traditional Form Districts**

\*\*\*\*

**5.2.5 Traditional Workplace Form District**

\*\*\*\*

**B. Intent and Applicability**

The provisions of this section are intended to promote high quality design that is compatible with adjacent non-workplace uses. The TWFD often must accommodate relatively large volumes of traffic and parking while also providing for alternative travel modes.

\*\*\*\*

5. A mixture of uses on a site especially employee-serving commercial businesses (e.g., ~~day-care centers~~ child care centers, auto-servicing, dry cleaners and restaurants).

\*\*\*\*

**Chapter 5 Part 3 Suburban Form Districts**

\*\*\*\*

**5.3.4 Suburban Workplace Form District**

\*\*\*\*

**C. Intent and Applicability**

The provisions of this section are intended to promote high quality design and a more visually attractive environment in the SWFD, accommodating relatively large volumes of traffic while providing for alternative travel modes. Standards are included to promote:

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\*\*\*\*

- 4      A wide range of employee-serving commercial businesses (e.g., ~~day care centers~~ child care centers, auto servicing, cleaners, restaurants, etc.); and

\*\*\*\*

**Chapter 9 Part 1 Motor Vehicle Parking Standards**

\*\*\*\*

**Table 9.1.3B Minimum and Maximum Motor Vehicle Parking Based on Use**

\*\*\*\*

<b>GENERAL ACTIVITIES (LBCS Code)</b>	<b>SPECIFIC ACTIVITIES (LBCS Code)</b>	<b>MINIMUM REQUIREMENT</b>	<b>MAXIMUM REQUIREMENT</b>
	<del>Daycare, child or adult</del> <u>Child or Adult Care Centers</u>	To be determined by Planning Director or designee.	No more than 25% above minimum

\*\*\*\*

**The vote was as follows:**

**YES: Commissioners Mims, Peterson, Clare, Howard, Carlson, Daniels, Seitz, and Sistrunk.**

**ABSENT: Commissioners Lewis and Brown.**

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### PUBLIC HEARING

#### CASE NO. 21-ZONE-0107

Request: Change in zoning from R-4 to OR, with Detailed District Development Plan and Binding Elements  
Project Name: Zaxby's Regional Office  
Location: 12407 Rehl Road  
Owner: Korean Baptist Mission Church  
Applicant: Unbridled Chicken LLC  
Representative: Bardenwerper Talbott & Roberts  
Jurisdiction: Louisville Metro  
Council District: 20 - Stuart Benson  
**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. (The staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

#### **Agency Testimony:**

04:20:01 Dante St. Germain presented the case and showed a Power Point presentation (see recording for detailed presentation). Existing structure will be repurposed and converted to an office use, thus the request to change the zoning from R-4 to OR Office Residential. The site will comply with the scenic corridor planting requirements. The site plan meets the requirements of the Land Development Code and Plan 2040.

04:27:04 Dante St. Germain discussed the proposed additional binding elements proposed by Steve Porter and edited by John Talbott (see recording for details).

#### **The following spoke in support of the request:**

John Talbott, Bardenwerper Talbott & Roberts PLLC, 1000 North Hurstbourne Parkway, Louisville, KY 40223

Nathan Wright, Mindel Scott & Associates, 5151 Jefferson Boulevard, Louisville, KY 40218

Steve Porter, 2406 Tucker Station Road, Louisville, KY 40299

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Steve Brewer, 11820 Ransom Drive, Suite 101, Louisville, KY 40243

**Summary of testimony of those in support:**

John Talbott spoke on behalf of the applicant and presented a PowerPoint presentation (see recording for detailed presentation). The site is located in the Suburban Workplace form district and the site is currently not used as a residence. The applicant will install a four-board fence to match the fence on the adjoining property.

Nathan Wright spoke on behalf of the applicant, providing an overview of the features that will be preserved on the site. The changes to the site will be minimal.

John Talbott resumed testimony. Talbott explained the reasoning behind the additional binding elements that have been proposed. The binding elements are in regards to lighting, signage, hours of operation, parking, and fencing.

4:38:30        Planning Commission asked questions of the applicant.

4:42:00        Steve Porter spoke in support of the request. Porter thanked the applicant for working with him on the binding elements and thinks this is a good reuse of the property. The Tucker Station Neighborhood Association is in support of the rezoning.

Commissioner Carlson asked a question about parking lot lighting.

Steve Brewer stated the building is large enough to accommodate future growth in the company. The building should be vacated by 6:00 pm almost every evening.

The proposed binding element regarding parking lot lighting was amended to change 9:00 p.m. to 8:45 p.m. and 8:00 a.m. to 8:15 a.m.

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

No one spoke.

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

No one spoke.

**Rebuttal:**

John Talbott asked the Planning Commission to approve the rezoning.



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#### Deliberations:

04:49:19 Commissioners' deliberation.

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

#### Zoning

04:51:41 On a motion by Commissioner Mims, seconded by Commissioner Seitz, the following resolution, based on the applicant's findings, Staff Analysis and evidence and testimony heard at today's hearing, was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal to rezone the site from R-4 is appropriate as the site is located in the Suburban Workplace form. OR zoning is a relatively low-intensity zoning district appropriate for the mostly residential neighborhood in which the site is located. This zoning district would permit residential uses as well as low-impact office uses, for which the site is well-suited. The site is not located on sewers, but relies on a septic system. High-intensity uses are unlikely to develop on the site unless sewerage is provided in the future;

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposed zoning district is generally in compliance with the plan elements and CHASE principles of Plan 2040. All other agency comments should be addressed to demonstrate compliance with the remaining Goals, Objectives and Policies of Plan 2040;

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Community Form: Goal 1 because:

The proposed zoning district would constitute a non-residential expansion into an existing residential area. The proposed zoning district permits relatively low-impact uses, including residential uses;

The site is located near an existing employment center;

The proposed zoning district would not permit hazardous uses. Uses with air, noise and light emissions must comply with LMCO and LDC restrictions;

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The proposed zoning district would not permit uses with noxious odors, particulates or emissions;

Access to the site is via Rehl Road, a secondary collector at this location;

The proposed zoning district would not permit uses likely to generate high volumes of noise;

The proposed zoning district would not permit junkyards, landfills or quarries or similar uses;

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Community Form: Goal 2 because:

The proposal would be appropriate for the Suburban Workplace form;

The site is not in an existing activity center. The proposal would permit a mixture of compatible land uses should the site ever be connected to sewerage;

The proposed zoning district would permit residential land uses in a center;

The proposal would re-use an existing building and provide office uses;

The Louisville Metro Planning Commission finds that the proposal does not include underutilized parking lots;

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Community Form: Goal 3 because:

No natural features are evident on the site;

No wet or highly permeable soils, or severe, steep or unstable slopes are evident on the site;

The site is not in a flood prone area. No karst features are evident on the site;

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Community Form: Goal 4 because the proposal would re-use an existing structure.

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Mobility: Goal 1 because the site is located in a Workplace form and near an existing employment center;

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**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Mobility: Goal 3 because:

The site is easily accessible by bicycle, car, pedestrians and people with disabilities. The site is not accessible by transit. An increase in density provided by the zoning change would increase the likelihood of future accessibility by transit;

The site is accessible by pedestrians and the proposal would encourage higher density mixed-use developments;

Transportation Planning has approved the proposal;

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Community Facilities: Goal 2 because:

The relevant utilities have approved the proposal;

Louisville Water Company has approved the proposal;

MSD has approved the proposal;

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Economic Development: Goal 1 because:

The proposal would meet the needs of a Workplace form;

The proposed zoning district would not permit uses generating high volumes of traffic;

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Livability: Goal 1 because no karst features are evident on the site;

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Housing: Goal 1 because the proposal would support aging in place by permitting low-intensity office development in proximity to residential development;

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Housing: Goal 2 because:

The proposal would permit mixed-use development by permitting low-intensity office development in proximity to residential development;

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The proposed zoning district would permit neighborhood-serving office development in proximity to housing;

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Housing: Goal 3 because:

No existing residents will be displaced by the proposal;

The proposed zoning district would permit innovative methods of housing;

**WHEREAS**, the Louisville Metro Planning Commission finds that the “Application Package” complies with Plan Element 4.1, its 5 Goals and their Objectives and Policies because the site is located in the Suburban Workplace Form District which is characterized by mostly industrial and office buildings which are set back from the street in a landscaped setting, making this Office-Residential use a very low intensity for the form district. These buildings are often significant in size or large scale uses, however this plan proposes an adaptive reuse of an existing church building. The subject property is located very near the minor arterial of Tucker Station Road with direct access to Taylorsville Road, a major arterial, and it also is near the minor arterial of Plantside Drive. Public transportation is always desirable but not necessarily always available because of limited government funding. Public transportation is not currently available in this area. Pedestrian access to nearby commercial development will be facilitated by sidewalks along the property frontage

Land Development Code required size and height restrictions, interior and perimeter landscaping, minimum parking, maximum lighting and signage, and required setbacks will also be met.

Also, this proposed office facility is just a short drive in all directions from sizeable and ever-growing activity centers and population centers; travel distances for workers are reduced, and walking and biking become very real possibilities, especially over time as sidewalk extensions are completed which contributes to improved connectivity and air quality

This is an adaptive reuse of an existing church built with brick veneer which is a quality building component and a design compatible with other buildings in the area will assure compatibility with surrounding and nearby workplace buildings and development sites as well as existing residential sites as it is a church form of building allowed in residential zones. Proposed landscaping, screening and buffering help assure context appropriateness and design compatibility for the larger area and proximate residential

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uses.

The development and proposed zone change will remain compatible with the scale and site design of nearby residential uses and institutional uses. The property will allow a mixture of densities through the allowable uses with negotiated buffers and landscaping. As a consequence of what surrounds this proposal (Javanon soccer complex adjacent to the east; large 3.6 and 2 acre residential rear yards to the north and west respectively and three single family homes under common ownership across Rehl Road to the south); and the fact that this is a proposed office facility, impacts such as traffic, odors, lighting, noise and aesthetic factors will not be nuisances as this small Office-Residential use will have in many cases less activity than the church currently using the site and the nearby area has been almost entirely built out as Suburban Workplace Development. There also will be no hazardous uses or activities on site.

**WHEREAS**, the Louisville Metro Planning Commission finds that As to Goal 2, Policies 1 and 9, it complies as follows, in addition to the other ways set forth above and below:

As said, the proposed office use is appropriately located in a Suburban Workplace Form District on a secondary collector road and will be in an area with nearby similar workplace facilities. The proposed change in zoning from R-4 to OR to allow an office will encourage sustainable growth by placing a low intensity office, compatible with the neighborhood and existing infrastructure, on an church property on Rehl Road. The design and density are appropriate with adjacent residential uses that will serve the needs of the surrounding community. This site is located in an established section of eastern Metro Louisville, where through a combination of design measures and the nature of the use itself, will not create any nuisances for surrounding residential properties. Office and residential uses are frequently located adjacent to each other and encouraged to do so because of the relatively low intensity and to reduce traffic by placing services and employment close to the residential areas. The nature of this office use will create even less traffic than a traditional office, particularly at peak times, because of the few number of workers.

This location adds to the opportunities existing and planned in this high growth area to work in close and convenient proximity to places of residence, food and shopping within easy driving distances in all directions along I-64 and the Snyder Freeway.

**WHEREAS**, the Louisville Metro Planning Commission finds that this Application Package complies with Plan Element 4.2, its 3 Goals and their Objectives plus the Policies:

This proposed corporate office facility (located as it is within an existing and growing mixed use Suburban Workplace area proximate to other large facilities of this kind, with

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good access off both arterial and collector level streets and thereby well connected as it is proposed to be close to restaurants, retail shopping and other nearby residential developments and communities) is plainly part and parcel of good pedestrian, bicycle and road networks. Locating its development along and with access to and from those networks, applicant/developer will, at its cost, construct sidewalks and to-be-determined frontage improvements. In doing so, it will prepare construction plans that will assure safe access with good site distances and turning radii.

Also, bike racks and handicapped parking spots will be installed as and where required near buildings. And all drive lanes, parking spaces and stub connections will be designed in accordance with Metro Public Works and Transportation Planning (MPW&TP) requirements. These are preliminarily depicted on the DDDP filed with this application. A traffic Impact Study (TIS) will be submitted if required under MPW&TP requirements. Existing TARC service is generally not available in this area.

Further, all necessary utilities are located proximate to this site and accessible by it via public right of way or easements. Sewerage is provided by an existing septic system.

**WHEREAS**, the Louisville Metro Planning Commission finds that this Application Package complies with Plan Element 4.3, its Goal 2 and its Objectives plus the Policies:

The suburban cities of Jeffersontown and Middletown have assured that necessary community facilities are located nearby, including police and fire stations. All necessary utilities are available to the site except sewers as the site is currently served by a septic system.

**WHEREAS**, the Louisville Metro Planning Commission finds that this Application Package complies with Plan Element 4.4, Goal 1 and its Objectives and Policies:

This development plan complies with Goal 1 of Economic Development as it provides economic climate that improves growth, innovation, and investment opportunity for all by using an infill site and developing property for uses serving the surrounding residential community with an office use and intensity appropriate for the area. It locates these new potential uses in an area with existing infrastructure, utilizes the curb cut and access of the already existing church, in an efficient manner increasing economic opportunities in the area. It will also provide opportunities to small businesses thereby increasing economic opportunity to business owners and employment. It also increases the Metro Louisville tax base essential to the provision of government services

**WHEREAS**, the Louisville Metro Planning Commission finds that this Application Package complies with Plan Element 4.5 Goal 1 and its Objectives and Policies:

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The development plan complies with the objectives and policies of Goal 1 of Livability element in that it provides pedestrian and bicycle connectivity while not creating significant new traffic for the area, particularly not creating traffic during peak traffic times. It also will not add any new impacts to drainage associated with the site. Landscaping will be added where necessary, requested by neighbors and required under the Land Development Code to reduce the impacts of the site to nearby residential uses.

The development plan complies with the objectives and policies of Goal 2 of Livability element by providing opportunities for employment close to the residential properties and nearby population. Also, it is located on a collector, providing good access, where nuisances and activities will not adversely affect adjacent areas.

The development plan complies with the objectives and policies of Goal 3 of Livability element providing equitable access to the land use planning and policy resources by providing the surrounding residents and property owners notice of the development changes, notice of all public meetings, by providing the neighborhood meeting, and by providing an opportunity for area involvement in the plan design and sought-after zoning changes.

**WHEREAS**, the Louisville Metro Planning Commission finds that this Application Package complies with Plan Element 4.6, its Goal 3 and its Objectives:

As to these Goals, Objectives and Policies generally, while they don't specifically address developments of this kind, this office facility proposal will adaptively reuse an existing church building and no existing residents will be displaced.

now, therefore be it

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the requested change in zoning from R-4 to OR be **APPROVED**.

**The vote was as follows:**

**YES: Commissioners Peterson, Clare, Carlson, Sistrunk, Seitz, Mims, and Howard**

**ABSENT: Commissioners Lewis, Brown and Daniels.**

**Detailed District Development Plan with Binding Elements**

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04:53:05 On a motion by Commissioner Mims, seconded by Commissioner Clare, the following resolution, based on the staff report and evidence and testimony heard at today's hearing, was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds 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 because the existing structure is proposed to be retained. No natural resources are currently evident on the site. Tree canopy will be provided on the site.

**WHEREAS**, the Louisville Metro Planning Commission finds that the 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;

**WHEREAS**, the Louisville Metro Planning Commission finds no open space requirements are pertinent to the proposal;

**WHEREAS**, the Louisville Metro Planning Commission finds 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 because 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;

**WHEREAS**, the Louisville Metro Planning Commission finds the overall site design is compatible with the existing and future development of the area. The structure to be used already exists and has existed on the site for many decades, becoming part of the fabric of the neighborhood; and

**WHEREAS**, the Louisville Metro Planning Commission finds the development plan conforms to applicable requirements of the Land Development Code and policies of the Comprehensive Plan; now therefore be it

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

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon



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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.
5. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
6. No idling of trucks shall take place within 200 feet of residential structures. No overnight idling of trucks shall be permitted on-site.
7. 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.
8. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties

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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.

#### 9. Lighting

- a. All exterior lighting, whether freestanding or attached to any structure, including street light, 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. The following are exceptions to this requirement:
  - i) Low voltage landscape lighting aimed away from adjacent properties and not exceeding 2,000 lumens in output per fixture.
- b. No LED or metal halide lighting shall have a correlated color temperature (CCT) exceeding 2,700 degrees Kelvin.
- c. No parking lot light fixtures shall be more than twelve feet high, measured from the ground level and all such fixtures shall be turned off between 9:15 p.m. and 8:15 a.m.

#### 10. Signage

- a. No internally lighted signage shall be permitted.
- b. Front lit signs and back lit signs as shown at hearing are acceptable provided no lighting between 9:00 p.m. and 8:00 a.m.
- c. No changing image sign or moving signs shall be permitted (as defined in the Land Development Code).
- d. All freestanding signage shall not exceed six feet in height, measured from ground level, and shall not exceed forty (40) square feet.

#### 11. Hours of Operation for training classes, meetings or special events shall NOT occur between the hours of 9:00 p.m. and 8:00 a.m.

#### 12. Parking and Storage

- a. No overnight parking of Heavy Trucks shall be permitted.
- b. No outdoor storage shall be permitted (which is not intended to prohibit storage in a shed on property, but does not allow temporary-type enclosures for outdoor storage).

#### 13. Fencing

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A three or four-board horse fence, dark in color, shall be constructed along the Rehl Road frontage.

**The vote was as follows:**

**YES: Commissioners Peterson, Clare, Carlson, Sistrunk, Seitz, Mims, and Howard**

**ABSENT: Commissioners Lewis, Brown and Daniels.**

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**PUBLIC HEARING**

**CASE NO. 21-ZONE-0119**

Request:	Change in zoning from R-4 & C-2 to R-6 & C-2, with Detailed District Development Plan and Binding Elements
Project Name:	Crossings at South Park
Location:	10511 W Manslick Road
Owner:	Estate of Chester L Cummings
Applicant:	Marian Development
Representative:	Dinsmore & Shohl LLC
Jurisdiction:	Louisville Metro
Council District:	13 - Mark Fox
<b>Case Manager:</b>	<b>Dante St. Germain, AICP, Planner II</b>

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

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

**Agency Testimony:**

04:55:37 Dante St. Germain presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation). The proposal is for a 192 unit multi-family development with a commercial use at the front of the parcel where the property is currently zoned C-2. The area at the rear is proposed to remain an open space and for tree canopy protection area. The proposed zoning and use are in compliance with the Land Development Code, the Fairdale Village Plan and Plan 2040.

05:05:00 Commissioner Howard questioned the need for proposed Binding Element 4.d. in the staff report. Dante St. Germain stated this was an error on her part and it should be eliminated.

**The following spoke in support of the request:**

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

Ashley Bartley, Qk4, 1046 E. Chestnut Street, Louisville, KY 40204

**Summary of testimony of those in support:**

Cliff Ashburner spoke on behalf of the applicant in support of the application and provided a PowerPoint presentation (see recording for details). The presentation

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included a rendering of the proposed buildings, which will be three story buildings. Ashburner also stated staff's request for a bench along the street frontage is a reasonable request.

Ashley Bartley spoke on behalf of the applicant and explained some of the environmental conditions on the site that influenced the site design.

Commissioner Carlson stated he felt the road going into the development was too straight and may encourage speeding through the development. Ashley Bartley stated there is parallel parking along the road which could do some traffic calming.

#### **The following spoke in opposition to the request:**

No one spoke.

#### **Rebuttal:**

05:27:00 Cliff Ashburner stated they have no problem with proposed Binding Element 9.

#### **Deliberation:**

05:27:55 Commissioners' deliberation.

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

### **Zoning**

05:32:30 On a motion by Commissioner Clare, seconded by Commissioner Seitz, the following resolution, based on the Standard of Review and staff analysis and evidence and testimony heard today, was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that the zoning change to R-6 in the rear of the property is appropriate as this is a medium-density residential zoning district with commercial at the front, forming a mixture of uses in the Village Center form. The commercial use in the front of

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the property is part of a continuous commercial corridor along W Manslick Road, connecting to the central commercial district at the roundabout, permitting future residents easy access to neighborhood-serving goods and services. The Louisville Loop will pass through the front of the property as well, connecting the site to the larger Loop project; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposed zoning district is generally in compliance with the plan elements and CHASE principles of Plan 2040. All other agency comments should be addressed to demonstrate compliance with the remaining Goals, Objectives and Policies of Plan 2040;

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal is in compliance with Community Form: Goal 1 because West Manslick Road is a primary collector at this location. The site is near an activity center at the roundabout;

Appropriate transitions will be provided;

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal is in compliance with Community Form: Goal 2 because the proposal would provide new development providing residential uses;

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal is in compliance with Community Form: Goal 3 because unstable soils and wet and highly permeable soils are present on the site. These soils will be mitigated on the site at construction;

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal is in compliance with Community Form: Goal 4 because:

No distinctive cultural features are evident on the site;

No historic assets are evident on the site;

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal is in compliance with Mobility: Goal 1 because the site is located close to an activity center at the roundabout;

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal is in compliance with Mobility: Goal 2 because access to the site is via W Manslick Road, a primary collector at this location;

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**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal is in compliance with Mobility: Goal 3 because:

The proposal would encourage a mixture of compatible land uses connected to the Louisville Loop. The site is located near an activity center at the roundabout;

Transportation Planning has approved the proposal;

No direct residential access to high-speed roadways is proposed;

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal is in compliance with Community Facilities: Goal 2 because:

The relevant utilities have approved the proposal;

Louisville Water Company has approved the proposal:

MSD has approved the proposal;

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal is in compliance with Livability: Goal 1 because:

Tree canopy is being preserved as natural resource protection area in the rear of the lot for the protection of habitat for threatened and endangered bat species;

No karst terrain is evident on the site;

Regulatory floodplain is being mostly avoided by the applicant:

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal is in compliance with Housing: Goal 1 because:

The proposal would increase the variety of housing in the neighborhood by increasing the amount and variety of multi-family available;

The proposal would support aging in place by increasing the variety of ownership options and price points in an area which is connected to an activity center;

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal is in compliance with Housing: Goal 2 because:

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The proposal would encourage inter- generational mixed-income and mixed-use development which is connected with an activity center nearby;

The site is within proximity to an activity center providing neighborhood-serving goods and services; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal is in compliance with Housing: Goal 3 because:

The proposal would increase the provision of fair and affordable housing by providing a variety of ownership options and unit costs in Louisville Metro;

No existing residents will be displaced by the proposal;

The proposal would permit innovative methods of housing;

now, therefore be it

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

**The vote was as follows:**

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

**Detailed District Development Plan with Binding Elements**

05:34:20 On a motion by Commissioner Clare, seconded by Commissioner Seitz, the following resolution, based on the staff report and evidence and testimony heard at today's hearing, was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that 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; because the site is heavily wooded and features unstable soils and hydric soils across the majority of the site. Tree canopy preservation will be provided and



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will be preserved as threatened and endangered bat habitat with the proposed binding element #9. The site must be developed in coordination with a geotechnical engineer due to the unstable soils;

**WHEREAS**, the Louisville Metro Planning Commission finds the provisions for safe and efficient vehicular and pedestrian transportation both within the development and the community because 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;

**WHEREAS**, the Louisville Metro Planning Commission finds the provision of sufficient open space (scenic and recreational) to meet the needs of the proposed development because open space is being provided in compliance with the requirements of the Land Development Code;

**WHEREAS**, the Louisville Metro Planning Commission finds 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 because 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;

**WHEREAS**, the Louisville Metro Planning Commission finds the compatibility of the overall site design (location of buildings, parking lots, screening, landscaping) and land use or uses with the existing and projected future development of the area because the overall site design is in compliance with existing and planned future development in the area. The proposal would provide an increase in the variety of housing in the neighborhood by permitting medium-density multi-family housing in a neighborhood which features a variety of housing options; and

**WHEREAS**, the Louisville Metro Planning Commission finds conformance of the development plan with the Comprehensive Plan and Land Development Code. Revised plan certain development plans shall be evaluated for conformance with the non-residential and mixed-use intent of the form districts and comprehensive plan because the development plan conforms to applicable requirements of the Land Development Code and applicable guidelines of Plan 2040;

now therefore be it

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

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. 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 multi-family structures shall be substantially the same as depicted in the rendering as presented at the November 18, 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.
  - e. Final elevations/renderings for the commercial structure shall be submitted for review and approval by Planning Commission staff. A copy of the approved rendering shall be available in the case file on record in the offices of the Louisville Metro Planning Commission.

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5. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
6. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
7. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
8. No idling of trucks shall take place within 200 feet of residential structures. No overnight idling of trucks shall be permitted on-site.
9. The area to the north-east which is shown on the development plan as Tree Canopy Credit Area and Open Space Preservation for Natural Resource Protection shall be maintained in a wild state to the maximum extent possible in order to preserve habitat for threatened or endangered bat species. Vegetation, including canopy trees, understory trees and undergrowth, shall not be removed unless the vegetation constitutes a safety hazard or consists of invasive species, or is required to maintain the drainage easement. Any removal of vegetation shall be limited to only to safety hazards and invasive species, or the minimum absolutely necessary for maintenance of the easement.

**The vote was as follows:**

**YES: Commissioners Peterson, Clare, Carlson, Sistrunk, Seitz, Mims, and Howard**

**ABSENT: Commissioners Lewis, Brown and Daniels.**

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Case No. 21-ZONE-0081

**NOTE: Commissioner Seitz left the meeting at 7:45 p.m. and did not hear or vote on this case.**

Request:	Change in zoning from R-4 to C-2, with Detailed District Development Plan and Binding Elements, Variance, Waiver and Parking Waiver
Project Name:	Thornton's
Location:	10501 & 10511 Preston Highway
Owner:	Becky Young & Ashley Hembree
Applicant:	Stern Development
Representative:	Bardenwerper Talbott & Roberts
Jurisdiction:	Louisville Metro
Council District:	23 - James Peden
<b>Case Manager:</b>	<b>Dante St. Germain, AICP, Planner I</b>

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

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

#### **Agency Testimony:**

05:57:52 Dante St. Germain presented the case and showed a PowerPoint presentation (see staff report and recording for detailed presentation.) In response to questions from the Commissioners, Ms. St. Germain discussed the proposed access easement; and the access drive that comes in at the light;

#### **The following spoke in support of the request:**

John Talbott, Bardenwerper Talbott & Roberts PLLC, 1000 North Hurstbourne Parkway, Louisville, KY 40223

Kent Gootee, Mindel Scott & Associates, 5151 Jefferson Boulevard, Louisville, KY 40219

Brad Smith, Stern Development, 8910 Two Notch Road, Columbia, SC 29223

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

#### **Summary of testimony those in support:**

05:49:43 John Talbott, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.)

05:55:32 Kent Gootee, an applicant's representative, gave details about the landscaping and parking (see recording for detailed presentation.)

06:03:21 Mr. Talbott discussed the new proposed binding elements (see recording).

06:05:11 Mr. Talbott and the Commissioners discussed the elevations, particularly the side view, and the possibility of adding a parapet and landscaping. Brad Smith, an applicant's representative, said the applicant would be willing to consider adding landscaping. Commissioner Carlson and the applicant's representatives also discussed turning lanes and U-turns onto Preston. Diane Zimmerman, traffic engineer, explained that there was nothing the applicant could prohibit U-turns without eliminating drivers' ability to make a left turn. See recording for detailed conversation.

06:15:26 Commissioner Carlson and Mr. Talbott also discussed the potential economic impacts. Commissioner Carlson and Mr. Talbott discussed the possibility of adding a binding element stating that Thornton's not allow fuel deliveries during peak hours for Chick-Fil-A.

06:23:28 Commissioner Carlson, Mr. Talbott and Mr. Smith discussed the parking waiver.

06:25:41 – 06:46:43 The Commissioners, Mr. Talbott, Mr. Smith, and Beth Stuber (Metro Transportation Planning) discussed the Traffic Impact Study, how this proposal could affect a dual left-turn lane onto Mount Washington Road, and what amount of contribution the applicant could/should make to this project (see recording for detailed discussion.)

06:46:56 In response to a question from Commissioner Mims, Mr. Talbott and Mr. Gootee discussed a cross-access agreement with the property to the north as a note on the plan. Traffic at Preston and Mount Washington was discussed. In response to a question from Commissioner Peterson, Mr. Talbott and Mr. Smith discussed Commissioner Carlson's concern about the way the fuel tanks might impede the flow of traffic on the site, and the way the applicant has addressed that (see recording.)

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

No one spoke.

**Rebuttal:**

06:55:11      Mr. Talbott summarized the applicant's presentation (see recording.)

**Deliberation:**

06:58:48      Commissioners' deliberation.

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

**Zoning**

07:02:54      On a motion by Commissioner Sistrunk, seconded by Commissioner Peterson, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Community Form: Goal 1 because the site is located along Preston Highway, which is largely a commercial corridor in this area except at the site's immediate vicinity. This site is likely to redevelop as commercial to match the remainder of the Preston Highway corridor. The proposal would not constitute a non-residential expansion into an existing residential area as the Menard's and greenhouse flanking the site to the north and south would make this redevelopment part of an existing activity center; the site is located on Preston Highway, a commercial corridor with existing activity centers to the north and south of the site; the proposal is not for industrial zoning; the proposed zoning district would not permit hazardous uses. Uses with air, noise and light emissions must comply with LMCO and LDC restrictions; the proposed zoning district would not permit noxious odors, particulates or emissions; access to the site is via Preston Highway, a major arterial at this location; the adjacent properties are either undeveloped or used as a commercial greenhouse; and the proposed zoning district would not permit uses handling hazardous or flammable materials, or uses similar to junkyards, landfills or quarries; and

**WHEREAS**, the Commission further finds that the proposal meets Community Form: Goal 2 because the proposal would help to connect two existing activity centers, one to

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the south and one to the north, which are located along Preston Highway, a commercial corridor; the site has appropriate access and connectivity; the site is located along Preston Highway, a commercial corridor and major arterial at this location. The site is located between two activity centers; the proposed zoning district would permit a more compact pattern of development in an activity center; the proposed zoning district would permit a mixture of compatible land uses connected through an access road; the proposed zoning district would permit residential uses above retail; the proposal would provide new development providing commercial uses; the proposal does not feature any underutilized parking lots; and the proposed zoning district would permit an appropriate design and scale of a center in the Neighborhood Form District. The site placement is on Preston Highway, a commercial corridor; and

**WHEREAS**, the Commission further finds that the proposal meets Community Form: Goal 3 because no natural features are evident on the site; no wet or highly permeable soils, or severe, steep or unstable slopes are evident on the site; the site is not located in the Ohio River Corridor; and the site is not located in the floodplain; and

**WHEREAS**, the Commission further finds that the proposal meets Community Form: Goal 4 because no historic assets are evident on the site; and no distinctive cultural features are evident on the site; and

**WHEREAS**, the Commission further finds that the proposal meets Mobility: Goal 1 because the site is located between two existing activity centers and the proposed zoning change would help to connect them; and

**WHEREAS**, the Commission further finds that the proposal meets Mobility: Goal 2 because access to the site is via Preston Highway, a major arterial at this location; and

**WHEREAS**, the Commission further finds that the proposal meets Mobility: Goal 3 because the proposal would permit a mix of complementary neighborhood-serving uses; the site is easily accessible by car. Development of the site will improve accessibility by bicycle, pedestrians and people with disabilities. Increased density in the vicinity is likely to increase accessibility by transit; the proposal would permit higher-density mixed-use developments that reduce the need for multiple automobile trips; and Transportation Planning has approved the proposal; and

**WHEREAS**, the Commission further finds that the proposal meets Community Facilities: Goal 2 because the relevant utilities have approved the proposal; Louisville Water Company has approved the proposal; and MSD has approved the proposal; and

**WHEREAS**, the Commission further finds that the proposal meets Economic Development: Goal 1 because the proposal is not for industrial zoning; the site is

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located on Preston Highway, a major arterial at this location; and the proposal is not for industrial zoning. The site is not located near the airport or the Ohio River; and

**WHEREAS**, the Commission further finds that the proposal meets Livability: Goal 1 because karst features are located on the site. Development on karst features will follow Land Development Code requirements for safe development; and the site is not located in the floodplain; and

**WHEREAS**, the Commission further finds that the proposal meets Housing: Goal 1 because the proposed zoning district would support aging in place by permitting commercial uses along a commercial corridor with residential farther from the arterial street; and

**WHEREAS**, the Commission further finds that the proposal meets Housing: Goal 2 because the proposed zoning district would permit inter-generational mixed-income and mixed- use development; and the proposal would permit housing to be in proximity to an activity center providing neighborhood goods and services; and

**WHEREAS**, the Commission further finds that the proposal meets Housing: Goal 3 because no existing residents will be displaced by the proposal; and the proposed zoning district would permit innovative methods of housing; now, therefore be it

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

**The vote was as follows:**

**YES: Commissioners Mims, Peterson, Clare, Howard, Carlson, and Sistrunk.**

**NOT PRESENT: Commissioners Lewis, Brown, Daniels, and Seitz.**

**Variance**

07:03:49      On a motion by Commissioner Sistrunk, seconded by Commissioner Clare, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:



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**WHEREAS**, the Louisville Metro Planning Commission finds that 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; and

**WHEREAS**, the Commission further finds that the requested variance will not alter the essential character of the general vicinity as the essential character of the general vicinity is undeveloped at this time and will be established with the new development; and

**WHEREAS**, the Commission further finds that the requested variance will not cause a hazard or nuisance to the public as the increase in setback will not present a hazard or nuisance; and

**WHEREAS**, the Commission further finds that the requested variance will not allow an unreasonable circumvention of zoning regulations as the requested variance is needed in order to situate the fueling canopy in front of the convenience store, which is the usual configuration of a gas station; and

**WHEREAS**, the Commission further finds that the requested variance does not arise from special circumstances which do not generally apply to land in the general vicinity or the same zone because the site is proposed to be cleared of structures and will be subdivided as the applicant wishes; and

**WHEREAS**, the Commission further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant because the variance is needed in order to rezone the property for the desired use; and

**WHEREAS**, the Commission further finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as no construction has yet taken place and the variance is being sought at this time; now, therefore be it

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** the requested Variance from Table 5.3.2 to permit a non-residential structure to exceed the maximum front yard setback (required 80', requested 143', variance of 63') (21-VARIANCE-0124)

**The vote was as follows:**

**YES: Commissioners Mims, Peterson, Clare, Howard, Carlson, and Sistrunk.**

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**NOT PRESENT: Commissioners Lewis, Brown, Daniels, and Seitz.**

**Landscape Waiver**

07:04:45      On a motion by Commissioner Sistrunk, seconded by Commissioner Peterson, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that the waiver will not adversely affect adjacent property owners as the most affected property is undeveloped and owned by the state; and

**WHEREAS**, the Commission further finds that the waiver will not violate specific guidelines of Plan 2040 as Plan 2040 encourages appropriate buffering and transitions between uses that are significantly different in density or intensity. The adjacent property is likely to be redeveloped at some point at a similar density and intensity as the proposed use; and

**WHEREAS**, the Commission further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the site is irregular in shape and the required plantings will be provided as a fee-in-lieu; and

**WHEREAS**, the Commission further finds that strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant because the drive-through would have to be moved significantly back to buffer an undeveloped parcel which is likely to be redeveloped in the future at a similar intensity as the proposed use; now, therefore be it

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** the requested **Waiver** from 10.2.4.B.1 to permit encroachment into the required property perimeter Landscape Buffer Area (LBA) on the north property line (21-WAIVER-0115)

**The vote was as follows:**

**YES: Commissioners Mims, Peterson, Clare, Howard, Carlson, and Ststrunk.**  
**NOT PRESENT: Commissioners Lewis, Brown, Daniels, and Seitz.**

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**Parking Waiver**

07:05:56 On a motion by Commissioner Sistrunk, seconded by Commissioner Peterson, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that Mobility Goal 3 Policy 14 states that parking requirements should take into account the density and relative proximity of residences to businesses in the market area, the availability and use of alternative modes of transportation, and the character and pattern of the form district. Additional considerations including hours of operation and opportunities for shared parking may be factored on a site by site basis. On-site parking standards should reflect the availability of on- street and public parking; and

**WHEREAS**, the Commission further finds that the applicant made a good faith effort to provide as many parking spaces as possible on the site, on other property under the same ownership, or through joint use provisions by arranging the parking on the site to maximize the provided parking; and

**WHEREAS**, the Commission further finds that the parking studies provided for the Thorntons sites and the Chick-fil-a sites studied demonstrate that the needed parking cannot be provided within the LDC limitations; and

**WHEREAS**, the Commission further finds that the requested parking will provide the minimum required to supply parking necessary for employee and customer parking for Thorntons and Chick-fil-a as per the parking studies performed. Additionally the applicant has agreed to provide four additional trees to shade the Chick-fil-a drive-through in addition to the required tree canopy on the site; now, therefore be it

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** the requested **Parking Waiver** to exceed the maximum allowable parking on Tract 1 (Chick-Fil-A) to allow a proposed 71 parking spaces and Tract 3 (Thorntons) to allow a proposed 27 parking spaces (21- PARKWAIVER-0011) **ON CONDITION** that 4 additional trees are planted as mitigation.

**The vote was as follows:**

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

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**Detailed District Development Plan with Binding Elements**

07:10:11 On a motion by Commissioner Sistrunk, seconded by Commissioner Peterson, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that the site is mostly cleared and few natural resources exist on the site currently. Required tree canopy will be provided; and

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

**WHEREAS**, the Commission further finds that no open space provisions are pertinent to the request; and

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

**WHEREAS**, the Commission further finds that the overall site design is in compliance with existing and planned future development in the area. The proposal would provide commercial development in a commercial corridor in a location anticipated for future commercial development; and

**WHEREAS**, the Commission further finds that the development plan conforms to applicable requirements of the Land Development Code and Plan 2040 with the exception of the requested variance, waiver and parking waiver. The site plan generally complies with the policies and guidelines of the Comprehensive Plan; now, therefore be it

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

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed

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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. A minor subdivision plat or legal instrument shall be recorded creating the lot lines as shown on the development plan. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of the approved plans to the officer responsible for permit issuance will occur only after receipt of said instrument.
  - e. A defined reciprocal access easement agreement in a form acceptable to the Planning Commission legal counsel shall be created between the subject property and the two Mercer properties to the east and recorded. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; a copy of the recorded

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instrument shall be submitted to the Division of Planning and Design Services prior to obtaining a building permit.

- f. A reciprocal access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be created between the three subject property lots and recorded. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; a copy of the recorded instrument shall be submitted to the Division of Planning and Design Services prior to obtaining a building permit.
  - g. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the November 18, 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. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
  6. No idling of trucks shall take place within 200 feet of residential structures. No overnight idling of trucks shall be permitted on-site.
  7. 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.
  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 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

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parties engaged in development of the site, shall be responsible for compliance with these binding elements.

9. Should Kentucky Transportation Cabinet approval of the right-in-right-out on Preston Highway not be provided, the applicant shall revise the plan and return to the Development Review Committee for approval of a revised plan.
10. The applicant shall reimburse the Okolona Fire Protection District, Station 2 (the "Fire Station"), located at 10508 Old Preston Highway (the "Site") up to \$10,000 for an intersection control device, provided the Fire Station still remains at the Site and has not made plans to relocate from Site once the certificates of occupancy are issued for Chick-Fil-A and Thorntons.
11. The applicant shall complete off-site right-of-way improvements once construction permits are issued and they must be complete before any certificates of occupancy are issued for Chick-Fil-A and Thorntons, provided same are required by KYTC (pursuant to KYTC standards), for (1) the southbound left turn lane at the intersection of Preston Hwy. and Interchange Drive, (2) the right deceleration lane on the northbound right-in/right-out on Preston Hwy., and (3) the northbound right-turn lane at the intersection of Preston Hwy. and Interchange Drive.
12. Fuel tanker trucks shall enter and exit the site, and fill the underground tanks, as demonstrated at the 11/18/21 Planning Commission public hearing.

#### **The vote was as follows:**

**YES: Commissioners Mims, Peterson, Clare, Howard, and Sistrunk.**

**NO: Commissioner Carlson.**

**NOT PRESENT: Commissioners Lewis, Brown, and Daniels.**

## PLANNING COMMISSION MINUTES

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### PUBLIC HEARING

#### CASE NO. 21-ZONE-0112

Request: Change in zoning from R-6 to R-7 multi-family residential  
Project Name: The Willard  
Location: 9500 Golders Green Circle  
Owner: Preston Crossing, LLC  
Applicant: Preston Crossing, LLC  
Representative: Mindel Scott  
Jurisdiction: Louisville Metro  
Council District: 24 - Madonna Flood  
**Case Manager: Joel Dock, AICP, Planning Coordinator**

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

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

#### **Agency Testimony:**

07:14:00 Joel Dock presented the case and showed a PowerPoint presentation (See staff report and recording for detailed presentation). The proposal is a rezoning from R-6 to R-7 that is necessitated by a construction error that resulted in there being more units than was previously approved. The zoning change is needed to bring the site into compliance in terms of density. There will not be any additional construction. Typically staff would not encourage rezoning as a method of rectifying a situation like this; however, the proposal meets the standards of Plan 2040 and the Land Development Code.

#### **The following spoke in support of the request:**

John Talbott, Bardenwerper Talbott & Roberts PLLC, 1000 North Hurstbourne Parkway, Louisville, KY 40222

Nathan Wright, Mindel Scott & Associates, 5151 Jefferson Boulevard, Louisville, KY 40218

Brent Hackworth, Highgates, 7301 Monty Circle, Louisville, KY 40219



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**CASE NO. 21-ZONE-0112**

**Summary of testimony of those in support:**

John Talbott spoke on behalf of the applicant in support of the application and provided a PowerPoint presentation (see recording for details). The developer has constructed a number of developments around the community over the past couple of years and this is the only instance of an error like this happening. The building in question is internal to the site so there is a limited amount of impact on surrounding properties. The applicant is agreeable to a binding element to limit the density within the development.

Nathan Wright spoke on behalf of the applicant in support of the application. The site plan is dedicating more tree preservation area than the previously approved area, as well as some additional recreation open space and amenities throughout the site.

Brent Hackworth spoke on behalf of the applicant in support of the application. Hackworth stated there are currently 165 tenants with only one vacancy. There are five units that are designated to have lower rents and are available for veterans and other special populations.

Commissioner Carlson asked if there was a way to redesign the units to reduce the number of units by two to bring it back into compliance with the R-6 density. John Talbott explained the vacant unit is not in the building in question, and the additional units are justified from the standpoint that Louisville currently has a housing shortage. This was an honest mistake, does not have an adverse effect on adjoining properties, and this request should be approved.

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

No one spoke.

**Deliberation:**

07:42:50 Commissioners' deliberation. Commissioner Carlson requested the proposed binding element to limit density also include language to limit the total square footage of buildings on the site. John Talbott agreed to this binding element.

**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**

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### PUBLIC HEARING

#### CASE NO. 21-ZONE-0112

07:49:46 On a motion by Commissioner Clare, seconded by Commissioner Peterson, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Community Form because:

The proposed district is located near Preston Highway, a major arterial roadway which provides access to the interstate and transit. However, TARC route #28 currently terminates north of I-265 at St. Rita Drive. Employment centers are nearby, and goods and services are also nearby. Infrastructure supports an expansion of transit;

Landscaping requirements between the current and proposed district are equivalent and the site is currently developed just above the R-6 density. Future development would be limited without a significant redevelopment of the site. Tree canopy and landscaping would be reconsidered at the time of redevelopment. Additional height is permitted (maximum 45' with exceptions) in the R-7 district but that would require additional stories to be added to current structures where many are 3-stories or 35'. The additional height permitted would be located adjacent to an activity center where it would still remain as a transition between higher and lower intensity/density zones;

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Community Form because The site is built out and current development appears to avoid areas where wet or highly permeable soils, severe, steep or unstable slopes are present. Any expansion of the site where additional buildings could be proposed might be in this area at the rear where tree canopy, drainage features, and a stream are present. A review of future development must consider the impact on this area of the development site and the impacts of added impervious surfaces;

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Mobility because The proposed district is located near Preston Highway, a major arterial roadway which provides access to the interstate and transit. However, TARC route #28 currently terminates north of I-265 at St. Rita Drive. Employment centers are nearby, and goods and services are also nearby to support transit-oriented development and an efficient public transportation system. Infrastructure supports an expansion of transit;

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Mobility because Access from Preston Highway is through areas of higher intensity and density;

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

The proposal increases the theoretical density surrounding employment centers and goods and services nearby to support transit-oriented development and an efficient public transportation system. Infrastructure supports an expansion of Transit. This encourages a mixture of compatible land uses that are easily accessible by bicycle, car, transit, pedestrians and people with disabilities;

Primary access to the site from Preston Highway increases demand for public transit near employment and activity centers which supports transit-oriented development;

Considering the current limitations that may be imposed by the built-out conditions on the subject site, the roadway network appears sufficient to handle an increase in traffic potentially resulting from the R-7 density;

Considering the current limitations that may be imposed by the built-out conditions on the subject site, the roadway network appears sufficient to handle an increase in traffic potentially resulting from the R-7 density.. The district encourages a mixture of compatible land uses that are easily accessible by bicycle, car, transit, pedestrians and people with disabilities. An increase in density from the built conditions will require a review of any needed improvements;

An increase in density from the built conditions will require a review of any needed improvements;

No access to high speed roadways is proposed or provided;

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Facilities because:

Utilities are available in the area to serve the development;

Potable water and water for firefighting is available;

MSD review and approval will be necessary in the event that any future impervious development is added to the land;

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Livability because:

The site is built out and current development appears to avoid sensitive areas of the

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environment. Any expansion of the site where additional buildings could be proposed might be in these areas at the rear where tree canopy, drainage features, and a stream are present. A review of future development must consider the impact on this area of the development site and the impacts of added impervious surfaces;

MSD review and approval will be necessary if any future impervious development is added to the land. Current development generally avoids stream courses;

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Housing because:

The current and proposed district encourage a variety of housing types and styles and allow for accessory dwellings. The proposed district allows for a greater density but existing development conditions may limit revision to the site. Both districts are capable of being designed compatibly with the form district and the site currently reflects the pattern the neighborhood form;

The current and proposed district both promote housing to support aging in place as those aging may remain in their communities as they move from single-family homes but remain nearby to activities;

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Housing because:

The current and proposed zoning support mixed-income and mixed-use development that is connected to the neighborhood and surrounding area. Provisioning additional density may be limited by the built environment but would remain connected to the neighborhood;

The proposed district is located near Preston Highway, a major arterial roadway which provides access to the interstate and transit. However, TARC route #28 currently terminates north of I-265 at St. Rita Drive. Employment centers are nearby, and goods and services are also nearby to support transit-oriented development and an efficient public transportation system. Infrastructure supports an expansion of Transit; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Housing because:

The current and proposed districts promote fair and affordable housing at dispersed locations throughout Louisville Metro by allowing for increased density near major transportation, activity, and employment centers;

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The proposed zoning district allows for 2 dwelling units built in error to remain. The built conditions of the site may limit future development and any future development of the subject site will require review by agencies and be subject to the standard of review, including a comprehensive plan analysis;

The current and proposed districts allow for the use of innovative methods such as clustering, mixed-use developments, co-housing, and accessory apartments to increase the production of fair and affordable housing. The site is built for multi-family housing in 2- and 3-story structures;

now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the requested change in zoning from R-6 to R-7 on property described in the attached legal description be **APPROVED**.

**The vote was as follows:**

**YES: Commissioners Mims, Peterson, Clare, Carlson, Sistrunk, and Howard**

**NO: None**

**NOT PRESENT: Commissioners Seitz, Lewis, Brown, and Daniels.**

**Revised Detailed District Development Plan**

07:51:40 On a motion by Commissioner Clare, seconded by Commissioner Peterson, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that the 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;

**WHEREAS**, the Louisville Metro Planning Commission finds that provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community are provided;

**WHEREAS**, the Louisville Metro Planning Commission finds that outdoor amenities are provided and canopy is preserved;

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**WHEREAS**, the Louisville Metro Planning Commission finds that 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; because 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;

**WHEREAS**, the Louisville Metro Planning Commission finds that The compatibility of the overall site design (location of buildings, parking lots, screening, landscaping) and land use or uses with the existing and projected future development of the area because the development plan is compatible with the overall site design and future use of the area as it is located in an area of transition between higher and lower intensities/densities; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the development plan conforms with Plan 2040 and the Land Development Code. No relief has been requested and all requirements of the Land Development have been met.

now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE** the requested 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 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.

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4. Within 6-months of final action by the Louisville Metro Council:
  - a. A revised plan for screening and landscaping (buffering/landscaping) shall be submitted for review and approval. Any changes made thereon shall be implemented in a during the firstplanting season following approval and shall be maintained thereafter.
  - b. A revised Tree Preservation Plan in accordance with Chapter 10 of the LDC shall bereviewed and approved.
  - c. Any improvements and/or revisions to any open spaces, new or existing, as shown on the approved development plan shall be made within 6-months of final action by Louisville MetroCouncil.
5. A certificate of occupancy must be received from the appropriate code enforcement departmentprior 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 thissite 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. The materials and design of proposed structures shall be substantially the same as depicted inthe rendering as presented at the October 10, 2013 Land Development and Transportation meeting.
8. Density shall not exceed 17.59 dwelling units per acre nor a gross building square footage of 245,989 square feet unless approved by the Planning Commission.

**The vote was as follows:**

**YES: Commissioners Mims, Peterson, Clare, Carlson, Sistrunk, and Howard**

**NOT PRESENT: Commissioners Seitz, Lewis, Brown, and Daniels.**

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**PUBLIC HEARING**

**CASE NO. 21-ZONE-0033**

Request:	Change in zoning from R-4 to R-7, with Detailed District Development Plan/Major Preliminary Subdivision and Binding Elements
Project Name:	Helck Avenue Multi-Family
Location:	1230 & 1230R Helck Avenue
Owner:	Jonathan Martin Co LLC
Applicant:	Helck Avenue Development LLC
Representative:	Bardenwerper Talbott & Roberts
Jurisdiction:	Louisville Metro
Council District:	21 - Nicole George
<b>Case Manager:</b>	<b>Dante St. Germain, AICP, Planner II</b>

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

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

**Agency Testimony:**

07:53:30 Dante St. Germain presented the case and showed a PowerPoint presentation (See staff report and recording for detailed presentation). The applicant is requesting a change in zoning from R-4 to R-7 for 96 multi-family units. There are existing wetlands on the site which are not proposed to be preserved. There is R-7 zoning adjoining the site. Staff finds while the zoning would provide additional housing the area, the rezoning does not generally comply with Plan 2040 because the plan does not protect the jurisdictional wetlands that are on the site and the development plan may be too intense for the site.

Commissioner Mims asked if the wetlands were preserved would staff be more supportive of the plan. Dante St. Germain stated a less intense development may be more appropriate if the applicant was able to respect the environmental constraints that are on the site.

**The following spoke in support of the request:**

John Talbott, Bardenwerper Talbott & Roberts PLLC, 1000 North Hurstbourne Parkway, Louisville, KY 40222



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Nathan Wright, Mindel Scott & Associates, 5151 Jefferson Boulevard, Louisville, KY 40218

Ron Thomas, Redwing Engineering, 1139 South Fourth Street, Louisville, KY 40203

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

Jonathan Martin, 1416 Taylor Wood Road, Simpsonville, KY 40067

#### **Summary of testimony of those in support:**

08:04:00 John Talbott spoke on behalf of the applicant in support of the application. This development is an infill type development amongst an active portion of Preston Highway near Gilmore Lane. There are no requested waivers or variances.

08:11:45 Nathan Wright spoke on behalf of the applicant in support of the application. The applicant worked with PDS staff and other review agencies to revise the plan from the original submittal to help save trees. Mr. Wright walked the site and conducted a tree survey to identify invasives and diseased trees. The trees that are worth saving were identified and the tree canopy conservation percentage is an accurate count of the trees that will be saved.

08:16:00 Diane Zimmerman spoke on behalf of the applicant in support of the application. Ms. Zimmerman explained that the proposed 96 units would result in a minimal number of peak hour trips, which is why a traffic impact study was not required. The connection that is provided is expected to distribute traffic evenly.

Mr. Talbott resumed testimony. The applicant is proposing to exceed the open space requirements for the development.

08:21:10 Ron Thomas spoke on behalf of the applicant in support of the application. Thomas stated the wetlands on the site are low quality and qualify for a general nationwide permit with the Corps of Engineers that doesn't require review by the Division of Water (because of the minimal size). The resource and function of the wetlands that are being removed will be accounted for onsite because of the proposed detention basin. This is not a known bat habitat corridor but they would compensate for any trees that are being removed.

Mr. Talbott continued testimony, showing renderings of the proposed buildings.

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08:55:40      \*\*\*Jonathan Martin's testimony came after Opposition Testimony\*\*\*  
Jonathan Martin spoke in support of the application. He has been approached by numerous developers over the years to develop the site and he believes this proposal will be a positive addition to the area.

#### **The following spoke as neutral to the request:**

Rachel Roarx, Legislative Aide for Metro Council District 21, 601 W. Jefferson Street, Louisville, KY 40202

#### **Summary of testimony of those neutral to the request:**

08:25:30      Rachel Roarx spoke as a neutral party to the request. She asked the applicant some questions that she wanted clarified. Ms. Roarx asked much discussion was made with adjoining residents about the opening up of the existing stub. John Talbott stated they did not specifically reach out to the adjoining apartments. Ms. Roarx stated residents have expressed concerns about the current state of the surrounding roadways and whether they have the capacity to handle the additional volume. This area is already flood prone so there may be some concern about the elimination of the wetlands and proposed intensity on the site.

#### **The following spoke in opposition to the request:**

Jim Shea, 1240 Gilmore Lane, Louisville, KY 40213

Marilyn Collins, 1232 Helck Avenue, Louisville, KY 40213

Angela Impellizzeri, 1236 Helck Avenue, Louisville, KY 40213

Evan Lamb, 1255 Helck Avenue, Louisville, KY 40213

Paige Clark, 1236 Helck Avenue, Louisville, KY 40213

Dave Parker, 1257 Vim Drive, Louisville, KY 40213

Steve Edelen, 1207 Helck Avenue, Louisville, KY 40213

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

08:32:24      Jim Shea spoke in opposition to the request. He does not support opening up the connection from the existing apartments. Mr. Shea also believes three story buildings are too tall and out of character with the area.

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08:35:50 Marilyn Collins spoke in opposition to the request. The trees on this site are important to the area and provide a buffer to surrounding traffic and industrial uses. Gilmore Lane is a busy road and the additional units will add to the congestion. They have collected over 70 signatures from adjoining neighbors who do not support the application.

08:40:40 Angela Impellizzeri spoke in opposition to the request. Ms. Impellizzeri has concerns about the elimination of the wetlands and the increase in impervious area on the site. Helck would need additional improvements if this development were approved.

08:43:45 Evan Lamb spoke in opposition to the request. Mr. Lamb spoke about the amount of traffic in the Gilmore Lane area. Lamb stated there are no sidewalks on Helck Avenue, which is dangerous for pedestrians, particularly students walking to and from the bus.

08:48:35 Paige Clark spoke in opposition to the request. Ms. Clark feels Helck Avenue cannot handle the additional traffic from the proposed units.

08:51:25 Dave Parker spoke in opposition to the request. He echoed concerns about traffic in the area. Also concerned about displacement of wildlife.

08:53:25 Steve Edelen spoke in opposition to the request. He agrees with everything that has been said about traffic.

#### **Rebuttal:**

08:57:31 John Talbott spoke in rebuttal on behalf of the applicant. He said this small development should not be held responsible for any existing issues with traffic flow on Gilmore because the amount of traffic it will be producing is minimal. Drainage is not a problem. Mr. Talbott feels the plan satisfies the requirements of the comprehensive plan. The plan has no waiver or variance requests. The number of policies and objectives that may not be met are minimal. The housing options being provided are new and unique to the area. The wetlands disruption is insignificant.

#### **Deliberation:**

09:05:00 Commissioners' deliberation.

Commissioner Carlson stated that the development is not compatible with the surrounding development, including scale, mass, and materials being used. He also stated there may be flooding issues in the area so eliminating the wetlands could be an issue.

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Commissioner Clare is concerned about the wetlands disturbance. Also, there is a mass and scale issue.

Commissioner Sistrunk suggested developers seek alternatives to just apartments when looking at creating new affordable housing in areas.

Commissioner Mims feels the proposed density is too much for the site given the wetlands that are on the site.

Commissioner Howard agrees with some of the sentiments expressed by the commissioners and has concerns about the area.

Commissioner Peterson would be happier if they were going with something less dense that would allow them to preserve more open space.

**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

09:18:30 On a motion by Commissioner Carlson, seconded by Commissioner Sistrunk, the following resolution, based on the Standard of Review and Staff Analysis, and evidence and testimony heard today, was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal does not meet the CHASE principles of Plan 2040 as the proposed zoning district cannot fulfill the Sustainable principle or the Equitable principle by supporting the natural environment; and,

**WHEREAS**, the Commission further finds that the proposal cannot meet Community Form Goal 3, Objective a as the environmental impacts of development cannot be diminished; and,

**WHEREAS**, the Commission further finds that the proposal cannot meet Community Form Goal 3, Objective b as environmentally sensitive areas cannot be preserved and/or enhanced; and,

**WHEREAS**, the Commission further finds that the proposal cannot meet Community Form Goal 3, Policy 7 as the natural features of the site cannot be integrated within the

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prescribed pattern of development under the density permitted by the proposed zoning district; and,

**WHEREAS**, the Commission further finds that the proposal cannot meet Community Form Goal 3, Policy 8 as the vital natural resource systems such as mature trees, steep slopes, streams and wetlands cannot be conserved, restored or protected under the density permitted by the proposed zoning district; and,

**WHEREAS**, the Commission further finds that the proposal cannot meet Community Form Goal 3, Policy 10 as the wetlands present on the site are proposed to be drained and removed; and,

**WHEREAS**, the Commission further finds that the proposal cannot meet Livability Goal 1, Policy 5 as the unique characteristics of the identified general landscape types and native plant communities are proposed to be removed on the larger portion of the site. Only a small portion of the site is proposed to be preserved for tree canopy purposes. The wetlands are proposed to be removed entirely;

now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the requested change in zoning from R-4 Single Family Residential to R-7 Multi-Family Residential on property described in the attached legal description be **DENIED**.

**The vote was as follows:**

**YES: Commissioners Mims, Peterson, Clare, Carlson, Sistrunk and Howard.**

**NOT PRESENT: Commissioners Seitz, Lewis, Brown, and Daniels.**

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**ADJOURNMENT**

**The meeting adjourned at approximately 10:40 p.m.**

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**Chairman**

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**Division Director**