

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO PLANNING COMMISSION MEETING
June 3, 2021**

A meeting of the Louisville Metro Planning Commission was held at 1:00 p.m. on Thursday, May 6, 2021 via Webex.

Commissioners present:

Marilyn Lewis
Lula Howard
Jeff Brown (left the meeting at 3:45 p.m.)
Rich Carlson (left the meeting at 4:35 p.m.)
Patricia Clare
Ruth Daniels (arrived at 1:56 p.m.)
Jim Mims
Te'Andre Sistrunk
Rob Peterson

Commissioners absent:

Patricia Seitz

Staff members present:

Emily Liu, Director, Planning & Design Services
Joe Reverman, Assistant Director, Planning & Design Services
Brian Davis, Planning & Design Manager
Julia Williams, Planning Supervisor
Dante St. Germain, Planner II
Joel Dock, Planner II
Laura Ferguson, Legal Counsel
Beth Stuber, Transportation Planning
Mark Sites or Tony Kelly, MSD representatives
Chris Cestaro, Management Assistant

The following matters were considered:

PLANNING COMMISSION MINUTES

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APPROVAL OF MINUTES

Approval of the Minutes for the May 10, 2021 Planning Commission night hearing.

00:04:38 On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution was adopted:

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the minutes of the Planning Commission night hearing conducted on May 10, 2021.

The vote was as follows:

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

ABSTAIN: Commissioner Peterson.

NOT PRESENT: Commissioners Seitz and Daniels.

Approval of the Minutes for the May 17, 2021 Planning Commission night hearing.

00:06:03 On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution was adopted:

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the minutes of the Planning Commission night hearing conducted on May 17, 2021.

The vote was as follows:

YES: Commissioners Mims, Peterson, Brown, Carlson, Sistrunk, and Lewis.

ABSTAIN: Commissioners Howard and Clare.

NOT PRESENT: Commissioners Seitz and Daniels.

Approval of the Minutes for the May 20, 2021 Planning Commission regular meeting.

00:07:08 On a motion by Commissioner Howard, seconded by Commissioner Sistrunk, the following resolution was adopted:

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the minutes of the regular meeting of the Planning Commission conducted on May 20, 2021, with typographical changes as noted.

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APPROVAL OF MINUTES

The vote was as follows:

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

ABSTAIN: No one.

NOT PRESENT: Commissioners Seitz and Daniels.

PLANNING COMMISSION MINUTES

June 3, 2021

BUSINESS SESSION

BE Final Order – 6203 Lower Hunters Trace

Request: Binding Element Citation Final Order - 6203 Lower Hunters Trace

Case Manager: Laura Ferguson, Jefferson County Attorney's Office

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

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

Agency Testimony:

00:09:11 Laura Ferguson presented the case and showed current photos of the subject site (see recording for detailed presentation.) Binding elements #1, #2, and #6 were violated.

00:12:31 In response to a question from Commissioner Brown, Ms. Ferguson said that the current use could be permitted in the C-2 zoning district if the owner applied to amend the binding element/s. In response to questions from Commissioner Mims, Ms. Ferguson said either the site could be brought into compliance by complying with the existing binding elements and zoning, or the owner could request to amend the binding elements.

00:14:29 In response to a question from Commissioner Lewis, Ms. Ferguson said the owner/operator has not responded at all to citations. Zoning Enforcement has been to the site numerous times, but there have been no changes in response to those visits.

00:15:14 In response to question from Commissioner Carlson, Ms. Ferguson discussed legal actions that could be taken if there is no action on the part of the owner/operator to bring the site into compliance.

The following spoke in support of the request:

No one spoke.

The following spoke in opposition to the request:

No one spoke.

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BUSINESS SESSION

BE Final Order – 6203 Lower Hunters Trace

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.

Binding Element Final Order – 6203 Lower Hunters Trace

00:17:19 On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution, based on the citation, the agenda materials, and evidence and testimony heard today, was adopted:

RESOLVED, the Louisville Metro Planning Commission does hereby **UPHOLD** the binding element citation issued on February 1, 2021 and does hereby enter the requested Final Order as presented in the agenda materials and the fine of \$1000.

The vote was as follows:

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

NOT PRESENT: Commissioners Seitz and Daniels.

PLANNING COMMISSION MINUTES
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PUBLIC HEARING

CASE NO. 20-ZONE-0117

Request:	WILL BE CONTINUED TO TUESDAY, JUNE 22, 2021 AT 6:00 P.M. - Change in Zoning from PRD, planned residential development to R-6, multi-family residential with revised detailed plan and waiver
Project Name:	9418 Pirouette Avenue
Location:	9418 Pirouette Avenue
Owner:	Corcoran Home Building & Remodeling, LLC
Applicant:	Corcoran Home Building & Remodeling, LLC
Representative:	Bardenwerper, Talbott, & Roberts, PLLC - Nick Pregliasco
Jurisdiction:	Louisville Metro
Council District:	13 - Mark Fox
Case Manager:	Joel Dock, AICP, Planner II

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

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

Agency Testimony:

00:19:30 Joel Dock said this case should be continued due to the loss of quorum for the hearing originally planned for tonight (May 20, 2021 at 6:00 p.m.) Mr. Dock added that he has contacted the legislative aide for the Metro Councilperson (Mark Fox) regarding this issue. He also contacted Harold and Debbie Davis who he has been in contact with, to let them know that this case will be continued.

The following spoke in support of the request:

No one spoke.

The following spoke in opposition to the request:

No one spoke.

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

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PUBLIC HEARING

CASE NO. 20-ZONE-0117

00:20:58 On a motion by Commissioner Brown, seconded by Commissioner Peterson, the following resolution, based on the staff report and evidence and testimony heard today, was adopted:

RESOLVED, this case will be **CONTINUED** to the **Tuesday, June 22, 2021** Planning Commission public hearing at 6:00 p.m.

The vote was as follows:

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

NOT PRESENT: Commissioners Seitz and Daniels.

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PUBLIC HEARING

CASE NO. 20-DDP-0054

Request: **Continued from the May 19, 2021 DRC** – Revised Detailed District Development Plan with parking waiver and parkway buffer waiver

Project Name: Cedar Creek Crossing

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

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

Applicant: Hogan Real Estate

Representative: Cliff Ashburner - Dinsmore & Shohl, LLP

Jurisdiction: Louisville Metro

Council District: 22 - Robin Engel

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

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

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

Agency Testimony:

00:22:22 Joel Dock said he met with the applicant, LD&D staff, and the applicant's representative (Cliff Ashburner) on Tuesday to review changes and discussed revisions to the plan that was presented at the Development Review Committee (DRC) meeting on May 19, 2021, as well as reviewing renderings for the project. There is an additional waiver that has been submitted for building design to reduce the requirement for clear glass abutting a public right-of-way.

The following spoke in support of the request:

Cliff Ashburner, Dinsmore & Shohl, 101 S 5th St #2500, Louisville, KY 40202

Summary of testimony of those in support:

00:24:08 Cliff Ashburner was present but said he had nothing else to add.

The following spoke in opposition to the request:

No one spoke.

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PUBLIC HEARING

CASE NO. 20-DDP-0054

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.

00:26:06 On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution was adopted:

RESOLVED, the Louisville Metro Planning Commission does hereby **CONTINUE** this case to the regular meeting of the Planning Commission on **June 17, 2021**.

The vote was as follows:

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

NOT PRESENT: Commissioners Seitz and Daniels.

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PUBLIC HEARING

2_YR_Rule_Waiver_Fountain

Request: 2_YR_Rule_Waiver_
Location: 919 Fountain Avenue
Case Manager: Dante St. Germain, AICP, Planner II

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

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

Agency Testimony:

00:27:09 Dante St. Germain presented the case and showed a Power Point presentation (see recording for full presentation and discussion.) She noted that the original zoning request which was denied was Case No. 19-ZONE-0094.

00:31:24 In response to a question from Commissioner Peterson, Ms. St. Germain said that the new zoning request would be in the OR category for a proposed medical office building. In response to questions from other Commissioners, she also discussed original recommendations from staff in previous hearings. She said this case was noticed to first- and second-tier property owners and everyone who spoke at the Planning Commission hearing for the rezoning request.

00:33:37 In response to a question from Commissioner Lewis, Ms. St. Germain confirmed that the site plan being shown today is NOT the proposal that will be moving forward if this waiver is granted today. It is the original request made in 2020.

The following spoke in support of the request:

Brett Zemba, 6201 Parin Drive, Louisville, KY 40014

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

Summary of testimony of those in support:

00:34:27 Brett Zemba, the applicant, presented his case and explained why he is asking for this waiver to move his chiropractic business to this site (see recording for detailed presentation and discussion.)

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PUBLIC HEARING

2_YR_Rule_Waiver_Fountain

00:38:48 In response to a question from Commissioner Carlson, Dr. Zemba said that Steve Porter, who represents a neighbor, has neither confirmed nor denied support for Dr. Zemba's request.

00:42:16 Steve Porter, representing a neighbor, said he has had many conversations with Dr. Zemba and spoke in support of letting this new request go forward.

The following spoke in opposition to the request:

No one spoke.

Deliberation:

00:45:14 Commissioners' deliberation.

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

00:50:43 On a motion by Commissioner Howard, seconded by Commissioner Brown, the following resolution, based on the findings as presented, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that substantial land use, economic or social changes affecting the property have occurred in the interim since the initial proposal; and

WHEREAS, the Commission further finds that the new application differs significantly from the original application, because it is a different land use than the previous plan; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **GRANT** the requested Waiver of the two-year rule.

The vote was as follows:

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

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2_YR_Rule_Waiver_Fountain

NOT PRESENT: Commissioners Seitz and Daniels.

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PUBLIC HEARING

CASE NO. 20-ZONE-0078

***NOTE: Commissioner Daniels joined the hearing at 1:56 p.m.**
Commissioner Brown left the meeting at 3:45 p.m.
Commissioner Carlson left the meeting at 4:35 p.m.

Request:	Continued from May 6, 2021 Public Hearing Change in Zoning from R-4, single-family residential to OR-3, office-residential with detailed plan, waivers and variances
Project Name:	Chamberlain Woods Office Park
Location:	5220 Chamberlain Lane
Owner:	McMahan Holdings, LLC; Roy F. McMahan
Applicant:	McMahan Holdings, LLC
Representative:	Cliff Ashburner - Dinsmore & Shohl, LLP
Jurisdiction:	Louisville Metro
Council District:	16 - Scott Reed
Case Manager:	Joel Dock, AICP, Planner II

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

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

Agency Testimony:

00:52:03 Joel Dock presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.)

01:03:34 In response to a question from Commissioner Mims, Mr. Dock used the site plan to point out the location of easements related to the waiver which are cell tower access and Louisville Water Company easements. He noted that there are no overhead utility easements.

01:04:49 In response to a question from Commissioner Lewis, Mr. Dock pointed out the location of the access from Wolf Pen Branch Road. He noted that it is an emergency access only. In lieu of providing the sidewalk here, it is continued at an undeveloped portion and will connect in to Norton Commons.

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CASE NO. 20-ZONE-0078

01:05:55 In response to a question from Commissioner Howard, Mr. Dock said the applicant is providing greater than the minimum number of parking spaces required (for a total of 853 spaces.)

The following spoke in support of the request:

Cliff Ashburner, Dinsmore & Shohl, 101 S 5th St #2500, Louisville, KY 40202

Chris Brown, BTM Engineering, 3001 Taylor Springs Dr, Louisville, KY 40220

Jared Burt, TEG Architects, 903 Spring Street, Jeffersonville, IN 47130

Diane Zimmerman, traffic engineer

Brad Anderson, Redwing Environmental Services,

Lisa Fleming, 9306 Deepa Drive, Louisville, KY 40059

Summary of testimony of those in support:

01:06:33 Cliff Ashburner, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.)

01:13:33 Chris Brown explained the design and many of its features (see recording.)

01:25:00 Jared Burt discussed some of the building concept ideas (see recording.)

01:38:51 Mr. Ashburner resumed and concluded his presentation (lighting and light trespass, preservation of the Wolf Pen Mill, water quality, water management, and how this proposal complies with the intent of the Wolf Pen Branch Neighborhood Plan.)

01:50:54 Commissioner Carlson and Mr. Ashburner discussed downtown office developments versus suburban or ex-urban office developments.

01:54:25 Commissioner Carlson and Mr. Ashburner discussed available retail or restaurant services/amenities to serve potential workers.

01:57:00 Commissioner Carlson and Mr. Ashburner discussed the large treed area adjacent to the traffic circle, and the possibility of its preservation and non-development.

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01:59:04 Commissioner Mims disclosed that he had worked with the McMahans about 25 years ago; he also worked on the 2006 Wolf Pen Branch Road Area Study task force. He asked about dark sky compliance; LEED compliance, and if the developer has planned “cool roofs” or “green roofs”. Mr. Burt said that, at the moment, the plan does not show “green roofs” but does show “cool roofs”.

02:02:35 Commissioner Clare and Mr. Ashburner discussed the current office-space market, especially given the transition between in-person working and remote or virtual working, and the ability to lease this space.

02:06:40 Lisa Fleming said she is the president of the Wolf Pen Estates Community Association Inc (homeowners’ association) and they are the contiguous landowners to the subject site. She said they have worked closely with the applicant to reach acceptable terms and conditions. She spoke in support for the plan as presented today, specifically: lighting, support for a sound wall, signage, the emergency access road, the landscape plan with added tree canopy, the perimeter fencing as designed, and the detention basin which will manage water runoff to ensure flood control.

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

Randy Strobo, Strobo Barkley PLLC, 239 South Fifth Street, Louisville, KY 40202

Summary of testimony of those neither for nor against:

02:08:56 Randy Strobo said he represents Wolf Pen Mill Farm LLC. He said his client has come to an agreement with the applicant to add some protections to Wolf Pen Mill and the farm property. Wolf Pen Mill now has no objections to the approval of this application, and withdraws its prior objections, including its March 24, 2021 comment letter (on file).

02:11:17 Commissioner Brown asked if there are agreements between Wolf Pen Estates, Wolf Pen Mill Farm, and the applicant which need to be included in the binding elements. Mr. Ashburner said the agreements are reflected in the plan. Mr. Dock reviewed binding element #9, which addresses landscaping and planting.

02:13:12 Commissioner Peterson and Ms. Fleming discussed the sound wall.

The following spoke in opposition to the request:

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

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Mark Foster, 5200 Cherry Valley Road, Louisville, KY 40059

Marsha Weinstein, 5608 Wolf Pen Trace, Louisville, KY 40059

Mary Kannapell, 5200 Cherry Valley Road, Louisville, KY 40059

Vittoria Riedling, 8416 Wolf Pen Branch Road, Louisville, KY 40059

Barbara Kelly, 6009 Mint Spring Branch Road, Louisville, KY 40059

Leea Bridgeman, 8312 Wolf Pen Branch Road, Louisville, KY 40059

Alice Gunnison, 7849 Wolf Pen Branch Road, Louisville, KY 40059

Seth Singleton, 7839 Wolf Pen Branch Road, Louisville, KY 40059

Arnold Ziebart, 7800 Wolf Pen Branch Road, Louisville, KY 40059

Mark Worley, 8517 Wolf Pen Branch Road, Louisville, KY 40059

Mark Shacklette, 9506 Hayden Creek Court, Louisville, KY 40059

Martha Hyatt, 6313 Mint Springs Branch Road, Louisville, KY 40059

Chris VonAllmen, 7004 _____ Court, Louisville, KY 40241

Willis Taylor, 2300 Rose Island Road, Louisville, KY 40059

Summary of testimony of those in opposition:

02:15:36 Steve Porter, representing the Wolf Pen Preservation Association, spoke in opposition. He discussed Plan 2040 and the importance of neighborhood plans as part of the Comprehensive Plan and noted specifics of how this proposal does not meet the Comprehensive Plan or the neighborhood plan (see recording for detailed presentation.)

02:24:41 Mark Foster reviewed the history of this area, originally settled in the late 1790's, and how that original pattern has continued to the present. Extremely low-density housing, with no precedent for large developments.

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02:28:31 Marsha Weinstein discussed the Wolf Pen corridor, preservation efforts, and the historical, cultural, environmental, and scenic resources of this area.

02:34:05 Mary Kannapell also noted the historic significance of the area, and asked why this project is needed, particularly on this site. She is greatly concerned about setting a precedent with dense development.

02:38:13 Vittoria Riedling said she lives about two houses away from the subject site and emphasized the community enjoyment of this rural area. She showed a Power Point presentation and said that this development would reduce the utilization of Wolf Pen Branch Road by pedestrians and cyclists due to increased traffic and would damage the environment. She said this development could be placed anywhere.

02:44:40 Barbara Kelly addressed items from the applicant's presentation regarding the Wolf Pen Branch Neighborhood Plan, which she said contradicted the Plan. She said office uses were specifically excluded as appropriate uses. She said this development would change the 1800's Chamberlain Roadway, which is part of the Wolf Pen Corridor. It would also change the viewshed, when the hillside and tree canopy are removed. She expressed concern about light pollution and destruction of the neighborhood character. Ms. Kelly also showed a Power Point presentation (see recording for detailed presentation.)

03:00:37 Leea Bridgeman noted that her family owns multiple properties along Wolf Pen Branch Road. She discussed the Louisville office market and said there is already much office space in the surrounding area, much of it vacant (see recording for detailed Power Point presentation.)

03:11:05 Alice Gunnison showed a Power Point presentation and discussed traffic, specifically the effect of this development combined with traffic from Norton Commons and residents. She said Mr. Ashburner had stated during the LD&T hearing that he had not heard from the Wolf Pen Preservation Association regarding this proposal – she said WPPA has had many meetings with the applicant and/or his attorney from 2012-2018. During those meetings, she said WPPA had suggested many plans which would have been compatible with the neighborhood plan, including residential development that would not require a zoning change. She said the applicant did not participate in the public neighborhood plan process or the revision of the plan.

03:23:16 Seth Singleton discussed how he said the proposal does not meet the neighborhood plan or Comprehensive Plan 2040 (see recording for detailed presentation.)

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03:30:00 Mr. Porter noted that there are many residents of this area who do not live directly on Wolf Pen Branch Road but live in subdivisions that comply with the Comprehensive Plan and the neighborhood plan. He disputed the applicant's justification statement and reviewed the opposition's findings of fact for denial.

03:41:12 Arnold Ziegart discussed increased traffic and the environmental damage that would ensue.

03:44:55 Mark Worley discussed the adverse environmental impact this development would cause.

03:52:33 Mark Shacklette said he lives in the Wolf Pen Springs neighborhood, which is adjacent to the development, and the major concerns of residents there is light pollution, water runoff, the height and mass of the proposed buildings, traffic, and future development on this site.

03:55:39 Martha Hyatt said the proposal is out of character for the area and opposes the height of the buildings, traffic increase, the loss of mature trees and foliage.

03:59:45 Chris VonAllmen said he and his family lived on part of this land for generations, and this development would be a major change to the character of the neighborhood and to the landscape. He said he thinks that the sound walls would only add to the issues.

04:05:03 Willis Taylor spoke in opposition.

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

04:14:27 On a motion by Commissioner Howard, seconded by Commissioner Peterson, the following resolution was adopted:

RESOLVED, the Louisville Metro Planning Commission does hereby **CONTINUE** this case to the **June 17, 2021** regular meeting of the Planning Commission to hear 36 minutes of rebuttal and to go into deliberation. **No new testimony will be taken.**

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PUBLIC HEARING

CASE NO. 20-ZONE-0078

The vote was as follows:

YES: Commissioners Peterson, Clare, Howard, Mims, Daniels, Sistrunk, and Lewis.

NOT PRESENT: Commissioners Seitz, Brown, and Carlson.

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ADJOURNMENT

The meeting adjourned at approximately 5:35 p.m.

Chairman

Division Director