

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO PLANNING COMMISSION
April 20, 2023**

A meeting of the Louisville Metro Planning Commission was held on April 20, 2023 at 1:00 p.m. at the Old Jail Building, located at 514 W. Liberty Street, Louisville, Kentucky.

Commission members present:

Lula Howard, Vice Chair
Jeff Brown
Rich Carlson
Patricia Clare
Jim Mims
Te'Andre Sistrunk – Arrived at approximately 1:10
Suzanne Cheek
Michelle Pennix – Arrived at approximately 1:05
William Fischer

Commission members absent:

Marilyn Lewis, Chair

Staff Members present:

Brian Davis, Planning and Design Assistant Director
Julia Williams, Planning and Design Manager
Dante St. Germain, Planner II
Jay Lockett, Planner II
Travis Fiechter, Assistant County Attorney
Beth Stuber, Metro Transportation Planning
Pamela M. Brashear, Management Assistant

Others Present:

Mark Sites, MSD

The following matters were considered:

PLANNING COMMISSION MINUTES

April 20, 2023

APPROVAL OF MINUTES

MARCH 30, 2023 PLANNING COMMISSION REGULAR MEETING MINUTES

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

RESOLVED, that the Planning Commission does hereby **APPROVE** the minutes of its meeting conducted on March 30, 2023.

The vote was as follows:

YES: Commissioners Brown, Carlson, Cheek, Clare, Fischer, Mims, Pennix and Howard

NOT PRESENT FOR THIS CASE: Commissioners Sistrunk and Lewis

APRIL 6, 2023 PLANNING COMMISSION REGULAR MEETING MINUTES

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

RESOLVED, that the Planning Commission does hereby **APPROVE** the minutes of its meeting conducted on April 6, 2023.

The vote was as follows:

YES: Commissioners Brown, Carlson, Cheek, Clare, Fischer and Howard

NOT PRESENT FOR THIS CASE: Commissioners Sistrunk and Lewis

ABSTAINING: Commissioners Mims and Pennix

PLANNING COMMISSION MINUTES

April 20, 2023

BUSINESS SESSION

1530 HELCK AVENUE

Request: Waiver of 2 year waiting period to refile a zoning application after denial
Project Name: Helck Avenue Rezoning
Location: 1230 & 1230 R Helck Ave
Owner: Jonathan Martin Co LLC
Applicant: Jonathan Martin Co LLC
Representative: Wyatt, Tarrant & Combs LLP
Jurisdiction: Louisville Metro
Council District: 21 – Betsy Ruhe
Case Manager: Dante St. Germain, AICP, Planner II

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

Agency Testimony:

00:08:35 Dante St. Germain discussed the request for the waiver of the 2-year waiting period to refile a zoning application after denial (see recording for detailed presentation).

The following spoke in favor of this request:

Jon Baker, 400 West Market Street, Suite 2000, Louisville, Ky. 40202

Summary of testimony of those in favor:

00:14:13 Jon Baker discussed the environmental sensitivities on the property and the mitigation. The proposal is R-6 instead of R-7 with 72 units. The Woodland Protection Area, WPA will be maintained as it is today (see recording for detailed presentation).

The following spoke in opposition to this request:

Airin Roby, 1240 Helck Avenue, Louisville, Ky. 40213
Paige Clark, 1236 Helck Avenue, Louisville, Ky. 40213
Angela Impellizzeri, 1236 Helck Avenue, Louisville, Ky. 40213

Summary of testimony of those in opposition:

PLANNING COMMISSION MINUTES

April 20, 2023

BUSINESS SESSION

1530 HELCK AVENUE

00:20:12 Airin Roby said apartments should not be placed in the wetland area. This project will have a negative effect on wildlife and traffic (see recording for detailed presentation).

00:22:26 Paige Clark discussed the following issues: traffic impact; no sidewalks or turnaround on street; safety; and the woods are a part of the wildlife corridor designated by MSD (see recording for detailed presentation).

00:27:43 Angela Impellizzeri opposes the request (see recording for detailed presentation).

Rebuttal:

00:28:33 Jon Baker stated the applicant is adamant about removing any impervious surface atop the wetlands. They have lowered the number of units and parking spaces and lowered the high density of R-7 to R-6 (see recording for detailed presentation).

Deliberation

00:32:02 Planning Commission deliberation.

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

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

WHEREAS, there has not been a significant difference offered to justify a waiver.

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** that the Louisville Metro Council **DENY** the Waiver of 2 year waiting period to refile a zoning application after denial because there has not been a significant difference offered to justify a waiver.

The vote was as follows:

YES: Commissioners Brown, Carlson, Clare, Pennix and Sistrunk

NO: Commissioners Cheek, Fischer, Mims and Howard

NOT PRESENT AND NOT VOTING: Commissioner Lewis

PLANNING COMMISSION MINUTES

April 20, 2023

PUBLIC HEARING

CASE NO. 22-MSUB-0004

Request: Major Preliminary Subdivision utilizing MRDI provisions, Floyds Fork DRO Review, and Waiver – CONTINUED TO MAY 11, 2023 HEARING

Project Name: 1614 Johnson Road Subdivision

Location: 1614 Johnson Road

Owner: Jean Rueff

Applicant: Highgates Management

Representative: Bardenwerper, Talbott & Roberts

Jurisdiction: Louisville Metro

Council District: 19 – Anthony Piagentini

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

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

Agency Testimony:

00:37:06 Dante St. Germain said the applicant is requesting a continuance to the May 11, 2023 Planning Commission meeting (see recording for detailed presentation).

Deliberation

00:37:28 Planning Commission deliberation.

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

On a motion by Commissioner Carlson, seconded by Commissioner Sistrunk, the following resolution based on the Applicant's Request was adopted.

RESOLVED, that the Louisville Metro Planning Commission does hereby **CONTINUE** this case to the May 11, 2023 Planning Commission meeting.

The vote was as follows:

YES: Commissioners Brown, Carlson, Cheek, Clare, Fischer, Mims, Pennix, Sistrunk and Howard

NOT PRESENT AND NOT VOTING: Commissioner Lewis

PLANNING COMMISSION MINUTES

April 20, 2023

PUBLIC HEARING

CASE NO. 22-DDP-0129

Request: Revised Detailed District Development Plan with revised Binding Elements, and Waiver and Parking Waiver – CONTINUED FROM 4/19/2023 DRC

Project Name: 7 Brew

Location: 12525 Shelbyville Rd

Owner: IPH Holdings LLC

Applicant: 7 Brew

Representative: Kinetic Design & Development

Jurisdiction: Louisville Metro

Council District: 17 – Markus Winkler

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

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

Agency Testimony:

00:38:47 Dante St. Germain discussed the case summary, standard of review and staff analysis from the staff report. Also, the jurisdiction for this case should be Middletown.

The following spoke in favor of this request:

Shawn Barry, 1550 East Republic, Springfield, Mo. 65807
Nicole Vicari, 1905 East High Street, Springfield, Mo. 65803

Summary of testimony of those in favor:

00:46:12 Shawn Barry said he's here to answer questions (see recording for detailed presentation).

00:47:39 Nicole Vicari said she's here to answer questions (see recording for detailed presentation).

Deliberation

00:48:16 Planning Commission deliberation.

PLANNING COMMISSION MINUTES

April 20, 2023

PUBLIC HEARING

CASE NO. 22-DDP-0129

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

Waiver from 8.3.3.A.1 to permit more than three signs on one façade of a non-residential building (23-WAIVER-0061)

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

WHEREAS, the waiver will not adversely affect adjacent property owners as the signage is relatively small and no variance is being requested for the total allowed square footage; and

WHEREAS, the waiver will not violate specific guidelines of Plan 2040 as Plan 2040 does not address attached signage; and

WHEREAS, the Louisville Metro Planning Commission finds, the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as each of the proposed signs serves a different, distinct purpose and removing any of them would impact the functionality of the site; and

WHEREAS, the Louisville Metro Planning Commission further finds the 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 as the removal of any of the proposed signs would negatively impact the functioning of the site.

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** that the city of Middletown **APPROVE** the Waiver from 8.3.3.A.1 to permit more than three signs on one façade of a non-residential building (23-WAIVER-0061).

The vote was as follows:

YES: Commissioners Brown, Carlson, Cheek, Clare, Fischer, Mims, Pennix, Sistrunk and Howard

NOT PRESENT AND NOT VOTING: Commissioner Lewis

PLANNING COMMISSION MINUTES

April 20, 2023

PUBLIC HEARING

CASE NO. 22-DDP-0129

Parking Waiver to exceed the maximum allowable parking (23-PARKWAIVER-0001)

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

WHEREAS, the parking waiver is in compliance with the Comprehensive plan since the proposed coffee shop operates differently from most drive-through restaurants, as it will have many more employees than a building of this size would normally be expected to have, and those employees will need parking. Additionally, walk-up traffic is accommodated by the building design, and must be accommodated in the parking as well; and

WHEREAS, the applicant conducted a parking study using existing 7 Brew branded facilities in other locations; and

WHEREAS, the Louisville Metro Planning Commission finds, the requirements found in Table 9.1.3B do not allow for the provision of parking needed to accommodate the parking spaces needs of the proposed use. A parking study was performed for similar facilities that demonstrated a higher parking need than allowed by the Land Development Code; and

WHEREAS, the Louisville Metro Planning Commission further finds the requested increase is the minimum needed to do so because the parking study done on other 7 Brew branded coffee shops shows that more spaces are needed than would be permitted by the Land Development Code.

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** that the city of Middletown **APPROVE** the Parking Waiver to exceed the maximum allowable parking (23-PARKWAIVER-0001).

The vote was as follows:

YES: Commissioners Brown, Carlson, Cheek, Clare, Fischer, Mims, Pennix, Sistrunk and Howard

NOT PRESENT AND NOT VOTING: Commissioner Lewis

Revised Detailed District Development Plan with Revised Binding Elements

PLANNING COMMISSION MINUTES

April 20, 2023

PUBLIC HEARING

CASE NO. 22-DDP-0129

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

WHEREAS, no natural resources are evident on the site. The site is fully developed; and

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

WHEREAS, no open space requirements are pertinent to the request; and

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

WHEREAS, the Louisville Metro Planning Commission finds, the overall site design is compatible with existing and projected future development of the area. The site will be developed at an appropriate intensity and scale for the form district and the area; and

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

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

Existing Binding Elements

General Plan Binding Elements (to remain)

1. The Developer shall request that the existing Aiken and Vale Road be vacated within the boundaries of the proposed development. The existing roads may not be closed until the new roadways are open and dedicated to public use by record plat.
2. The development will be in accordance with the approved district development plan. No further development will occur, except with the prior approval of the Planning Commission and the subsequent approval of the City of Middletown.

PLANNING COMMISSION MINUTES

April 20, 2023

PUBLIC HEARING

CASE NO. 22-DDP-0129

3. The development shall not exceed 2,500 square feet of gross floor area per outlot. Additionally, all final architectural elevations and renderings, and exterior lighting shall be approved prior to installation by the City of Middletown. All exterior lighting shall be subdued.

4. Detailed district development plans shall be submitted for each outlot. Each plan shall be subject to the binding elements set out herein and additional binding elements, subsequently prescribed by the Planning Commission and the City of Middletown. The additional binding elements may relate, but not limited, to the following items. a. Screening, buffering, landscaping.

b. Points of access.

c. Density, floor area, size and height of buildings.

d. Land uses.

e. Signs.

f. Handicapped parking.

g. Loading berths.

5. Access to the outlots shown on the approved district development plan shall be restricted to internal access roads. There shall be no direct access to Shelbyville Road or Aiken Road from any outlot.

6. The applicant shall relocate and reconstruct Aiken Road and Vale Road as shown on the approved district development plan and on the district development plan for Docket Nos. 9-82-78, 9-47-86, 1-30-87 and 1-12-87. The construction shall be to design and standards approved by the Jefferson County Department of Public Works and Transportation.

7. Before a building permit is issued:

a. A major subdivision record plat shall be recorded relocating Aiken Road and Vale Road as shown on the approved preliminary subdivision plan, Docket No. 10-30-87.

b. The detailed district development plans must be reapproved by the Jefferson County Department of Public Works and Transportation, the Metropolitan Sewer District, the Planning Commission and the City of Middletown.

c. The property owner must obtain approval from the Planning Commission and the City of Middletown of a plan for screening (buffering and landscaping) property lines. Such plan shall be implemented prior to occupancy and maintained thereafter.

d. Encroachment permits must be obtained from the Kentucky Department of Transportation Bureau of Highways.

PLANNING COMMISSION MINUTES

April 20, 2023

PUBLIC HEARING

CASE NO. 22-DDP-0129

8. There will be one freestanding sign permitted on each outlot. The sign shall not exceed 30 square feet in area and 15 feet in overall height, and must otherwise be in compliance with City of Middletown Ordinance No. 2, Series 1984.

9. The only freestanding signs within the primary development shall be located as shown on the approved district development plans for Docket No. 9-47-86. The three entrance signs shall not exceed 6 feet overall height and 80 square feet in area with subdued illumination and must otherwise be in compliance with City of Middletown Ordinance No. 2, Series 1984.

10. The entire development, both Docket No. 9-47-86 and Docket No. 9-81-87, shall be limited to uses in the C-1 Commercial District with the exception of one restaurant with lounge and entertainment, as permitted in the C-2 District. Additional restaurants without lounges and entertainment being allowed.

11. If a building permit is not issued within one year of the date of approval of the plan or rezoning, whichever is later, the property shall not be used in any manner unless a revised district development plan is approved or an extension is granted by the Planning Commission and the City of Middletown.

12. A certificate of occupancy must be received from the appropriate code enforcement office prior to occupancy of the structure or land for the proposed use. All binding elements must be implemented prior to requesting issuance of the certificate.

13. Structures on the outlots shall not be more than one story and the architectural appearance shall conform to the remainder of the development.

14. All areas containing commercial trash receptacles including dumpsters to be individually enclosed and screened from public view.

15. The above binding elements may be amended as provided for in the Zoning District Regulations, and the Ordinances of the City of Middletown.

Proposed Binding Elements

All binding elements from the approved General District Development Plan are applicable to this site in addition, to the following:

1. The binding elements originally contained in Ordinance 11, Series 1986 and Ordinance 10, Series 1987 of the City of Middletown and Docket Nos. 9-47-86 and 9-81-87, shall apply except as added to or amended herein.

PLANNING COMMISSION MINUTES

April 20, 2023

PUBLIC HEARING

CASE NO. 22-DDP-0129

2. 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, and the City of Middletown, for review and approval; any changes/additions/alterations not so referred shall not be valid.

3. There shall be no direct access to Shelbyville Road from the site. Access to the site shall be restricted to internal access roads.

4. Before any permit (including but not limited to building, parking lot, change of use or alteration 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. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the April 20, 2023 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. All signage shall be in accordance with the detailed district development plan and must otherwise be in compliance with the City of Middletown Ordinance 90-06.

6. If a building permit is not issued within one year of the date of approval of the plan, the property shall not be used in any manner unless a revised district development plan is approved or an extension is granted by the Planning Commission and the City of Middletown.

7. A certificate of occupancy must be received from the appropriate code enforcement office 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 property shall be limited to uses in the C-1 Commercial District with the exception of one (1) automobile repair garage and with the exception of one (1)

PLANNING COMMISSION MINUTES

April 20, 2023

PUBLIC HEARING

CASE NO. 22-DDP-0129

restaurant with lounge and entertainment as permitted in the C-2 District. Additional restaurants without lounges and entertainment being allowed.

9. 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.

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

11. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.

12. 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.

13. The above binding elements may be amended as provided for in the Zoning District Regulations, upon approval of the City of Middletown.

The vote was as follows:

YES: Commissioners Brown, Carlson, Cheek, Clare, Fischer, Mims, Pennix, Sistrunk and Howard

NOT PRESENT AND NOT VOTING: Commissioner Lewis

PLANNING COMMISSION MINUTES

April 20, 2023

PUBLIC HEARING

CASE NO. 22-ZONE-0131

Request: Change in Zoning from R-R Rural Residential to R-4 Single-Family Residential, with Detailed District Development Plan with Binding Elements

Project Name: Echo Trail Residential

Location: 2405 Echo Trail

Owner: Long Run Creek Properties

Applicant: Long Run Creek Properties

Representative: Nick Pregliasco – Bardenwarper, Talbott & Roberts

Jurisdiction: Louisville Metro

Council District: 11 – Kevin Kramer

Case Manager: Jay Lockett, AICP, Planner II

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

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

Agency Testimony:

00:52:47 Jay Lockett discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Nick Pregliasco, Bardenwerper, Talbott and Roberts, 1000 North Hurstbourne Parkway, Louisville, Ky. 40223
David Mindel, 5151 Jefferson Boulevard, Louisville, Ky. 40219
Diane Zimmerman, 12803 High Meadows Pike, Prospect, Ky. 40059

Summary of testimony of those in favor:

00:58:49 Nick Pregliasco gave a power point presentation discussing the following: housing is greatly needed; proposal will be next to middle school; 49% to be preserved as open space; Traffic Impact Study was performed and turn lane was not warranted but will be provided; the Floyd Fork guidelines are not set in stone, only recommendations; proposed binding element; and the water quality treatment will be doubled (see recording for detailed presentation).

PLANNING COMMISSION MINUTES

April 20, 2023

PUBLIC HEARING

CASE NO. 22-ZONE-0131

01:20:55 David Mindel stated there will be a sidewalk in the right-of-way of Echo Trail. Also, a left turn lane will be provided at the entrance (see recording for detailed presentation).

01:44:32 Diane Zimmerman said it was requested that she evaluate traffic turn lanes on Echo Trail only (see recording for detailed presentation).

01:50:23 David Mindel discussed the homeowners' association and maintenance of the wetlands (see recording for detailed presentation).

The following spoke in opposition to this request:

Randy Strobo, 730 West Main Street, Suite 202, Louisville, Ky. 40202

Michael Farmer, 15100 Old Taylorsville Road, Fisherville, Ky. 40023

Tim Cook, 2410 Running Brook Trail, Fisherville, Ky. 40023

Lucas Frazier, 15700 Piercy Mill Road, Louisville, Ky. 40245

Harrell Hurst, 16200 Taylorsville Road, Fisherville, Ky. 40023

Steve Henry, 2550 Ransdell Avenue, Louisville, Ky. 40204

Jeff Frank, 16509 Bradbe Road, Fisherville, Ky. 40023

Summary of testimony of those in opposition:

02:04:35 Randy Strobo said he appreciates what the applicant is trying to do, but the development will make the DRO worse. He also discussed the following: South Floyds Fork Area Plan has not been mentioned at all; plan is not in agreement with the Comprehensive Plan; water quality is worse; the proposed area needs protection; and storm water and sanitary sewers are problematic (see recording for detailed presentation).

02:10:25 Michael Farmer said there's been no discussion regarding traffic on Taylorsville side. The impervious surfaces and runoff will get worse (see recording for detailed presentation).

02:16:16 Tim Cook discussed the following: Floyds Fork is a treasure and needs to be preserved and protected; troubling to see the high-density homes; proposal will be a negative impact on the quality of life; wildlife; wetlands; flood plain; traffic; and there's more flooding now (see recording for detailed presentation).

02:21:21 Lucas Frazier asks that the Planning Commission look at the DRO as more than MSD's responsibility. MSD has given preliminary approval, but it's the Planning Commission's job to protect the DRO. The Land Development Code has the DRO language in it (see recording for detailed presentation).

PLANNING COMMISSION MINUTES

April 20, 2023

PUBLIC HEARING

CASE NO. 22-ZONE-0131

02:24:49 Harrell Hurst represents the Fisherville Area Neighborhood Association, FANA, which works to try to preserve the area. Planning needs to encompass the entire area, not just subdivision by subdivision (see recording for detailed presentation).

02:28:05 Steve Henry said he is depending on the Planning Commission to tell him how to save Floyds Fork and better plan Jefferson County (see recording for detailed presentation).

02:32:22 Jeff Frank gave a power point presentation discussing the following: the proposal is 100% in the DRO and the applicant bought it that way; the traffic impact study is too narrow; storm water issues need to be solved before new developments; and flooding is increasing (see recording for detailed presentation).

Rebuttal

02:53:12 Nick Pregliasco said the Comprehensive Plan review had all checks in the staff report today. The Small Area Plan goal is to have subdivisions where more open space is preserved (see recording for detailed presentation).

02:57:58 David Mindel mentioned subdivisions in the past that were rezoned and approved by the Planning Commission. The proposal exceeds the requirements and is appropriate for the area (see recording for detailed presentation).

Deliberation

03:03:54 Planning Commission deliberation.

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

Zoning Change from R-R, Rural Residential to R-4, Single Family Residential

On a motion by Commissioner Brown, seconded by Commissioner Sistrunk, the following resolution based on the testimony heard today.

WHEREAS, the Louisville Metro Planning Commission finds that R-R is more appropriate than the proposed R-4 due to the impacts it would have on both the environment and traffic in the area.

PLANNING COMMISSION MINUTES

April 20, 2023

PUBLIC HEARING

CASE NO. 22-ZONE-0131

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

The vote was as follows:

YES: Commissioners Brown, Carlson, Clare, Pennix, Sistrunk and Howard

NO: Commissioners Cheek, Fischer and Mims

NOT PRESENT AND NOT VOTING: Commissioner Lewis

PLANNING COMMISSION MINUTES

April 20, 2023

PUBLIC HEARING

CASE NO. 23-ZONE-0009

Request: Change in Zoning from C-N to C-2, with Associated Detailed District Development Plan and Binding Elements, Variance and Waivers
Project Name: Pickle + Social Louisville
Location: 8100 Lyndon Park Lane
Owner: City of Lyndon
Applicant: City of Lyndon
Representative: Wyatt, Tarrant & Combs LLP
Jurisdiction: City of Lyndon
Council District: 7 – Paula McCraney
Case Manager: Dante St. Germain, AICP, Planner II

NOTE: COMMISSIONERS BROWN AND FISCHER LEFT AND DID NOT VOTE ON THIS CASE

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

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

Agency Testimony:

03:36:48 Dante St. Germain discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

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

Colin Underhill, 808 Lyndon Lane, Louisville, Ky. 40222

Ann Richard, Land Design and Development, 503 Washburn Avenue, Louisville, Ky. 40222

Summary of testimony of those in favor:

03:44:28 Jon Baker gave a power point presentation. The addition will be to the existing activity center (see recording for detailed presentation).

PLANNING COMMISSION MINUTES

April 20, 2023

PUBLIC HEARING

CASE NO. 23-ZONE-0009

03:46:53 Colin Underhill said he enjoys working and living in Lyndon. The Pickle + Social Louisville project will be in the perfect location (see recording for detailed presentation).

03:53:58 Jon Baker stated there will be no distillation of alcohol as a use on the property.

Jon Baker continued the power point presentation (see recording for detailed presentation).

04:00:33 Ann Richard stated the building will house the indoor pickle ball courts, a restaurant and the bourbon experience events space. The building is 2-stories in height, but only one floor. Parking is provided on site to meet the parking requirements of the Land Development Code and on-site detention is being provided as well (see recording for detailed presentation).

Ann Richard explained the revisions to the site plan as requested at the March 23, 2023 LD&T meeting (see recording for detailed presentation).

04:05:26 Jon Baker showed some renderings and said KYTC is not in favor of installing a mid-block pedway crossing (see recording for detailed presentation).

The following spoke neither for nor against the request:

Michael Clancey, 308 Forest Lane, Louisville, Ky. 40222

Summary of testimony of those neither for nor against:

04:12:11 Michael Clancey said the staff report stated there's no requirement for trees because of the parking lot. He suggests that the developer donate 20 trees to the park. Something will need to be done regarding future traffic patterns (see recording for detailed presentation).

Rebuttal

04:17:27 Jon Baker said the parking lot will have ILA's, internal landscape areas on the site. There shouldn't be heavy traffic during peak hours because most of the traffic will be in the evenings and weekends (see recording for detailed presentation).

Deliberation

04:18:56 Planning Commission deliberation.

PLANNING COMMISSION MINUTES

April 20, 2023

PUBLIC HEARING

CASE NO. 23-ZONE-0009

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

Zoning Change from C-N Neighborhood Commercial to C-2 Commercial

On a motion by Commissioner Carlson, seconded by Commissioner Clare, the following resolution based on the Plan 2040 Staff Analysis and the Applicant's testimony was adopted.

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Community Form because, the proposal would not constitute a non-residential expansion into a residential area. The site is already zoned C-N and has been proposed for non-residential uses in the past; the site is located on Lyndon Lane, a minor arterial and transit corridor at this location; 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 Lyndon Lane, a minor arterial at this location; no adverse impacts from noise on existing communities are anticipated; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Form because, the site is located on the edge of an existing activity center; the site has appropriate access and connectivity; the site is located along Lyndon Lane, a commercial corridor and minor arterial at this location. The site is located on the edge of an existing activity center; 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 in an existing center; the proposed zoning district would permit residential uses above retail; the proposal would provide new development providing commercial uses; no underutilized parking lots are proposed; the site is located on the edge of an existing activity center; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Community Form 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;

PLANNING COMMISSION MINUTES

April 20, 2023

PUBLIC HEARING

CASE NO. 23-ZONE-0009

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Mobility because, the site is located on the edge of an existing activity center at the intersection of Lyndon Lane and La Grange Road; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Mobility because, access to the site is via Lyndon Lane, a minor arterial at this location; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Mobility because, the proposed zoning district would permit a mix of complementary neighborhood serving businesses and services in an existing center; the site is easily accessible by bicycle, car, transit, pedestrians and people with disabilities; the proposal would permit higher-density mixed-use developments that reduce the need for multiple automobile trips; Transportation Planning has approved the proposal; and

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

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Economic Development because, the site is located on Lyndon Lane, a minor arterial at this location; and

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

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Housing because, the proposed zoning district would support aging in place by permitting additional commercial options at the edge of an existing center;

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Housing because, the proposed zoning district would permit inter-generational mixed-income and mixed-use development; the proposal would permit housing to be in proximity to an activity center; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Housing because, no existing residents will be

PLANNING COMMISSION MINUTES

April 20, 2023

PUBLIC HEARING

CASE NO. 23-ZONE-0009

displaced by the proposal; and the proposed zoning district would permit innovative methods of housing.

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the city of Lyndon that the zoning change from C-N, Neighborhood Commercial to C-2 Commercial on property described in the attached legal description be **APPROVED**.

The vote was as follows:

YES: Commissioners Carlson, Cheek, Clare, Mims, Pennix, Sistrunk and Howard

ABSENT: Commissioner Brown, Fischer and Lewis

Variance from Table 5.3.2 to permit a non-residential parking to encroach into the required 50' setback from residential uses (23-VARIANCE-0027)

On a motion by Commissioner Carlson, seconded by Commissioner Clare, the following resolution based on the Standard of Review and Staff Analysis and Applicant's testimony was adopted.

WHEREAS, the requested variance will not adversely affect the public health, safety or welfare, because the most affected property will have a fence separating the property from the site; and

WHEREAS, the requested variance will not alter the essential character of the general vicinity as the proposed parking within the required setback will likely not be readily visible from the right-of-way; and

WHEREAS, the requested variance will not cause a hazard or nuisance to the public because the proposed parking will be screened from the adjoining residential use; and

WHEREAS, the requested variance will not allow an unreasonable circumvention of the zoning regulations the parking in the required setback is needed to utilize the site; and

WHEREAS, the requested variance arises from special circumstances which do generally apply to land in the general vicinity or the same zone because, although the property is regular in shape, it is proposed to be used for pickleball courts, requiring adequate parking; and

WHEREAS, the Louisville Metro Planning Commission finds, the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as

PLANNING COMMISSION MINUTES

April 20, 2023

PUBLIC HEARING

CASE NO. 23-ZONE-0009

the provision of the full width of the required setback would preclude adequate parking; and

WHEREAS, the Louisville Metro Planning Commission further finds the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as the parking has not been constructed and the applicant is requesting the variance.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the Variance from Table 5.3.2 to permit a non-residential parking to encroach into the required 50' setback from residential uses (23-VARIANCE-0027).

The vote was as follows:

YES: Commissioners Carlson, Cheek, Clare, Mims, Pennix, Sistrunk and Howard
ABSENT: Commissioner Brown, Fischer and Lewis

Waivers:

#1: from 10.2.4 to permit encroachment into the required property perimeter Landscape Buffer Area (LBA), to waive required plantings and screening in a portion of the area of encroachment, and to permit more than 50% overlap of a drainage easement with a required LBA (23-WAIVER-0036)

WHEREAS, the waiver will not adversely affect adjacent property owners as the most affected residential property is not continuously occupied; and

WHEREAS, 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 most affected residential property is not continuously occupied; and

WHEREAS, the Louisville Metro Planning Commission finds, the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the subject site is relatively narrow and the full provision of the required LBAs outside the easements would severely impact the feasibility of developing the site; and

WHEREAS, the Louisville Metro Planning Commission further finds strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant because provision of the

PLANNING COMMISSION MINUTES

April 20, 2023

PUBLIC HEARING

CASE NO. 23-ZONE-0009

full required LBAs would make the developable portion of the site too narrow to adequately use.

#2: from 5.9.2 to omit required vehicular and pedestrian connections between abutting non-residential uses (23-WAIVER-0037)

On a motion by Commissioner Carlson, seconded by Commissioner Clare, the following resolution based on the Standard of Review and Staff Analysis and Applicant's testimony was adopted.

WHEREAS, the waiver will not adversely affect adjacent property owners as the most affected properties do not have adequate connectivity to the site to make the required connections function. Connection is being provided to the property to the north-west which will be developed as part of the park; and

WHEREAS, the waiver will not violate specific guidelines of Plan 2040 as Plan 2040 encourages connectivity to reduce the number of vehicular trips. Connecting the adjoining non-residential, non-park uses is unlikely to reduce the number of vehicular trips to any appreciable degree; and

WHEREAS, the Louisville Metro Planning Commission finds, the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as providing the required connections would severely impact the site design while not affording any benefit to the public; and

WHEREAS, the Louisville Metro Planning Commission further finds strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant because provision of the connections would impact the site design to a high degree without providing any public benefit.

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** that the city of Lyndon **APPROVE** Waivers #1: from 10.2.4 to permit encroachment into the required property perimeter Landscape Buffer Area (LBA), to waive required plantings and screening in a portion of the area of encroachment, and to permit more than 50% overlap of a drainage easement with a required LBA (23-WAIVER-0036) and #2: from 5.9.2 to omit required vehicular and pedestrian connections between abutting non-residential uses (23-WAIVER-0037).

The vote was as follows:

YES: Commissioners Carlson, Cheek, Clare, Mims, Pennix, Sistrunk and Howard

PLANNING COMMISSION MINUTES

April 20, 2023

PUBLIC HEARING

CASE NO. 23-ZONE-0009

ABSENT: Commissioner Brown, Fischer and Lewis

Revised Detailed District Development Plan with Binding Elements

On a motion by Commissioner Carlson, seconded by Commissioner Clare, the following resolution based on the Standard of Review and Staff Analysis and Applicant's testimony was adopted.

WHEREAS, no natural resources are evident on the site. The site is currently developed with a parking lot; and

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

WHEREAS, no open space requirements are pertinent to the request; and

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

WHEREAS, the Louisville Metro Planning Commission finds, the overall site design is compatible with existing and projected future development of the area. The site will be developed at an appropriate intensity and scale for the form district and the area; and

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

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

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall 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.

PLANNING COMMISSION MINUTES

April 20, 2023

PUBLIC HEARING

CASE NO. 23-ZONE-0009

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. Encroachment permits shall be obtained from the Kentucky Transportation Cabinet for any work in the Lyndon Lane right-of-way.
 - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a certificate of occupancy. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter. Screening along the Holderer property line (8109 Warwick Avenue) shall be achieved with a vinyl fence at a height required by the City of Lyndon Land Development Code.
 - d. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the April 20, 2023 Planning Commission hearing. 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

PLANNING COMMISSION MINUTES

April 20, 2023

PUBLIC HEARING

CASE NO. 23-ZONE-0009

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. Allowed hours of operation for the pickleball courts shall be 6 AM to midnight, and the facility, including restaurant, shall not be open later than allowed by the issued ABC license.

The vote was as follows:

YES: Commissioners Carlson, Cheek, Clare, Mims, Pennix, Sistrunk and Howard

ABSENT: Commissioner Brown, Fischer and Lewis

PLANNING COMMISSION MINUTES

April 20, 2023

PUBLIC HEARING

CASE NO. 21-ZONE-0155

Request: Change in Zoning from R-6 to C-2, with Associated Detailed District Development Plan and Binding Elements and Waivers
Project Name: Franklin Lofts
Location: 943 Franklin Street
Owner: Franklin Lofts LLC
Applicant: Franklin Lofts LLC
Representative: Dinsmore & Shohl
Jurisdiction: Louisville Metro
Council District: 4 – Jecorey Arthur
Case Manager: Dante St. Germain, AICP, Planner II

NOTE: COMMISSIONERS CHEEK AND SISTRUNK LEFT AND DID NOT VOTE ON THIS CASE

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

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

Agency Testimony:

04:24:37 Dante St. Germain discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Cliff Ashburner, Dinsmore and Shohl, 101 South 5th Street, Suite 2500, Louisville, Ky. 40202

Summary of testimony of those in favor:

04:32:47 Cliff Ashburner gave a power point presentation providing background information on the property.

Cliff Ashburner also discussed the following: gate will remain open at all times and agreed to a binding element; tax credits; historic uses of subject property; no new

PLANNING COMMISSION MINUTES

April 20, 2023

PUBLIC HEARING

CASE NO. 21-ZONE-0155

development on property beyond what has been approved and implemented; and showed rendering of final product (see recording for detailed presentation).

The following spoke in opposition to this request:

Andy Cobb, 933 Franklin Street, Louisville, Ky. 40206

Summary of testimony of those in opposition:

04:42:33 Andy Cobb said he's concerned about parking, noise, strangers coming in and out of the neighborhood and the diminishing quality and livability of the neighborhood (see recording for detailed presentation).

Rebuttal

04:49:37 Cliff Ashburner said the development plan shows residential units. If there are specific uses to bind out, it could be taken care of before the case goes to Metro Council for review (see recording for detailed presentation).

04:55:44 Commissioner Carlson requests a binding element that states it will be for residential use only and any other change in use shall require a hearing before the Planning Commission. Cliff Ashburner agrees as long as short-term rentals are included in the definition of residential use. Travis Fiechter stated the binding element as follows: Any change in use other than what was proposed at the April 20, 2023 Planning Commission hearing shall require a notice of public hearing before the Planning Commission. Cliff Ashburner agreed.

Deliberation

04:57:48 Planning Commission deliberation.

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

Zoning Change from R-6 Multi-Family Residential to C-2 Commercial

On a motion by Commissioner Carlson, seconded by Commissioner Mims, the following resolution based on the Plan 2040 Staff Analysis and the Applicant's testimony was adopted.

PLANNING COMMISSION MINUTES

April 20, 2023

PUBLIC HEARING

CASE NO. 21-ZONE-0155

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Community Form because, the site is located relatively close to E Main Street, a major transportation and transit corridor, and activity corridor. It is also relatively close to employment centers in the neighborhood; the site has been in industrial use in the past and the proposal is less intensive than the prior industrial development. The proposed zoning district would not be substantially different in scale and intensity compared with what was previously on the site; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Form because, the proposal would re-use an existing structure for multi-family uses and/or short-term rental uses; and

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

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 4: Community Form because, no distinctive cultural features are evident on the site; the proposal would re-use an existing structure; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Mobility because, the site is located relatively close to E Main Street, an existing marketplace corridor; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Mobility because, access to the site is through areas of similar intensity and density; and

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

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

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Livability because, required street trees will be

PLANNING COMMISSION MINUTES

April 20, 2023

PUBLIC HEARING

CASE NO. 21-ZONE-0155

provided. No other landscape types or native plant communities are evident on the site; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Housing because, the proposal would permit a variety of housing types and would increase the variety of housing in Louisville Metro and in the neighborhood; the proposal would support aging in place. The provision of multi-family units and short-term rental units would encourage housing close to E Main Street, a commercial and transit corridor. The proposed zoning district would also permit commercial uses in an existing neighborhood; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Housing because, the proposal would permit inter-generational mixed-income and mixed-use development. The site is connected to the neighborhood and surrounding area; the proposal would provide housing within proximity to E Main Street, a multi-modal transportation corridor, and/or commercial uses providing neighborhood goods and services near existing housing; and

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

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council the change in zoning from R-6, Multi-Family Residential to C-2, Commercial on property described in the attached legal description be **APPROVED**.

The vote was as follows:

YES: Commissioners Carlson, Clare, Mims, Pennix and Howard

NOT PRESENT AND NOT VOTING: Commissioners Brown, Cheek, Fischer, Sistrunk and Lewis

Waivers #1: from 10.2.4 to allow structures to encroach into to the required property perimeter Landscape Buffer Area (23-WAIVER-0002)

WHEREAS, the waiver will not adversely affect adjacent property owners as the LBAs are required due to a change in zoning and the encroachment is by a building that was previously in non-residential use with no known adverse impacts; and

PLANNING COMMISSION MINUTES

April 20, 2023

PUBLIC HEARING

CASE NO. 21-ZONE-0155

WHEREAS, 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 proposed use of the property is similar to how it is used today and less intense than the non-residential uses of the past; and

WHEREAS, the Louisville Metro Planning Commission finds, the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the subject site is already developed with structures, which are infeasible to be removed to make room for the required landscape buffer area; and

WHEREAS, the Louisville Metro Planning Commission further finds strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant because provision of the required landscape buffer area is impossible without removing the structures already on the lot.

#2: from 5.5.3 to not provide a required 3' masonry wall along Franklin Street to screen parking (22-WAIVER-0225)

On a motion by Commissioner Carlson, seconded by Commissioner Mims, the following resolution based on the Standard of Review and Staff Analysis and Applicant's testimony was adopted.

WHEREAS, the waiver will not adversely affect adjacent property owners as the parking area already exists and no wall is currently in place with no known adverse impacts; and

WHEREAS, the waiver will not violate specific guidelines of Plan 2040 as Plan 2040 does not address screening of parking except along designated parkways and scenic corridors; and

WHEREAS, the Louisville Metro Planning Commission finds, the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the subject site is already developed and there is no room on the site for a masonry wall. The location where the wall would otherwise be placed is already used for a decorative fence; and

WHEREAS, the Louisville Metro Planning Commission further finds strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant because provision of the required wall would require the removal of the existing fence, which is not permitted by the terms of the applicant's historic tax credits.

PLANNING COMMISSION MINUTES

April 20, 2023

PUBLIC HEARING

CASE NO. 21-ZONE-0155

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** Waivers #1: from 10.2.4 to allow structures to encroach into to the required property perimeter Landscape Buffer Area (23-WAIVER-0002) and #2: from 5.5.3 to not provide a required 3' masonry wall along Franklin Street to screen parking (22-WAIVER-0225).

The vote was as follows:

YES: Commissioners Carlson, Clare, Mims, Pennix and Howard

NOT PRESENT AND NOT VOTING: Commissioners Brown, Cheek, Fischer, Sistrunk and Lewis

Detailed District Development Plan and Binding Elements

On a motion by Commissioner Carlson, seconded by Commissioner Mims, the following resolution based on the Standard of Review and Staff Analysis, Applicant's testimony and the Opposition's testimony for the additional binding element was adopted.

WHEREAS, no natural resources are evident on the site. The site is fully developed; and

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

WHEREAS, the site is nonconforming with respect to open space provisions; and

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

WHEREAS, the Louisville Metro Planning Commission finds, the overall site design is in compliance with existing and planned future development in the area. No new construction is proposed. The structures on the site already exist within their current context and are compatible with the surrounding development; and

WHEREAS, the Louisville Metro Planning Commission further finds the development plan conforms to applicable requirements of the Land Development Code and Plan 2040 with the exception of the requested waivers. The site plan generally complies with

PLANNING COMMISSION MINUTES

April 20, 2023

PUBLIC HEARING

CASE NO. 21-ZONE-0155

the policies and guidelines of the Comprehensive Plan. The site plan would preserve an existing structure which is part of the fabric of the neighborhood.

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

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
3. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
4. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested:
 - a. The development plan must receive full construction approval from Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. 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.
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. 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.

PLANNING COMMISSION MINUTES

April 20, 2023

PUBLIC HEARING

CASE NO. 21-ZONE-0155

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

8. The gate at the front of the property shall remain open at all times.

9. Any change in use from those part of the plan approved at the April 20, 2023 meeting of the Planning Commission shall require a noticed public hearing before the Planning Commission.

The vote was as follows:

YES: Commissioners Carlson, Clare, Mims, Pennix and Howard

NOT PRESENT AND NOT VOTING: Commissioners Brown, Cheek, Fischer, Sistrunk and Lewis

PLANNING COMMISSION MINUTES
April 20, 2023

STANDING COMMITTEE REPORTS

Land Development and Transportation Committee

No report given.

Site Inspection Committee

No report given.

Planning Committee

No report given.

Development Review Committee

No report given.

Policy and Procedures Committee

No report given.

CHAIRPERSON/DIRECTOR'S REPORT

No report given.

ADJOURNMENT

The meeting adjourned at approximately 6:01 p.m.

Chair

Planning Director