

**MINUTES OF THE MEETING  
OF THE  
LOUISVILLE METRO PLANNING COMMISSION  
September 7, 2023**

A regular meeting of the Louisville Metro Planning Commission was held on Thursday, September 7, 2023 at 1:00 p.m. at the Old Jail Auditorium, 514 W. Liberty Street, Louisville, Kentucky.

**Commission members present:**

Marilyn Lewis, Chair  
Lula Howard, Vice Chair  
Rich Carlson  
Bill Fischer  
Te'Andre Sistrunk  
Jim Mims  
Jennifer Kern  
Patricia Clare

**Commission members absent:**

Suzanne Cheek  
Michelle Pennix

**Staff Members present:**

Emily Liu, Director  
Brian Davis, Assistant Director  
Julia Williams, Planning Manager  
Beth Stuber, Engineering Supervisor  
Mike Wilcher, Planning Supervisor  
Jay Lockett, Planner II  
Dante St. Germain, Planner II  
Jedi Cowart, Planning Technician  
Laura Ferguson, Assistant County Attorney

**Others Present:**

The following matters were considered:

**PLANNING COMMISSION MINUTES**  
**September 7, 2023**

**APPROVAL OF MINUTES**

**AUGUST 31, 2023 PLANNING COMMISSION REGULAR MEETING MINUTES**

00:04:15 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 August 31, 2023.

**The vote was as follows:**

**YES: Commissioners Mims, Fischer, Kern, Carlson, Clare, Sistrunk, and Lewis**

**NOT PRESENT FOR THIS CASE: Commissioners Pennix and Cheek**

**ABSTAINING: Commissioner Howard**

**PLANNING COMMISSION MINUTES**  
**September 7, 2023**

**PUBLIC HEARING**

**CASE NO. 22-MSUB-0004**

Request: Major Preliminary Subdivision utilizing MRDI provisions,  
Floyds Fork DRO Review, and Waiver  
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

**Agency Testimony:**

00:05:07 Dante St. Germain stated the applicant has requested to continue this case to the October 19, 2023 meeting.

00:05:54 Commissioner Carlson asked how many times this case has been continued.

**The following spoke:**

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

**Summary of testimony:**

00:15:16 John Talbott spoke on behalf of the applicant. Talbott stated the original continuance was to prepare an environmental assessment of the site. The case was also continued to allow MSD to complete a study of Floyds Fork north of I-64. Finally, the plan was changed and that necessitated one of the continuances. Talbott has had trouble coordinating schedules for his application team, but he is certain October 19 will work.

**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.**

00:23:00 On a motion by Commissioner Carlson, seconded by Commissioner Sistrunk, to table the item to later in the docket.

**The vote was as follows:**

**PLANNING COMMISSION MINUTES**  
**September 7, 2023**

**PUBLIC HEARING**

**CASE NO. 22-MSUB-0004**

**YES: Commissioners Fischer, Mims, Howard, Kern, Carlson, Clare, Sistrunk and Lewis**

**NOT PRESENT FOR THIS CASE: Commissioners Pennix and Cheek**

02:07:02 On a motion by Commissioner Carlson, seconded by Commissioner Clare, to untable the item.

**The vote was as follows:**

**YES: Commissioners Fischer, Mims, Howard, Kern, Carlson, Clare, Sistrunk and Lewis**

**NOT PRESENT FOR THIS CASE: Commissioners Pennix and Cheek**

02:09:07 On a motion by Commissioner Carlson, seconded by Commissioner Clare, the following resolution was adopted.

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **CONTINUE** this case to the October 19, 2023 Planning Commission meeting.

**The vote was as follows:**

**YES: Commissioners Clare, Fischer, Mims, Howard, Kern, Sistrunk, Carlson and Lewis**

**NOT PRESENT FOR THIS CASE: Commissioners Pennix and Cheek**

**PLANNING COMMISSION MINUTES**  
**September 7, 2023**

**PUBLIC HEARING**

**CASE NO. 23-ZONE-0065**

Request: Change in Zoning from R-7 & OR-1 to C-1 & C-R, Detailed District Development Plan with Binding Elements  
Project Name: Tran Property  
Location: 5024 & 5026 S Third Street; 307 W Kingston Avenue  
Owner: Xinh Properties LLC; Hieu Do  
Applicant: Di Tran  
Representative: Architectural Artisans  
Jurisdiction: Louisville Metro  
Council District: 21 – Betsy Ruhe  
Case Manager: Jay Lockett, AICP, Planner II

**Agency Testimony:**

00:24:02 Jay Lockett stated this case needs to be continued to the September 21, 2023 because the applicant did not run the legal ad.

**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.**

00:24:39 On a motion by Commissioner Carlson, seconded by Commissioner Mims, the following resolution was adopted.

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **CONTINUE** this case to the September 21, 2023 Planning Commission meeting.

**The vote was as follows:**

**YES: Commissioners Clare, Fischer, Mims, Howard, Kern, Sistrunk, Carlson and Lewis**

**NOT PRESENT FOR THIS CASE: Commissioners Pennix and Cheek**

**PLANNING COMMISSION MINUTES**  
**September 7, 2023**

**PUBLIC HEARING**

**CASE NO. 23-ZONE-0063**

Request: Change in Zoning from R-5 to R-5A, Revised Detailed District Development Plan with Binding Elements, and a Variance

Project Name: Watterson Gardens

Location: 7009 S Watterson Trail

Owner: Watterson Gardens LLC

Applicant: Watterson Gardens LLC

Representative: Mindel Scott

Jurisdiction: Louisville Metro

Council District: 23 – Jeff Hudson

Case Manager: Jay Lockett, AICP, Planner II

**Agency Testimony:**

00:25:26 Jay Lockett stated this case needs to be continued to the October 5, 2023 because the applicant did not run the legal ad.

**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.**

00:26:52 On a motion by Commissioner Carlson, seconded by Commissioner Clare, the following resolution was adopted.

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **CONTINUE** this case to the October 5, 2023 Planning Commission meeting.

**The vote was as follows:**

**YES: Commissioners Clare, Fischer, Mims, Howard, Kern, Sistrunk, Carlson and Lewis**

**NOT PRESENT FOR THIS CASE: Commissioners Pennix and Cheek**

**PLANNING COMMISSION MINUTES**  
**September 7, 2023**

**PUBLIC HEARING**

**CASE NO. 22-ZONE-0141**

Request: Change in Zoning from R-4 & M-2 to PEC Planned  
Employment Center with a Detailed District Development  
Plan with Binding Elements and Waiver(s)

Project Name: 13110 Old Henry Road  
Location: 13110 Old Henry Road  
Owner: WSA Realty Properties LLC  
Applicant: WSA Realty Properties LLC  
Representative: Wyatt Tarrant & Combs  
Jurisdiction: Louisville Metro  
Council District: 17 – Markus Winkler  
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:**

00:27:46 Jay Lockett discussed the case summary, standard of review and staff analysis from the staff report (see video for PowerPoint presentation). The site is currently vacant and the applicant is proposing outdoor truck parking on the site.

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

Jon Baker, Wyatt Tarrant & Combs, 400 W. Market Street, Louisville, KY 40202

Alex Rosenberg, AL Engineering, 13000 Middletown Industrial Boulevard, Suite A, Louisville, KY 40223

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

00:33:20 Jon Baker spoke in support of the application and presented a PowerPoint presentation (see video for details). The applicant is meeting all the buffer requirements with the exception of the location of the access easement that runs to the adjoining property.

**PLANNING COMMISSION MINUTES**  
**September 7, 2023**

**PUBLIC HEARING**

**CASE NO. 22-ZONE-0141**

00:45:40 Alex Rosenberg spoke in support of the application. Rosenberg stated the plan proposes to save trees where they can and maintains the stream buffering along the west side of the development site.

00:47:00 Jon Baker resumed testimony.

00:49:00 Commissioner Mims asked if this would be a temporary or permanent use for this site. Baker stated the proposed use will meet the short-term needs and if it can be combined with neighboring properties in the future for a larger use then that option is there. In response to Commissioner Mims question, Alex Rosenberg said they would be using sealed gravel to minimize dust.

**Deliberation**

00:54:55 Planning Commission deliberation. The commissioners discussed the additional binding elements.

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

**Zoning Change from R-4 & M-2 to PEC**

00:57:10 On a motion by Commissioner Carlson, seconded by Commissioner Sistrunk, the following resolution based on the staff report, applicant and staff testimony heard today and staff analysis, was adopted:

**WHEREAS**, the Planning Commission finds the proposal meets Plan 2040 Community Form: Goal 1 because the proposal does not represent an expansion of non-residential uses into residential areas. Portions of the subject site are already zoned M-2, and sites to the south and west contain other industrial zones. There is a significant area of PEC zoning across Old Henry Rd, as well as various commercial and office districts to the east near the Gene Snyder Freeway interchange. The proposed district is appropriately located adjacent to like zones and uses. Appropriate buffering will be provided adjacent to the remaining residential zoning district. The proposal is in a workplace form adjacent to a variety of commercial, office and industrial uses readily served by infrastructure and transportation facilities. The proposal concentrates like uses and zones. Appropriate buffering will be provided adjacent to the remaining residential zoning district. The site is in an area with a mix of industrial, office and commercial uses. The applicant will be required to provide adequate screening and buffering adjacent to the existing residential zoning district. Traffic entering the area will not need to pass through residential areas to access the interstate or arterial roadways. Currently the access for the site and parts of



**PLANNING COMMISSION MINUTES**  
**September 7, 2023**

**PUBLIC HEARING**

**CASE NO. 22-ZONE-0141**

the adjacent quarry pond passes through R-4 zoning along the front of this site. The proposed change would remedy this situation,

**WHEREAS**, the proposal meets Community Form: Goal 2 because the proposal is located in an existing industrial and commercial activity center. The proposed zoning district allows for a variety of industrial uses. The subject site is located in workplace form in an area with a variety of industrial, office and commercial uses. The proposal is in a workplace form near a variety of commercial, industrial and office uses and is served by adequate infrastructure and transportation facilities. The proposed zoning would not permit residential development. The site is within an established industrial activity center. The proposal allows for the expansion of an existing industrial site within an established industrial activity center. The site does not contain buildings and no buildings are proposed,

**WHEREAS**, the proposal meets Community Form: Goal 3 because the site appears heavily treed. The preliminary development plan complies with the LDC requirements for tree preservation and planting. Staff recommends preservation of mature trees on site wherever possible, especially within buffer areas. The site appears to contain some areas of steep slopes along the western edge. The proposed development does not appear to impact steep slope areas. MSD has approved the preliminary development plan,

**WHEREAS**, the proposal meets Community Form: Goal 4 because the proposed site does not have any known historic or cultural value,

**WHEREAS**, the proposal meet Mobility: Goal 1 because the proposal is in a workplace form in an area with a variety of industrial, office and commercial uses,

**WHEREAS**, the proposal meets Mobility: Goal 3 because the proposal is in a workplace form in an area with a variety of industrial, office and commercial uses. The zoning would not permit residential development, but would allow for additional employment-generating uses within an established industrial activity center. Transit is available approximately 800 feet away along Stanley Gault Pkwy. The proposal is in a workplace form in an area with a variety of industrial, office and commercial uses. The applicant has agreed to fill in some gaps in the existing sidewalk along the north side of Old Henry Rd. The applicant has agreed to fill in some gaps in the existing sidewalk along the north side of Old Henry Rd., providing proportional improvements to walkability within an area that contains a variety of land uses. Transportation Planning has reviewed and approved the preliminary development plan,

**WHEREAS**, the proposal meets Community Facilities: Goal 2 because All utilities will be provided as required. Any necessary easements will be provided per utility agency

**PLANNING COMMISSION MINUTES**  
**September 7, 2023**

**PUBLIC HEARING**

**CASE NO. 22-ZONE-0141**

requirements. Water service will be coordinated. MSD has approved the preliminary development plan,

**WHEREAS**, the proposal meets Economic Development: Goal 1 because the proposal is in a workplace form in an area and would permit additional industrial development within an established industrial activity center. The site is located along a minor arterial and is approximately 1800 ft from the Gene Snyder Freeway,

**WHEREAS**, the proposal meets Livability: Goal 1 because soil erosion does not appear to be an issue with the proposal. MSD has approved the preliminary development plan. The site is not located in the floodplain, and

**WHEREAS**, the proposal meets Housing: Goal 3 because no residents will be displaced as a result of this development. The site is currently vacant; now, therefore be it

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **RECOMMEND** that the Louisville Metro Council **APPROVE** the change in zoning from R-4 & M-2 to PEC on property described in the attached legal description.

**The vote was as follows:**

**YES: Commissioners Clare, Fischer, Mims, Howard, Kern, Sistrunk, Carlson and Lewis**

**NOT PRESENT FOR THIS CASE: Commissioners Pennix and Cheek**

**Waiver of LDC Section 10.2.10**

00:58:00 On a motion by Commissioner Carlson, seconded by Commissioner Sistrunk, the following resolution based on the staff report, applicant's testimony today, and Staff Analysis, was adopted:

**WHEREAS**, the waiver will not adversely affect adjacent property owners. The buffer area would be internal to the site and only be visible from other industrial properties,

**WHEREAS**, Community Form Goal 1, Policy 4 calls for the proposal to ensure new development and redevelopment are compatible with the scale and site design of nearby existing development and with the desired pattern of development within the Form District. Quality design and building materials should be promoted to enhance compatibility of development and redevelopment projects. Community Form Goal 1, Policy 9 calls to ensure an appropriate transition between uses that are substantially different in scale and intensity or density of development. The transition may be achieved

**PLANNING COMMISSION MINUTES**  
**September 7, 2023**

**PUBLIC HEARING**

**CASE NO. 22-ZONE-0141**

through methods such as landscaped buffer yards, vegetative berms, compatible building design and materials, height restrictions and setback requirements. Community Form Goal 1, Policy 10 calls to mitigate the impacts caused when incompatible developments unavoidably occur adjacent to one another. Buffers should be used between uses that are substantially different in intensity or density. Buffers should be variable in design and may include landscaping, vegetative berms and/or walls and should address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances. The waiver will not violate the Comprehensive Plan, as all required screening will be provided around the subject site adjacent to properties of lower intensity ,

**WHEREAS**, the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant,

**WHEREAS**, the strict application of the provisions of the regulation would deprive the applicant of reasonable use of the land, as the buffer would be internal to the site and only be visible from adjacent industrial properties; now, therefore be it

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

**The vote was as follows:**

**YES: Commissioners Clare, Fischer, Mims, Howard, Kern, Sistrunk, Carlson and Lewis**

**NOT PRESENT FOR THIS CASE: Commissioners Pennix and Cheek**

**Detailed District Development Plan**

00:58:44 On a motion by Commissioner Carlson, seconded by Commissioner Sistrunk, the following resolution based on the staff report and applicant's testimony heard today, was adopted:

**WHEREAS**, there are no significant natural or historic resources on the subject site,

**WHEREAS**, provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community has been provided, and Transportation Planning has approved the preliminary development plan,

**WHEREAS**, there are no open space requirements associated with this request,

**PLANNING COMMISSION MINUTES**  
**September 7, 2023**

**PUBLIC HEARING**

**CASE NO. 22-ZONE-0141**

**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,

**WHEREAS**, the overall site design and land uses are compatible with the existing and future development of the area. Appropriate screening will be provided to screen adjacent properties and roadways, and

**WHEREAS**, the development plan conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code, except where relief is requested; now, therefore be it

**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. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
3. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit is requested:
  - 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 building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
  - c. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.

**PLANNING COMMISSION MINUTES**  
**September 7, 2023**

**PUBLIC HEARING**

**CASE NO. 22-ZONE-0141**

4. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
5. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
6. No idling of trucks shall take place within 200 feet any residence. No overnight idling of trucks shall be permitted on-site.
7. Prior to requesting a certificate of occupancy for the site, the developer/property owner/applicant shall construct sidewalks along the frontages of 12905 Old Henry Rd and 13103 Old Henry Rd as shown on the sidewalk submitted 5-18-23 on file with Planning and Design Services.
8. No trucks or trailers that are required by US Department of Transportation regulations to display hazardous materials placards shall be parked on the site.
9. Products used for dust control shall be installed and maintained as recommended by the manufacturer's recommendations.
10. The applicant shall comply with Public Works requirements for location of the entrance gate. Final location shall be reviewed prior to construction plan approval.

**The vote was as follows:**

**YES: Commissioners Clare, Fischer, Mims, Howard, Kern, Sistrunk, Carlson and Lewis**

**NOT PRESENT FOR THIS CASE: Commissioners Pennix and Cheek**

**PLANNING COMMISSION MINUTES**  
**September 7, 2023**

**PUBLIC HEARING**

**CASE NO. 23-ZONE-0022**

Request: Change in Form District from Suburban Workplace to Neighborhood, Change in Zoning from OR, OR-1 & C-1 to C-2 with Detailed District Development Plan and Binding Elements, and Waivers

Project Name: Factory Pointe

Location: 13000-13012 Factory Lane

Owner: Daugherty Management LLC, Middletown Fire Protection District

Applicant: Vantage Development

Representative: Bluestone Engineers

Jurisdiction: Louisville Metro

Council District: 19 – Anthony Piagentini

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

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

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

**Agency Testimony:**

01:03:05 Dante St. Germain discussed the case summary, standard of review and staff analysis from the staff report (see video for PowerPoint presentation). The applicant is requesting to construct a mix of apartments and hotels on the site. There is a request to change the form district as well as the zoning district.

01:12:50 Commissioner Clare asked if the form change was necessary. St. Germain stated the proposed use would still be allowed, but there would be some changes to the waiver requests if the form was not being changed. Commissioner Mims asked about traffic and pavement improvements that may be scheduled for the area. Commissioner Kern said there are some projects that will be implemented this coming fall.

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

Kendall Cogan, Vantage Development, 702 Briar Hill Road, Louisville, KY 40206

**PLANNING COMMISSION MINUTES**  
**September 7, 2023**

**PUBLIC HEARING**

**CASE NO. 23-ZONE-0022**

Chris Crumpton, Bluestone Engineers, 4350 Brownsboro Road Suite 110, Louisville, KY 40207

Kyle Galloway, Duncan Galloway Greenwald, 9625 Ormsby Station Road, Louisville, Kentucky 40223

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

01:17:21 Kendall Cogan spoke in support of the application and presented a PowerPoint presentation (see video for details). Cogan stated the site has been designed to maximize buffering with the Gene Snyder ramp and to screen as much of the parking from Factory Lane as possible.

01:21:36 Chris Crumpton spoke in support of the application. Crumpton provide details about the site design. There will be on-site detention and a pedestrian connection will be provided to the adjoining commercial development.

01:27:20 Kyle Galloway spoke in support of the application. Galloway feels the use fits in well with surrounding development.

01:28:45 Chris Crumpton resumed testimony. The applicant team did look at traffic information and the Kentucky Transportation Cabinet did not see a need for additional study or mitigation. Crumpton discussed the waiver requests and why they are warranted.

01:36:40 Commissioner Clare asked if the noise requirements would be met on the site. Crumpton stated the requirements would be met once the noise wall is in place.

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

Sandy Athanasakes, 13618 Pinnacle Gardens Circle, Louisville, KY 40243

Eliza Galloway, 13533 Pinnacle Gardens Circle, Louisville, KY 40243

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

01:37:45 Sandy Athanasakes spoke in opposition to the request. Athanasakes said traffic is bad in the area and she can't believe a traffic study isn't being required for this development. There are a number of apartments in the area.

01:40:53 Eliza Galloway spoke in opposition to the request. The road is only two lanes and can't accommodate any additional traffic.

**PLANNING COMMISSION MINUTES**  
**September 7, 2023**

**PUBLIC HEARING**

**CASE NO. 23-ZONE-0022**

**Rebuttal:**

01:43:22 Kyle Galloway rebutted the opposition's testimony. The traffic study was completed this past spring. While there is traffic in the area, they do not feel it is to a point where this project can't be completed.

**Deliberation:**

01:44:38 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.**

**Form Change from Suburban Workplace to Neighborhood**

01:50:35 On a motion by Commissioner Carlson, seconded by Commissioner Sistrunk, the following resolution was adopted:

**WHEREAS**, the Planning Commission finds the current form district is appropriate,

**WHEREAS**, the Planning Commission also finds there have been no economic changes to necessitate a change in form district, and

**WHEREAS**, the Planning Commission also finds the proposed development is appropriate in the current form district; now, therefore be it

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **RECOMMEND** that the Louisville Metro Council **DENY** the change in form district from Suburban Workplace to Neighborhood on property described in the legal description.

**The vote was as follows:**

**YES: Commissioners Clare, Fischer, Mims, Howard, Kern, Sistrunk, Carlson and Lewis**

**NOT PRESENT FOR THIS CASE: Commissioners Pennix and Cheek**

**Zoning Change from OR, OR-1 & C-1 to C-2**



**PLANNING COMMISSION MINUTES**  
**September 7, 2023**

**PUBLIC HEARING**

**CASE NO. 23-ZONE-0022**

01:54:37 On a motion by Commissioner Carlson, seconded by Commissioner Sistrunk, the following resolution based on the staff report, applicant and staff testimony heard today and staff analysis, was adopted:

**WHEREAS**, the Planning Commission finds the proposal meets Plan 2040 Community Form: Goal 1 because the proposal would not constitute non-residential expansion into an existing residential area. The site is surrounded by non-residential zoning in the immediate vicinity. The proposal would permit higher density and intensity uses. The site has easy access to I-265 and is located in an existing activity center. The proposed zoning 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 uses with noxious odors, particulates and emissions. Access to the site is from Factory Lane, a secondary collector at this location, close to the La Grange Road intersection. Noise impacts are unlikely to affect existing communities, as the closest residential uses are across Factory Lane,

**WHEREAS**, the proposal meets Community Form: Goal 2 because the site is located within an existing activity center. The site has appropriate access and connectivity. Access to the site is via Factory Lane, a primary collector at this location. The site is close to La Grange Road, a minor arterial, and an interchange with I-265. The proposal would permit retail commercial uses. The site is located within an existing activity center. The proposed zoning district would permit a more compact pattern of development. The proposal would permit uses which would increase the mixture of compatible land uses in the vicinity. The proposed zoning district would permit residential uses above retail and other mixed-use multi-story retail buildings. The proposal would allow new development providing commercial and residential uses. No underutilized parking lots are evident on the site. The design and scale of the proposal is compatible with nearby residences. The site is located in an existing activity center,

**WHEREAS**, the proposal meets Community Form: Goal 3 because no natural features are evident on the subject site aside from tree canopy, which will be preserved along the Gene Snyder Freeway buffer. No wet or highly permeable soils, or severe, steep or unstable slopes are evident on the site,

**WHEREAS**, the proposal meets Community Form: Goal 4 because no historic assets are evident on site. No distinctive cultural features are evident on the site,

**WHEREAS**, the proposal meets Mobility: Goal 1 because the proposed zoning would permit higher density and intensity uses. The site is located within an existing activity center,

**PLANNING COMMISSION MINUTES**  
**September 7, 2023**

**PUBLIC HEARING**

**CASE NO. 23-ZONE-0022**

**WHEREAS**, the proposal meets Mobility: Goal 2 because access to the site is via Factory Lane, a primary collector at this location,

**WHEREAS**, the proposal meets Mobility: Goal 3 because the proposed zoning district would permit a complementary mix of neighborhood serving businesses and services in an existing center. The site is easily accessible by bicycle and car. Pedestrians and people with disabilities would find it more difficult to access the site. However, redevelopment of the site will improve the sidewalk network. An increase in the intensity of development in this neighborhood may attract transit in the future. The proposal would promote public transit and pedestrian use by increasing the variety of services in an existing activity center. Transportation Planning has approved the proposal,

**WHEREAS**, the proposal meets Community Facilities: Goal 2 because the relevant utilities, including Louisville Water Company and MSD, have approved the proposal,

**WHEREAS**, the proposal meets Economic Development: Goal 1 because the site is located on Factory Lane, a primary collector at this location, with adequate access to I-265,

**WHEREAS**, the proposal meets Housing: Goal 1 because the proposal would support aging in place by increasing the variety of neighborhood-serving amenities in proximity to housing. Housing would also be permitted by the proposed zoning district,

**WHEREAS**, the proposal meets Housing: Goal 2 because the proposal would encourage inter-generational mixed-income and mixed-use development by permitting commercial development close to housing. The proposed zoning district would also permit housing. The proposed zoning district would permit housing in proximity to an activity center providing neighborhood goods and services, and

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

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **RECOMMEND** that the Louisville Metro Council **APPROVE** the change in zoning from OR, OR-1 & C-1 to C-2 on property described in the attached legal description.

**The vote was as follows:**

**YES: Commissioners Clare, Fischer, Mims, Howard, Kern, Sistrunk, Carlson and Lewis**

**NOT PRESENT FOR THIS CASE: Commissioners Pennix and Cheek**

**PLANNING COMMISSION MINUTES**  
**September 7, 2023**

**PUBLIC HEARING**

**CASE NO. 23-ZONE-0022**

**Waiver of LDC Section 10.3.3**

01:55:50 On a motion by Commissioner Carlson, seconded by Commissioner Sistrunk, the following resolution based on the staff report, applicant's testimony today, and Staff Analysis, was adopted:

**WHEREAS**, the waiver will not adversely affect adjacent property owners as the most affected property is I-265 right-of-way,

**WHEREAS**, the waiver will not violate specific guidelines of Plan 2040 as Plan 2040 encourages preservation of scenic corridors and parkways, and scenic vistas. The required plantings will be provided within the remaining parkway buffer, providing the protection and preservation that Plan 2040 encourages,

**WHEREAS**, the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the proposed development of the site would otherwise be infeasible due to insufficient parkway, and provision of the full buffer would require significant down-scaling of the proposal,

**WHEREAS**, 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 because provision of the full required Gene Snyder Freeway buffer area would require scaling back the proposed development due to insufficient space for parking; now, therefore be it

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

**The vote was as follows:**

**YES: Commissioners Clare, Fischer, Mims, Howard, Kern, Sistrunk, Carlson and Lewis**

**NOT PRESENT FOR THIS CASE: Commissioners Pennix and Cheek**

**Detailed District Development Plan**

01:56:34 On a motion by Commissioner Carlson, seconded by Commissioner Sistrunk, the following resolution based on the staff report and applicant's testimony heard today, was adopted:

**PLANNING COMMISSION MINUTES**  
**September 7, 2023**

**PUBLIC HEARING**

**CASE NO. 23-ZONE-0022**

**WHEREAS**, no natural resources are evident on the site aside from tree canopy. Tree canopy will be preserved within the Gene Snyder buffer area,

**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,

**WHEREAS**, required open space will be provided. The multi-family portion of the development will be provided with a pool and a walking path through a wooded area,

**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,

**WHEREAS**, the overall site design is in compliance with existing and planned future development in the area. The general vicinity is non-residential in nature, which will support residential development with services, and non-residential development with close access to I-265, and

**WHEREAS**, 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 also complies with the policies and guidelines of the Comprehensive Plan; now, therefore be it

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** the 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. All other signage shall comply with Louisville Metro Code of Ordinances §155.30 et seq. and Chapter 8 of the Land Development Code.

**PLANNING COMMISSION MINUTES**  
**September 7, 2023**

**PUBLIC HEARING**

**CASE NO. 23-ZONE-0022**

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. This plan shall include, at a minimum, twice the required plantings within the Gene Snyder Freeway buffer area. Existing tree canopy can be counted toward required plantings.
  - c. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
  - d. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the September 7, 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.
  - e. A minor subdivision plat or legal instrument shall be recorded creating the lot lines as shown on the development plan. A copy of the recorded instrument shall be submitted to the Office of Planning prior to obtaining a building permit.
5. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
6. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for

**PLANNING COMMISSION MINUTES**  
**September 7, 2023**

**PUBLIC HEARING**

**CASE NO. 23-ZONE-0022**

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. No residential units shall be constructed prior to the installation of a sound barrier along the Gene Snyder Freeway ramp to the south of the site which will reduce noise from the Freeway and ramp to below 65 decibels at the exterior of the unit closest to the Freeway ramp.
8. A reciprocal access easement shall be provided to the church property within 90 days of request by the church property owner.

**The vote was as follows:**

**YES: Commissioners Clare, Fischer, Mims, Howard, Kern, Sistrunk, Carlson and Lewis**

**NOT PRESENT FOR THIS CASE: Commissioners Pennix and Cheek**

**PLANNING COMMISSION MINUTES**  
**September 7, 2023**

**PUBLIC HEARING**

**CASE NO. BE APPEAL – 1319 TILE FACTORY**

Project Name: Binding Element Appeal – 1319 Tile Factory Lane  
Case Manager: Laura Ferguson, Assistant County Attorney

**Agency Testimony:**

02:10:23 Laura Ferguson discussed the case summary. The applicant filed a revised plan application to address the issues that are the subject of the enforcement action.

**The following spoke:**

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

**Summary of testimony:**

02:11:45 Cliff Ashburner said the revised plan is still in the works. An updated plan was submitted this week and the hope is to have the plan go before the Development Review Committee. Ashburner is asking this appeal be continued to at least October 19 in order to give the plan a chance to go to that meeting.

**Deliberation:**

02:21:50 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.**

02:22:15 On a motion by Commissioner Carlson, seconded by Commissioner Sistrunk, the following resolution was adopted.

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **CONTINUE** this case to the October 19, 2023 Planning Commission meeting.

**The vote was as follows:**

**YES: Commissioners Clare, Fischer, Mims, Howard, Kern, Sistrunk, Carlson and Lewis**

**NOT PRESENT FOR THIS CASE: Commissioners Pennix and Cheek**

**PLANNING COMMISSION MINUTES**  
**September 7, 2023**

**PUBLIC HEARING**

**CASE NO. BE APPEAL – 13165 PLANTSIDE**

Project Name: Binding Element Appeal – 13165 Plantside  
Case Manager: Laura Ferguson, Assistant County Attorney

**Agency Testimony:**

02:23:00 Laura Ferguson discussed the case summary (see video for PowerPoint presentation). The citation was issued with a fine. Photos from the site show that some progress has been made on the site but not complete compliance.

Commissioner Mims asked if there is clear evidence that the binding elements had been violated. Ferguson said the photographic evidence suggests there had been a violation.

**The following spoke:**

Alan Coulter, 13145 Plantside Drive, Louisville, KY 40299

**Summary of testimony:**

02:27:00 Alan Coulter spoke in support of the application and presented a PowerPoint presentation (see video). The equipment had been moved over to the subject site while they were doing some work on their property. He is in the process of moving the materials over since the work is now finished. Coulter stated he may be interested in doing a development plan in order to store some materials on the site.

02:32:10 Mike Wilcher gave a timeline of the issuance of the notice of violation and the citation. Inspections were conducted in December, June, July and this morning (September 7). Coulter feels the materials that are still on the site are just there for construction purposes and aren't meant to be there permanently. Coulter will move the materials immediately.

**Deliberation:**

02:44:45 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.**

02:44:57 On a motion by Commissioner Carlson, seconded by Commissioner Sistrunk, the following resolution was adopted.



**PLANNING COMMISSION MINUTES**  
**September 7, 2023**

**PUBLIC HEARING**

**CASE NO. BE APPEAL – 13165 PLANTSIDE**

**RESOLVED**, that the Louisville Metro Planning Commission hereby **CONTINUES** this case to the September 21, 2023 Planning Commission meeting.

**The vote was as follows:**

**YES: Commissioners Clare, Fischer, Mims, Howard, Kern, Sistrunk, Carlson and Lewis**

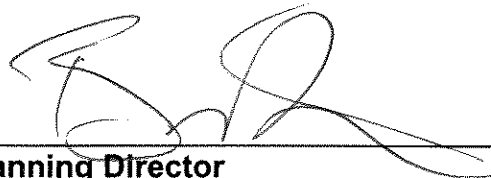
**NOT PRESENT FOR THIS CASE: Commissioners Pennix and Cheek**

**PLANNING COMMISSION MINUTES**  
**September 7, 2023**

**ADJOURNMENT**

The meeting adjourned at approximately 3:48 p.m.

  
\_\_\_\_\_  
Chair

  
\_\_\_\_\_  
Planning Director