

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO PLANNING COMMISSION
July 6, 2017**

A meeting of the Louisville Metro Planning Commission was held on Thursday, July 6, 2017 at 1:00 p.m. at the Old Jail Building, located at 514 West Liberty Street, Louisville, Kentucky.

Commission members present:

Vince Jarboe – Chair
Marilyn Lewis – Vice Chair
Rich Carlson
Ramona Lindsey
Lula Howard
David Tomes
Jeff Brown
Laura Ferguson

Commission members absent:

Emma Smith
Rob Peterson

Staff Members present:

Emily Liu, Director, Planning & Design Services
Brian Davis, Planning & Design Supervisor
Kendal Baker, AICP, Planning Manager
Mike King
Joel Dock, Planner II
Laura Mattingly, AICP, Planner II
Julia Williams, AICP, Planning Manager
John Carroll, Legal Counsel
James Carey, Legal Counsel
Chris Cestaro, Management Assistant (minutes)

The following matters were considered:

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Approval of Minutes

Approval of the minutes for Case No. 17AMEND1001 ONLY, heard at the June 29, 2017 Planning Commission public hearing.

00:09:33 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 for Case No. 17AMEND1001 ONLY, heard at the June 29, 2017 Planning Commission public hearing.

The vote was as follows:

YES: Commissioners Brown, Carlson, Ferguson, Tomes, Lindsey, and Lewis.

NO: No one.

NOT PRESENT: Commissioners Smith and Peterson.

ABSTAINING: Commissioners Howard and Jarboe.

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Public Hearing

Case No. 16ZONE1084

Request: Change in zoning from R-6 to R-7, a Detailed District Development Plan, and a Variance –
TO BE CONTINUED TO JULY 20, 2017
PLANNING COMMISSION HEARING

Project Name: 1073 Mary Street Condos
Location: 1073 Mary Street
Owner: Alma & Milenko Simic
Applicant: Alma & Milenko Simic
Representative: Accurus Engineering
Jurisdiction: Louisville Metro
Council District: 4 – David Tandy

Case Manager: **Joel Dock, Planner II**

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

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

An audio/visual recording of the Planning Commission public 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.

Agency Testimony:

00:11:25 Joel Dock presented the case (see recording for detailed presentation.) He explained that the legal advertisement was not run in the newspaper in time for today's hearing.

The following spoke in favor of the request:

No one spoke.

The following spoke in opposition to the request:

No one spoke.

The following spoke neither for nor against:

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No one spoke.

00:12:05 On a motion by Commissioner Howard, seconded by Commissioner Carlson, the following resolution was adopted:

RESOLVED, the Louisville Metro Planning Commission does hereby **CONTINUE** this case to the July 20, 2017 Planning Commission public hearing.

The vote was as follows:

YES: Commissioners Brown, Howard, Carlson, Ferguson, Tomes, Lindsey, Lewis, and Jarboe.

NO: No one.

NOT PRESENT: Commissioners Smith and Peterson.

ABSTAINING: No one.

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Public Hearing

Case No. 17NEIGHPLAN1002

(NOTE: This case was heard with Case No. 17NEIGPLAN1003)

Request: Irish Hill Neighborhood Plan Update

Council District: 9 – Bill Hollander and
4 – Barbara Sexton Smith

Case Manager: **Kendal Baker, AICP, Planning Manager**

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.)

An audio/visual recording of the Planning Commission public 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.

Agency Testimony:

00:13:15 Ken Baker presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.) He emphasized that the only updates being proposed today are the Land Use Community Form component of the Irish Hill Neighborhood Plan. The Executive Summary, which summarizes the land use form component, would also be updated (see “Case No. 17NEIGHPLAN1003”).

00:17:50 Patti Clare gave a summary of the background and process of the update to the neighborhood plan (see recording for detailed presentation.)

00:33:03 Mr. Baker resumed the podium and summarized staff findings for the proposal (see staff report.) He noted that, although the action being requested today is for an update to a neighborhood plan, an areawide rezoning request will probably follow at a later date.

00:35:31 In response to a question from Commissioner Carlson, Mr. Baker clarified the location of the proposed cement/concrete plant and said the proposal as recommended would not permit that use in its location.

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(NOTE: This case was heard with Case No. 17NEIGPLAN1003)

00:37:03 Ms. Clare reviewed the uses in portions of the affected area. Mr. Baker discussed the PDD (Planned Development District) zoning category and how it affects development and design standards.

00:39:32 Commissioner Lindsey said there seemed to be community support for light industrial/commercial, but not heavy industrial, uses. Ms. Clare reviewed some of the uses that could be permitted, with performance standards that would be in effect if the use was adjacent to residential uses.

00:41:35 In response to a question from Commissioner Tomes, Mr. Baker confirmed that a PDD zoning district would exclude M- and M-3 uses. An areawide rezoning would follow as a separate case/process from the neighborhood plan level.

The following spoke in favor of the request:

Brian Evans, 300 Distillery Commons Suite 200, Louisville, KY 40206

Melanie McCormick, 1321 Hull Street, Louisville, KY 40204

Lisa Santos, 1318 Hull Street, Louisville, KY 40204

Lisa Dettlinger, 1305 Lexington Rd., Louisville, KY 40204

Sondra Powell, 1399 Lexington Rd., Louisville, KY 40206

Summary of testimony of those in favor of the request:

00:43:38 Brian Evans spoke in support, as a member of the advisory committee.

00:44:42 Melanie McCormick spoke in support; she particularly agreed with the downsizing of the heavy industrial uses and the re-development of industrial areas.

00:46:33 Lisa Santos, co-chair of the Irish Hill Neighborhood Association and also on the advisory committee, said she is also in favor of “downsizing” heavier industrial uses. She said the neighborhood has changed a great deal and is now more residential. Supports increased walkability.

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(NOTE: This case was heard with Case No. 17NEIGPLAN1003)

00:49:13 Lisa Dettlinger, an Irish Hill resident, spoke in support. She also supports the downsizing of industrial uses in this area and building the residential core.

00:52:49 Sondra Powell, a business owner in the area, discussed industrial traffic and how it adversely impacted her business. She said the downsizing of industrial uses and the other proposals are beneficial to residents and small business owners who provide services.

The following spoke neither for nor against:

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

Summary of testimony of those neither for nor against :

00:55:25 Clifford Ashburner, representing Barrelhouse Lofts, said a large concern are the "performance standards" in the plan (air quality, etc.) These should be left to other agencies that handle these items (APCD, etc.). He discussed how these performance standards could limit uses and property flexibility (see recording for detailed presentation.) He also addressed parking ratios for some neighborhood-serving uses

The following spoke in opposition to the request:

Glenn Price, Frost Brown Todd, 400 West Market Street, Louisville, KY 40202

Wanda Ballard Repasky, Environmental Attorney for River Metals Recycling, 8207 Montero Drive, Prospect, KY 40059

Bruce Simpson, Stoll Keenen Ogden, (attorney for Ready-Mix Concrete of Nashville), 300 West Vine Street Suite 2100, Lexington, KY 40507

Mark Wardlaw, NIA Fortis Group, 462 S. 4th Street Suite 400, Louisville, KY 40202

Greg Underwood. 1500 Lexington Rd., Louisville, KY 40206

David George, 1387 Lexington Rd., Louisville, KY 40206

Jeff Hollingshead (representing Smyrna Concrete), 1136 2nd Ave. North Nashville, Tennessee 37208

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(NOTE: This case was heard with Case No. 17NEIGPLAN1003)

Summary of testimony of those in opposition to the request:

01:03:02 Glenn Price, representing River Metals Recycling, spoke in opposition (see recording for detailed presentation.) He objected that the process was too rushed – a three week process, with one charrette. He said the business owners were inadequately represented in the study and in the advisory group process. He proposed allowing “M” uses (M-1, M-2, and M-3.) He discussed how each use has its own intensity and performance standards, and should each be judged on its own merits and standards.

01:10:40 Wanda Repasky, environmental attorney for River Metals, said this has been a restricted industrial site since the mid nineteenth century. She discussed industrial uses on the site prior to its purchase by River Metals, which cleaned up and stabilized the site. She said the site has been used for industrial for so long that it is not fit for anything other than industrial uses. She added that the company has been trying to sell this site for a while; the old buildings have been razed, and it is now a vacant site. Smyrna Concrete has made a proposal.

01:15:59 Bruce Simpson, representing Smyrna Concrete, handed out an exhibit to the Commissioners. He said passage of this plan would bar Smyrna from going forward with their business plan. He also said this process was too rushed, and that businesses were not well-represented on the advisory committee (see recording for detailed presentation.)

01:27:04 In response to a question from John Carroll, legal counsel for the Planning Commission, Mr. Simpson showed a Power Point presentation which detailed the proposed uses by Smyrna (see recording for detailed presentation.)

01:33:16 Mark Wardlaw, representing River Metals, described the process River Metals has gone through to sell it. He said this plan “significantly reduces” the value of the land and the ability to get it redeveloped.

01:36:00 Greg Underwood said he is concerned about property devaluation if all heavy uses were excluded. He also complained that this proposal went very fast and felt he was not given enough time for input or response. In response to a question from Commissioner Howard, Mr. Underwood pointed out the location of the property he owns. He reiterated that he was not notified about this neighborhood plan or the potential rezoning. Mr. Baker noted that Mr. Underwood attended the neighborhood charrette.

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(NOTE: This case was heard with Case No. 17NEIGPLAN1003)

01:40:03 David George, a business owner, also said he was not notified about the potential changes to his property. He said he heard about today's Planning Commission meeting via a letter from Smyrna.

01:41:30 In response to a question from Commissioner Carlson, Mr. Price discussed the history of River Metals and what this site has been used for.

01:44:10 In response to a question from Commissioner Carlson, Mr. Simpson and Jeff Hollingshead discussed why this property was considered a critical location for Smyrna Concrete, as opposed to a location in a more industrial area (see recording for detailed presentation.)

01:46:21 In response to a question from Commissioner Lewis, Mr. Simpson discussed railroad access and trips that could be potentially generated by this new business (a traffic study is in progress.)

01:48:59 In response to a question from Commissioner Tomes, Mr. Price and Ms. Repasky discussed how long River Metals had been marketing the property (approximately since 2002.)

01:52:40 In response to a question from Commissioner Lindsey, Mr. Hollingshead discussed a possible future for the concrete plant, once the large construction projects downtown are finished. Mr. Price added the average tax paid on the property. He also discussed the opinions from some business owners about the "rushed" process of this plan, and the inability to present the business owners' side.

02:00:42 Mr. Simpson clarified that the Nashville Smyrna plant was built in the 1930's and is much larger than that which was going to be proposed for this site.

02:02:36 In response to a question from an audience member, Ms. Clare described the composition of the advisory group.

Rebuttal:

02:03:26 Mr. Baker addressed notice questions, and information put out about the meetings and the proposal. He emphasized that this is a neighborhood plan, not an individual rezoning, so notices were not sent to individual property owners. He said the business owners who spoke today did

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(NOTE: This case was heard with Case No. 17NEIGPLAN1003)

attend the charrettes. He said Metro Council had imposed a moratorium, and wanted a short process to make any moratorium as short as possible.

02:08:07 In response to a request from Commissioner Jarboe, Mr. Baker responded to Mr. Ashburner's concerns about performance standards, and also parking requirements for some neighborhood-serving uses. Ms. Clare said a Planned Development District [PDD] would have the flexibility to regulate air quality, light, noise, character standards, etc. She briefly discussed the process of drafting a PDD during an areawide rezoning.

02:12:05 In response to a question from Commissioner Carlson, Mr. Baker reiterated that this is a neighborhood plan, a "concept", and specifics like zoning have not yet been worked out yet.

02:13:45 Emily Liu, Director of Planning & Design Services, explained the notification process for any proposed PDD.

02:14:11 Mr. Price cross-examined Mr. Baker, primarily about the moratorium (see recording for detailed discussion.)

Deliberation:

02:20:33 Commissioners' deliberation. See recording for detailed discussion.

02:46:50 On a motion by Commissioner Carlson, seconded by Commissioner Lindsey, the following resolution was adopted:

RESOLVED, the Louisville Metro Planning Commission does hereby **CONTINUE** this case to the **August 3, 2017** Planning Commission public hearing, to allow staff and legal counsel to resolve issues regarding administrative matters raised today.

The vote was as follows:

YES: Commissioners Howard, Carlson, Lindsey, Lewis, and Jarboe.

NO: Commissioners Brown, Ferguson, and Tomes.

NOT PRESENT: Commissioners Smith and Peterson.

ABSTAINING: No one.

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Public Hearing

Case No.17NEIGHPLAN1003

(NOTE: This case was heard with Case No. 17NEIGPLAN1002)

Request: Irish Hill Neighborhood Plan Executive
Summary Update

Council District: 9 – Bill Hollander

Case Manager: Kendal Baker, AICP, Planning Manager

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.)

An audio/visual recording of the Planning Commission public 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.

***NOTE: All testimony, the motion, and the vote applicable to Case No. 17NEIGHPLAN1002 apply to this case.**

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Public Hearing

Case No. 17PARK1007

Request: Parking Waiver to reduce the required on-street parking spaces from 15 to 8
Project Name: St. John Center
Location: 700 East Muhammad Ali Blvd.
Owner: Maria Price – St. John Center
Applicant: Maria Price – St. John Center
Representative: Ashley Bartley – Qk4
Jurisdiction: Louisville Metro
Council District: 4 – Barbara Sexton Smith

Case Manager: **Laura L. Mattingly AICP, Planner II**

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

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

An audio/visual recording of the Planning Commission public 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.

Agency Testimony:

02:58:34 Laura Mattingly presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.)

03:02:02 In response to a question from Commissioner Brown, Ms. Mattingly said that the number of spaces listed on page 2 of the applicant's parking study were occupied spaces.

The following spoke in favor of the request:

Ashley Bartley, Qk4, 1046 East Chestnut Street, Louisville, KY 40205

Maria Price, representing St. John Center, 700 East Muhammad Ali Blvd., Louisville, KY 40202

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Summary of testimony of those in favor of the request:

03:03:04 Ashley Bartley, the applicant's representative, introduced the applicant's case and showed a Power Point presentation, which included aerial photos and photos of the site and the surrounding areas.

03:04:03 Maria Price, representing the St. John Center, gave a brief presentation of the services the Center offers.

03:05:53 Ms. Bartley resumed the podium and showed a Power Point presentation (see recording for detailed presentation.)

03:09:13 In response to a question from Commissioner Brown, Ms. Bartley confirmed that the seven parking spaces shown in front of the parking garage are metered spaces.

The following spoke in opposition to the request:

No one spoke.

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

No one spoke.

Rebuttal:

There was no rebuttal, since no one spoke in opposition.

Deliberation:

03:10:50 Commissioners' deliberation.

03:12:19 On a motion by Commissioner Brown, seconded by Commissioner Howard, the following resolution was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the proposed waiver is in compliance with the Comprehensive Plan as Guideline 6, Policies 3 and 5 encourage redevelopment and reinvestment in downtown, older, and declining neighborhoods consistent with the form district pattern. Guideline 7, policy 3 encourages higher density mixed-use development reducing the need for multiple automobile trips and encouraging mobility choice. Guideline 9, Policies 1, 2, & 4 call for development which supports and accommodates the movement and parking of pedestrians on foot or on bike, as well as promoting

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use of public transportation. The proposed parking waiver is to allow for an existing community resource center to expand its services within an area of need. This proposal is an investment within the Traditional Neighborhood Form District and adjacent to the Downtown Form and is consistent with the form district pattern. It is in a mixed use and walkable area with good transit access that provides for mobility choice, and less auto- dependency; and

WHEREAS, the Commission further finds that the site is constrained with no location for expanded parking facilities. Parking will be mitigated by multiple modes of transport (bikes, foot, and bus) provided to the area; and

WHEREAS, the Commission further finds that the reduction requested is the smallest amount in order to accommodate the proposed use as the applicant is utilizing all the on-street parking adjacent and the site is constrained with no location for parking; and

WHEREAS, the Commission further finds that adjacent or nearby properties will not be adversely affected, as the parking study has shown there is adequate street parking within a block of the site to meet the parking demands of this facility as well as adjacent uses; and

WHEREAS, the Commission further finds that, as this use generates a very low parking demand and the area provides for good mobility choice, the requirements found in Table 9.1.2 do not accurately depict the parking needs of the subject site; and

WHEREAS, the Commission further finds that there is a surplus of on-street or public spaces in the area that can accommodate the generated parking demand.; review of the parking study and existing conditions in the area has affirmed that on-street parking within 400 feet of the site can accommodate the parking demand; and

WHEREAS, the Commission further finds that, based on the staff report, the applicant's findings of fact, and the evidence and testimony presented today, that all of the applicable guidelines of Cornerstone 2020 and the Land Development Code are being met; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Parking Waiver to reduce the required amount of parking spaces from 15 spaces to 8 spaces

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The vote was as follows:

YES: Commissioners Brown, Howard, Carlson, Ferguson, Tomes, Lindsey, Lewis, and Jarboe.

NO: No one.

NOT PRESENT: Commissioners Smith and Peterson.

ABSTAINING: No one.

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Public Hearing

Case No. 16ZONE1073

Request: Change in zoning from R-4 to R-6, a Detailed District Development Plan , and Variance
Project Name: Silver Creek Place Apartments
Location: 9607 Old Six Mile Lane
Owner: Billy and James Kirchhofer
Applicant: Billy Kirchhofer
Representative: Cardinal Planning & Design, Inc.
Jurisdiction: City of Jeffersontown
Council District: **11 – Kevin Kramer**

Case Manager: **Joel Dock, Planner II**

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

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

An audio/visual recording of the Planning Commission public 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.

Agency Testimony:

03:13:24 Joel Dock presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.) He noted that there is one change from the published staff report: the requested Variance can be approved or denied by the Louisville Metro Planning Commission, not recommended to the City of Jeffersontown. The zoning request and the Detailed Development Plan will both be recommended to the City of Jeffersontown.

The following spoke in favor of the request:

Kathryn Matheny, Cardinal Planning & Design Inc., 9009 Preston Highway, Louisville, KY 40219

Bill Kirchhofer, 247 Bogard Lane, Mount Washington, KY 40047

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Summary of testimony of those in favor of the request:

03:18:58 Kathy Matheny, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.)

03:22:38 In response to a question from Commissioner Brown, Ms. Matheny discussed screening and landscaping, particularly by the railroad area.

The following spoke in opposition to the request:

No one spoke.

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

No one spoke.

Deliberation:

03:23:21 Commissioners' deliberation.

03:25:19 In response to a question from Commissioner Brown, Mr. Dock explained that there was only one variance request (see recording for detailed discussion.)

Zoning

03:26:01 On a motion by Commissioner Brown, seconded by Commissioner Howard, the following resolution was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the intents of Guideline 1 because the site's use is consistent with the Neighborhood Form District which should contain "diverse housing types in order to provide housing choice for differing ages and incomes." This proposal of three 8 plexs with balconies or patios gives the residences connections to their neighbors and the street which is served by sidewalks and offers an alternative housing option to people who want to live in Jeffersontown. The area has other multifamily units to the east and thus this use is compatible with the area. There is a single family subdivision to the west on the other side of the railroad tracks and other single family homes down Old Six Mile Lane to the east. Immediately across the street is Jeffersontown High School, thus giving families with children good access to that use. Accordingly, the proposed use is appropriate under

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Guideline 1, Policy B.3 and overall it is compatible with the area thus being an appropriate zoning change under the Cornerstone 2020 Comprehensive Plan and KRS 100.213; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 2, Policies 1, 4, & 5 in that the site is located a couple of blocks off of Taylorsville Road- a commercial corridor with numerous shopping, restaurants and business uses to serve these residences. This proximity encourages walking, biking and cuts down on vehicles miles travel from home to needed services. The Commission also finds there are TARC routes on Taylorsville Road to allow for commuting to downtown Louisville or the Industrial park. Additionally, keeping development compact in populated areas is cost efficient from an infrastructure basis which is smart development. These factors make the multi-family use appropriate because it is in close proximity to activity centers which is in compliance with the goals of a Neighborhood Form District; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 3 because the use is compatible with the neighboring uses which are both single family and multifamily uses. The Commission further finds that the issue of appropriate size and shape of the structure, setbacks, transitions and visual impact to the neighborhood will be met because the apartments are designed of brick and vinyl with patios and balconies to make for an attractive residential appearance and in size and shape, they are smaller than the units to the east allowing for a taper down in size to the houses to the west across the railroad tracts. Additionally, the required landscape buffers will be met; outdoor lighting will be in conformance with the LDC and be of a residential style faced downwards as necessary for safe ingress and egress in nighttime hours. The Commission further finds that the proximity to Taylorsville Road allows for walking and biking opportunities within the area which is encouraged under the Guidelines and that the development is located on a Collector Road with good access which can handle the traffic. For these reasons, the Commission finds the proposal is consistent with Guideline 3, Policies 1, 2,3, 6, 8, 10, 22, and 23; and

WHEREAS, the Commission further finds that the proposal meets the intents of the Open Space requirements by providing the required community area with some picnic tables and benches for the residents use in compliance with Guideline 4; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 5 because neither the subject property nor the area has been identified as a natural or historic resource requiring preservation.

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Additionally, there are no special districts or soil and slope issues facing this proposal; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 6 because the proposal is an investment in an older neighborhood and is located in an area served by existing public infrastructure and utility connections of water, sewer and electric services thus reducing the cost of land development and preventing sprawl as desired by Guideline 6, Policy 3; and

WHEREAS, the Commission further finds that the proposal provides adequate parking and connections and the site is in an area with access to mass transit a few blocks away which promotes pedestrian and bike travel all being factors in compliance Guideline 7, Policies 6 & 10; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guidelines 8 and 9 because the Development Plan is consistent with the requirements of Jeffersontown Public Works, there is no potential for stub streets, thus none are provided, the proposal is located near a TARC stop consistent with Guideline 9. Further, the Commission finds the proposal does not impact any environmentally sensitive areas, scenic corridors or streetscape issues; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guidelines 10 and 11 because the Development Plan is designed with on-site detention to avoid additional run-off volume as requested by the City of Jeffersontown, that appropriate construction practices will be employed in constructing the buildings and driving areas to protect water quality by the use of effective sediment and erosion practices in accordance with applicable regulations and by using best management practices. Additionally, the Commission finds no portion of the property to be developed is designated as floodplain or a blue line stream; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 12 because the proposal is in a developed area which works to decrease vehicular miles traveled between home and trips to neighboring businesses, the site is also served by a TARC stop in the area, thus encouraging the use of mass transit reducing vehicular miles traveled by residents and sidewalks are available in this area; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 13 by maintaining the existing residential look of the area and complying with the required landscaping buffers; and

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WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 14 because all necessary utilities are available; and

WHEREAS, the Commission further finds that, based on the staff report, the applicant's findings of fact, and the evidence and testimony presented today, that all of the applicable guidelines of Cornerstone 2020 and the Land Development Code are being met; now, therefore be it

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

The vote was as follows:

YES: Commissioners Brown, Howard, Carlson, Ferguson, Tomes, Lindsey, Lewis, and Jarboe.

NO: No one.

NOT PRESENT: Commissioners Smith and Peterson.

ABSTAINING: No one.

Variance from Land Development Code (LDC), section 5.3.1.C to allow building and parking to be located within the infill established front setback

03:27:13 On a motion by Commissioner Brown, seconded by Commissioner Howard, the following resolution was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the requested variance will not adversely affect the public health, safety or welfare as the variance does not impact the safe movement of pedestrians or vehicular traffic; and

WHEREAS, the Commission further finds that the requested variance will not alter the essential character of the general vicinity as appropriate transitions are present between abutting residential development and the public way. Landscaping will be provided in the area between the front façade and the public sidewalk; and

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WHEREAS, the Commission further finds that the requested variance will not cause a hazard or nuisance to the public as the variance does not impact the safe movement of pedestrians or vehicular traffic. The closeness of the structure to the public way is mitigated by the selected materials and design as presented on the renderings of the building. The location also aids in using pedestrian facilities to access the property; and

WHEREAS, the Commission further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the variance allows for the proposed density to be provided while mitigating nuisance created by the rail corridor towards the rear and providing parking spaces as requested by the applicant and the City of Jeffersontown; and

WHEREAS, the Commission further finds that the requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone as a rail corridor exists to the rear which pushes the structures forward and adequate detention is needed in the rear as well. Additionally, spacing for parking needed to be accommodated; 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 as the requested variance does not adversely impact the public health, safety, or welfare and no nuisance appear to have been created by this request; 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; and

WHEREAS, the Commission further finds that, based on the staff report, the applicant's findings of fact, and the evidence and testimony presented today, that all of the applicable guidelines of Cornerstone 2020 and the Land Development Code are being met; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Variance from Land Development Code (LDC), section 5.3.1.C to allow building and parking to be located within the infill established front setback.

The vote was as follows:

YES: Commissioners Brown, Howard, Carlson, Ferguson, Tomes, Lindsey, Lewis, and Jarboe.

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NO: No one.

NOT PRESENT: Commissioners Smith and Peterson.

ABSTAINING: No one.

Detailed District Development Plan

03:28:01 On a motion by Commissioner Brown, seconded by Commissioner Howard, the following resolution was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that there are no apparent natural systems or environmental degradation caused as a result of this development. The property does not appear to exhibit any historical significance; 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. Sidewalk and curbing will be repaired and improved to enhance safety and access to the site and the community; and

WHEREAS, the Commission further finds that open space has been provided as required by LDC, section 5.11.4 to meet the needs of residents. The open space area contains picnic areas and a bench swing. Landscaping and tree canopy will also be provided as required; and

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

WHEREAS, the Commission further finds that the structure has been designed to be compatible with the surrounding area with respect to material and bulk. The public space between the primary façade and the public street will include landscaping elements that enhance the aesthetic quality along the public street; and

WHEREAS, the Commission further finds that, based on the staff report, the applicant's findings of fact, and the evidence and testimony presented today, that all of the applicable guidelines of Cornerstone 2020 and the Land Development Code are being met; now, therefore be it

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RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the City of Jeffersontown that the requested Detailed District Development Plan be approved, **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 and to the City of Jeffersontown 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) is requested:
 - a. The development plan must receive full construction approval from Develop Louisville, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - c. A minor plat or legal instrument shall be recorded dedicating the right-of-way as shown on the development plan. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services.
5. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the

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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. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the July 6, 2017 Planning Commission meeting.

The vote was as follows:

YES: Commissioners Brown, Howard, Carlson, Ferguson, Tomes, Lindsey, Lewis, and Jarboe.

NO: No one.

NOT PRESENT: Commissioners Smith and Peterson.

ABSTAINING: No one.

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Case No. 16ZONE1060

Request: Change in zoning from R-4 to C-2, a Detailed District Development Plan , waivers of landscaping requirements, and a variance of side-yard setback.

Project Name: Vega Auto Repair and Sales

Location: 4933 Poplar Level Road

Owner: Luis Vega

Applicant: Luis Vega

Representative: Concepts 21

Jurisdiction: Louisville Metro

Council District: 2 – Barbara Shanklin

Case Manager: **Beth Jones, AICP, Planner II**

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

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

An audio/visual recording of the Planning Commission public 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.

Agency Testimony:

03:28:46 Beth Jones presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.)

03:36:50 In response to a question from Commissioner Brown, Ms. Jones said that the rendering shown today is what is being proposed for approval.

03:37:13 In response to a question from Commissioner Howard, Ms. Jones discussed Waiver #3 regarding parking (to allow a waiver of ILA's.) The applicant does have the required number of parking spaces on the plan.

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The following spoke in favor of the request:

No one spoke.

The following spoke in opposition to the request:

No one spoke.

The following spoke neither for nor against the proposal (“Other”):

No one spoke.

Rebuttal:

There was no rebuttal, since no one spoke in opposition.

Deliberation:

03:38:14 Commissioners’ deliberation.

Zoning

03:41:03 On a motion by Commissioner Brown, seconded by Commissioner Howard, the following resolution was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the intents of **Guideline 1: Community Form**. The proposed use of the site meets guidelines in that it integrates into existing patterns of development, which includes a mixture of medium- to high-density uses. It provides accommodations for transit users, pedestrians and bicyclists and provides connectivity to adjacent developments. It is designed to be compatible with both non-residential development in the corridor. No form district amendment is requested; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 2 – Centers**. The proposal is not located within an existing center and does not create a new center. It is, however, located in a corridor that consists almost entirely of compatible uses and intensities; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 3: Compatibility**. The proposed building materials increase the new

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development's compatibility. While it is a non-residential expansion into an existing residential area, it appropriately mitigates potentially negative impacts on adjacent but currently undeveloped residential properties through screening and buffering; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 4: Open Space**. Open space is not required in associated with this development proposal. The site plan does, however, preserve an existing tree canopy in a significant portion of the site well in excess of requirements; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 5: Natural Areas and Scenic and Historic Resources**. The site does not include existing historic or scenic features and does not have natural areas requiring special consideration; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 6: Economic Growth and Sustainability**. The proposal does not include industrial or retail uses and is appropriately located on an arterial roadway; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 7: Circulation**. The proposal does not require roadway improvements or street development. It provides connections to existing multi-modal facilities and adjacent sites and meets parking requirements; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 8: Transportation Facility Design**. Transportation facility design is appropriate to the site. The proposal uses an existing curb cut and provides internal connection to adjoining commercial uses; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 9: Bicycle, Pedestrian and Transit**. The site design provides, where appropriate, for the movement of pedestrians, bicyclists and transit users around and through the development, provides bicycle and pedestrian connections to adjacent developments and to transit stops, and is appropriately located for its density and intensity; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 10: Flooding and Stormwater**. Drainage plans have been approved by MSD and mitigate negative impacts to the floodplain and minimizes impervious area; and

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WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 12: Air Quality**. The proposal has been reviewed by APCD and found not to have a negative impact on air quality; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 13: Landscape Character**. The site does not include potential connections to a system of natural corridors but does preserve a significant existing tree canopy; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 14: Infrastructure**. The site is located in an area served by existing utilities or planned for utilities, has access to an adequate supply of potable water and water for fire-fighting purposes and has adequate means of sewage treatment and disposal; and

WHEREAS, the Commission further finds that, based on the staff report, the applicant's findings of fact, and the evidence and testimony presented today, that all of the applicable guidelines of Cornerstone 2020 and the Land Development Code are being met; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the proposed rezoning on property described in the attached legal description be **APPROVED**.

The vote was as follows:

YES: Commissioners Brown, Howard, Carlson, Ferguson, Tomes, Lindsey, Lewis, and Jarboe.

NO: No one.

NOT PRESENT: Commissioners Smith and Peterson.

ABSTAINING: No one.

Waiver 1: To reduce the required perimeter LBA from 25 ft. to 5 ft. (LDC 10.2.4.)

Waiver 2: To reduce the required VUA LBA from 10 ft. to 5 ft. (LDC 10.2.10)

Waiver 3: To not provide VUA interior landscape areas (LDC 10.2.12)

Variance 1: To reduce the required side yard setback from 25 ft. to 5 ft. (LDC 5.3.2.C.2.b.)

Detailed District Development Plan

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03:41:58 On a motion by Commissioner Brown, seconded by Commissioner Howard, the following resolution was adopted:

(Waivers 1 and 2) WHEREAS, the Louisville Metro Planning Commission finds that the waivers will not adversely affect adjacent property owners. These landscape areas are required specifically due to a shared property line with a flag parcel zoned for residential use. The specific portion of the shared property line affected by the requested waivers is along the narrow “pole” portion of the adjoining lot, where future residential development would not be likely. Adjacent to the “flag” area of the adjoining parcel, where future residential development would more likely be located, the proposal retains an existing tree canopy far in excess of buffering requirements. In addition, approximately 80% of the parking associated with the proposal is located within or behind the building, where it would be also be buffered from residential uses by the tree canopy; and

WHEREAS, the Commission further finds that the waivers will not violate the Community Design, Land Use or Site Design guidelines of Cornerstone 2020 for Suburban Marketplace Corridor form districts; and

WHEREAS, the Commission further finds that the waivers are being requested only for the specific area necessary to develop the site as proposed. The applicant will provide landscaping to the extent possible in the reduced LBA areas; and

WHEREAS, the Commission further finds that the applicant is retaining a significant tree canopy in excess of requirements at the rear of the property, adjacent to the area most likely to be developed for residential purposes; and

(Waiver #3) WHEREAS, the Commission further finds that this waiver will not adversely affect adjacent property owners. Twenty four of the thirty three parking spaces provided are located within or behind the proposed building, adjacent to an existing tree canopy area of 29,152 sq ft. which would serve as a buffer to any future residential uses on the adjacent R-4 parcel. The width of the parcel can only accommodate 7 parking spaces along the street frontage which, if considered separately, would have no ILA requirement; and

WHEREAS, the Commission further finds that the waivers will not violate the Community Design, Land Use or Site Design guidelines of Cornerstone 2020 for Suburban Marketplace Corridor form districts; and

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WHEREAS, the Commission further finds that the waiver is being requested only for ILAs in the parking areas. The proposal retains a significant tree canopy area elsewhere on the site; and

WHEREAS, the Commission further finds that the applicant is retaining a significant tree canopy in excess of requirements at the rear of the property; and

(Variance) WHEREAS, the Commission further finds that the requested variance will not adversely affect the public health, safety or welfare. The requested variance will affect only the adjoining undeveloped property and only in a specific area of the property that is unlikely to be developed for residential uses due to its flag lot configuration. There are no health or safety impacts associated with the variance; and

WHEREAS, the Commission further finds that the requested variance will not alter the essential character of the general vicinity. The proposal is consistent with the pattern of development along the Poplar Level Road corridor and will not alter the essential character of the general vicinity; and

WHEREAS, the Commission further finds that no hazards or nuisances will be created as a result of the variance. The proposed development will not restrict or endanger the public; and

WHEREAS, the Commission further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations. The applicant's variance request is not unreasonable in that the requirement is related to the residential zoning of the adjoining property, which is currently undeveloped and unlikely to be developed for residential uses in the future; and

WHEREAS, the Commission further finds that the requested variance arises from the residential zoning and the unusual configuration of an adjoining property. The 25 ft. side yard is required due to its residential zoning, but its configuration makes it unlikely that that the specific area of the variance request would be developed for residential use. The remainder of the shared property lines, where residential development is most likely to occur, will have setbacks and landscaping in excess of requirements; and

WHEREAS, the Commission further finds that, due to the narrow width of the parcel, strict application of the regulation would not permit the applicant to construct a functional building and also provide for circulation lane to the rear of the property for the necessary employee and customer parking; and

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WHEREAS, the Commission further finds that the circumstances are the result of the size and shape of the applicant's parcel and of the zoning of the adjoining parcel and not due to actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought; and

(Development Plan) WHEREAS, the Commission further finds that the proposal preserves 71% of an existing tree canopy on the site; and

WHEREAS, the Commission further finds that the development plan meets all internal circulation requirements and provides connections to existing pedestrian facilities along Poplar Level Road; and

WHEREAS, the Commission further finds that open space is not required for this application; and

WHEREAS, the Commission further finds that the Metropolitan Sewer District has issued preliminary approval of the development plan and will ensure the provision of adequate drainage facilities on the subject site; and

WHEREAS, the Commission further finds that the overall site design and land use are compatible with existing development in the general vicinity; and

WHEREAS, the Commission further finds that the development plan conforms to applicable guidelines and policies of the Comprehensive Plan as demonstrated in the Cornerstone 2020 Staff Review Checklist (Attachment 3); and

WHEREAS, the Commission further finds that, based on the staff report, the applicant's findings of fact, and the evidence and testimony presented today, that all of the applicable guidelines of Cornerstone 2020 and the Land Development Code are being met; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby APPROVE the requested **Waiver 1** To reduce the required perimeter LBA from 25 ft. to 5 ft. (LDC 10.2.4.); **Waiver 2** To reduce the required VUA LBA from 10 ft. to 5 ft. (LDC 10.2.10); **Waiver 3** To not provide VUA interior landscape areas (LDC 10.2.12); a **Variance** to reduce the required side yard setback from 25 ft. to 5 ft. (LDC 5.3.2.C.2.b.); and a **Detailed District Development Plan, SUBJECT** to the following binding elements:

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1. 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 LDC. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or its 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 Develop Louisville, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. Encroachment permits must be obtained from the Kentucky Transportation Cabinet.
 - c. The property owner/developer must obtain approval of a detailed plan for screening, buffering and/or landscaping as described in LDC Chapter 10, which shall be implemented prior to occupancy of the site and maintained thereafter.
 - d. An approved Tree Preservation Plan in accordance with LDC Chapter 10 is required prior to obtaining approval for site disturbance activities.
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.

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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 them. At all times during development of the site, the applicant and developer, their heirs and successors as well as 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 in the rendering as presented at the July 6, 2017 Planning Commission meeting.

The vote was as follows:

YES: Commissioners Brown, Howard, Carlson, Ferguson, Tomes, Lindsey, Lewis, and Jarboe.

NO: No one.

NOT PRESENT: Commissioners Smith and Peterson.

ABSTAINING: No one.

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STANDING COMMITTEE REPORTS

Land Development and Transportation Committee

No report given.

Legal Review Committee

No report given.

Planning Committee

No report given.

Policy and Procedures Committee

No report given

Site Inspection Committee

No report given.

ADJOURNMENT

The meeting adjourned at approximately 4:53 p.m.

Chairman

Division Director