MINUTES OF THE MEETING OF THE LOUISVILLE METRO PLANNING COMMISSION January 5, 2017

A meeting of the Louisville Metro Planning Commission was held on January 5, 2017 at 1:00 p.m. at the Old Jail Building, located at 514 W. Liberty Street, Louisville, Kentucky.

Commission members present:

Marilyn Lewis, Vice Chair Jeff Brown Rob Peterson Rich Carlson Marshall Gazaway Robert Kirchdorfer

Commission members absent:

Vince Jarboe, Chair Lula Howard Emma Smith David Tomes

Staff Members present:

Emily Liu, Planning Director
Brian Davis, Planning Manager
Joe Haberman, Planning Manager
Steve Hendrix, Planning Supervisor
Julia Williams, Planning Supervisor
Brian Mabry, Planning Supervisor
Joel Dock, Planner I
John Carroll, Legal Counsel
Jonathan Baker, Legal Counsel

The following matters were considered:

PLANNING COMMISSION MINUTES

APPROVAL OF MINUTES

DECEMBER 12, 2016 PLANNING COMMISSION NIGHT MEETING MINUTES

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

RESOLVED, that the Planning Commission does hereby **APPROVE** the minutes of its meeting conducted on December 12, 2016.

The vote was as follows:

YES: Commissioners Brown, Carlson, Gazaway, Kirchdorfer, Lewis and Peterson NOT PRESENT FOR THIS CASE: Commissioners Howard, Jarboe, Smith and Tomes

REVISITED AT END OF MEETING

02:15:05 Mr. Davis requests inserting the applicant's finding of facts, beginning on page 6, in the December 12, 2016 night hearing minutes.

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

RESOLVED, that the Planning Commission does hereby **AMEND** the motion to insert the finding of facts, as stated in the motion to approve the zoning, in the December 12, 2016 minutes.

The vote was as follows:

YES: Commissioners Brown, Carlson, Gazaway, Kirchdorfer, Lewis and Peterson NOT PRESENT FOR THIS CASE: Commissioners Howard, Jarboe, Smith and Tomes

DECEMBER 15, 2016 PLANNING COMMISSION REGULAR MEETING MINUTES

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

RESOLVED, that the Planning Commission does hereby **APPROVE** the minutes of its meeting conducted on December 15, 2016.

The vote was as follows:

YES: Commissioners Brown, Carlson, Gazaway, Lewis and Peterson

PLANNING COMMISSION MINUTES

APPROVAL OF MINUTES

NOT PRESENT FOR THIS CASE: Commissioners Howard, Jarboe, Smith and

Tomes

ABSTAINING: Commissioner Kirchdorfer

BUSINESS SESSION

CASE NO. 16MISC1110

Case No:

16MISC1110

Project Name:

Fee Schedule

Case Manager:

Joe Reverman, AICP

Discussion

00:06:27 Mr. Reverman explained that this case is a request to change two items in the fee schedule – certain conditional use permits and parking waiver fees.

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.

00:14:28

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

WHEREAS the Louisville Metro Planning Commission finds that the fee for formal applications of Conditional Use Permits for Accessory Apartments, Bed & Breakfast Inns, Home Occupations, Duplex Dwelling Units and Short Term Rentals will be reduced to \$215.

WHEREAS the Commission finds the reduction of these Conditional Use Permit formal application fees to be justified since these applications typically do not require review of a development plan by multiple government agencies, which significantly reduces staff time on these types of cases.

WHEREAS the Commission finds these Conditional Uses are typically found in association with a single or two-family house, of which the filing fee has a significantly higher financial burden on the applicant.

WHEREAS the Commission finds the change in fees for Parking Waivers to be more consistent with the review process outlined in the Land Development Code, which is more indicative of the amount of staff time spent on these types of cases.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** Case No. 16MISC1110, fee schedule changes as proposed by staff. The changes will be effective immediately.

The vote was as follows:

BUSINESS SESSION

CASE NO. 16MISC1110

BUSINESS SESSION

2017 Schedule

Request:

Potential 2017 Public Meeting Dates

Discussion

00:15:27 Mr. Davis discussed the potential public meeting dates for the year and explained some of the exceptions.

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

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

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the 2017 public meeting dates schedule as presented for DRC, Planning Commission and LD&T.

The vote was as follows:

CONSENT AGENDA

CASE NO. 16STREETS1024

Request:

Street Name Assignment

Project Name:

Hoover Barton Road

Location:

17301 Taylorsville Road

Owner:

Imogene Schooler

17301 Taylorsville Road Louisville, Ky. 40023

Applicant:

Imogene Schooler

17301 Taylorsville Road Louisville, Ky. 40023

Representative:

Imogene Schooler

17301 Taylorsville Road Louisville, Ky. 40023

Jurisdiction:

Louisville Metro

Council District:

20 - Stuart Benson

Case Manager:

Joel Dock, Planner I

Notice of this public hearing appeared in <u>The Courier Journal</u>, 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.)

Discussion

00:18:52 Mr. Dock briefly discussed the case stating the applicant wants to name the private access easement. It has been approved by E-911 and the fire department.

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

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

CONSENT AGENDA

CASE NO. 16STREETS1024

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** Case No. 16STREETS1024, a street name assignment for Hoover Barton Road at 17301 Taylorsville Rd.

The vote was as follows:

CONSENT AGENDA

CASE NO. 16STREETS1023

Request: Street name change from Swope Autocenter Drive to

Autocenter Drive

Project Name: Autocenter Drive

Location: Swope Autocenter Drive from Bunsen Parkway to its

terminus

Owner: TT of HD Louisville Property LLC

Automotive Management Services 505 South Flagler Drive, Suite 700

West Palm Beach, Fl., 33401

Applicant: John J. Kendrick II, Esq.

Automotive Management Services 505 South Flagler Drive, Suite 1400

West Palm Beach, Fl., 33401

Representative: Chris Brown

BTM Engineering

3001 Taylor Springs Boulevard

Louisville, Ky. 40220

Jurisdiction: Forest Hills

Council District: 18- Marilyn Parker

Case Manager: Laura Mattingly, Planner I

Notice of this public hearing appeared in <u>The Courier Journal</u>, 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.)

Discussion

00:21:35 Ms. Mattingly stated there have been no changes since LD&T and she's here to answer questions.

CONSENT AGENDA

CASE NO. 16STREETS1023

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

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

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to Metro Council, **APPROVAL** of Case No. 16STREETS1023, a street name change from Swope Autocenter Drive to Autocenter Drive.

The vote was as follows:

PUBLIC HEARING

CASE NO. 16ZONE1055

Case No:

16ZONE1055

Request:

Change in zoning from C-1 to C-2

Project Name:

Burdorf Properties

Location:

124 Saint Matthews Avenue

Owner:

Burdorf Properties, LLC

Allan B. Morris

2806 Newburg Road Louisville, Ky. 40205

Applicant:

Seiller Waterman, LLC

Joseph H. Cohen

462 South Fourth Street, Suite 2200

Louisville, Ky. 40202

Representatives:

Seiller Waterman, LLC

Joseph H. Cohen

462 South Fourth Street, Suite 2200

Louisville, Ky. 40202

Advanced Civil Engineering Land Surveying

Morris Talbott

319 Tucker Station Road Louisville, Ky. 40243

Jurisdiction:

Saint Matthews 9 – Bill Hollander

Council District:

Case Manager:

Brian Mabry, AICP, Planning & Design Supervisor

Notice of this public hearing appeared in <u>The Courier Journal</u>, 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:

00:23:29 Mr. Mabry discussed the case summary, standard of review and staff analysis from the staff report.

PUBLIC HEARING

CASE NO. 16ZONE1055

The following spoke in favor of this request:

Joseph H. Cohen, 462 South Fourth Street, Suite 2200, Louisville, Ky. 40202

Summary of testimony of those in favor:

00:29:23 Mr. Cohen, attorney with Seiller Waterman, LLC, gave a power point presentation. The applicant wants to bring the property into compliance. There is no proposal for construction or new development.

Deliberation

00:33:07 Planning Commission deliberation.

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

Zoning Change from C-1 to C-2

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

WHEREAS, The subject property is surrounded by a mixture of non-residential uses. Access to the site comes from Saint Matthews Avenue, Westport Road, and Shelbyville Road. The proposal contains a mixture of retail and restaurants. The existing building is built right at the ROW line of Shelbyville Road. A TARC stop is immediately in front of the building. The site is within an area that has a connected street pattern. The site is adjacent to a 6 to 9-foot wide sidewalk. The parking lot for the subject property is connected to the property to the north, a bank. The scale and design of the building are in keeping with the Town Center Form District. The use and zoning is similar to and compatible with its surroundings. The proposal has received preliminary approval from Transportation Planning, MSD, and the APCD; and

WHEREAS, The existing zoning classification is inappropriate and the proposed classification is appropriate because the site consists of a long-standing set of uses that serve alcoholic beverages for indoor and outdoor consumption and the change in zoning would make such activity a permitted, conforming activity; and

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CASE NO. 16ZONE1055

WHEREAS, the Louisville Metro Planning Commission finds, although Saint Matthews does not have form districts adopted in its Development Code, the area is mapped as Town Center on LOJIC. Therefore, the Comprehensive Plan checklist at the end of this report is based on Town Center policies. All other agency comments should be addressed to demonstrate compliance with the remaining Guidelines and Policies of Cornerstone 2020; and

WHEREAS, the Louisville Metro Planning Commission further finds the Saint Matthews City Council has zoning authority over the property in question. The Louisville Metro Planning Commission is charged with making a recommendation to the Saint Matthews City Council regarding the appropriateness of this zoning map amendment.

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the city of St. Matthews, **APPROVAL** of Case No. 16ZONE1055, a change in zoning from C-1 to C-2 based on the staff report, information heard today and **ADOPT** the staff's analysis as the justification.

The vote was as follows:

YES: Commissioners Brown, Carlson, Gazaway, Kirchdorfer, Lewis and Peterson NOT PRESENT AND NOT VOTING: Commissioners Howard, Jarboe, Smith and Tomes

General District Development Plan and Binding Elements

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

WHEREAS, LOJIC shows no natural resources or environmental constraints on the site; and

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

WHEREAS, There are no open space requirements pertinent to the current proposal; and

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

PUBLIC HEARING

CASE NO. 16ZONE1055

WHEREAS, the Louisville Metro Planning Commission finds, the overall site design and land uses are compatible with the existing and future development of the area; and

WHEREAS, the Louisville Metro Planning Commission further finds the development plan conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Saint Matthews Development Code.

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND**, to the city of St. Matthews, **APPROVAL** of Case No. 16ZONE1055, the General District Development Plan and binding elements based on the staff report and information heard today, **SUBJECT** to the following Binding Elements:

Binding Elements

- 1. The development shall be in accordance with the approved general development plan, all applicable sections of the Saint Matthews Development Code and agreed upon binding elements unless amended pursuant to the Saint Matthews 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 Saint Matthews) for review and approval; any changes/additions/alterations not so referred shall not be valid.
- 2. The development shall not exceed 63,275 square feet of gross floor area.
- 3. No outdoor advertising signs, pennants, balloons, or banners shall be permitted on the site.
- 4. 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.
- 5. 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.

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- b. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Article 12 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
- c. A reciprocal access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be created between the adjoining property owners and recorded. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
- 6. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system permitted on the site.
- 7. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.

The vote was as follows:

PUBLIC HEARING

CASE NO. 16ZONE1058

Case No:

16ZONE1058

Request:

Change in zoning from R-7 to OR

Project Name:

Eastern Parkway Law Office

Location: Owner:

604 Eastern Parkway Venture 604, LLC

Applicant:

C.R.P and Associates, LLC

Representative:

Randall L. Wright

Jurisdiction:

Louisville Metro

Council District:

15 - Butler

Case Manager:

Brian Mabry, AICP, Planning & Design Supervisor

Notice of this public hearing appeared in <u>The Courier Journal</u>, 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:

00:37:05 Mr. Mabry discussed the case summary, standard of review and staff analysis from the staff report.

Mr. Mabry also provided additional information to the commissioners which was received after the staff report was published.

The following spoke in favor of this request:

Randall Wright, 3306 Mount Shasta, Louisville, Ky. 40241
Tammy Goatley, 1617 Redwood Drive, Louisville, Ky. 40213
Charles R. Podgursky, C.R.P. and Associates, 7321 New La Grange Road, Suite 111, Louisville, Ky. 40222

Summary of testimony of those in favor:

00:57:48 Mr. Wright proposes a law office for himself and maybe a couple more lawyers. The hours will probably be 9 to 5 (most of the time) with a minimal number of

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clients. "It's a perfect building to rehabilitate. I just don't think you can rehabilitate it for a single family home and I don't think it would serve the community to make it multifamily."

Mr. Wright submitted a letter into the record stating he hasn't been cited by IPL or owe any money. It was the previous owner that had 72 visits from IPL.

Mr. Wright stated the proposal includes extending Miller Ln. and taking out some curb cuts.

01:10:20 Ms. Goatley, Codes and Regulations, stated there were a lot of violations with the previous property owner. Since Mr. Wright has purchased the property, it has been clean, cut and secure.

01:11:34 Mr. Podgursky stated the existing driveways are separate but share the same property line. The applicant/representatives are working with Transportation Review and the Parks Dept. for the proposed extension of the driveway. "We're not creating a one-way for everyone else or our neighbor. The only one-way out from our property is for us."

The following spoke in opposition to this request:

Thomas Woodcock, 547 Eastern Parkway, Louisville, Ky. 40217

Summary of testimony of those in opposition:

01:28:21 Mr. Woodcock said the area is mostly a residential corridor. The main concerns are as follows: the proposal doesn't follow the building code; it may set a precedent; there are a lot of unpaid fines; and the proposed sign is too large.

The following spoke neither for nor against the request:

Gail Linville, 526 Atwood Street, Louisville, Ky. 40217 Michal Kruger, 547 Barberry Lane, Louisville, Ky. 40206 Martha Berner, Landscape Architect for Metro Parks

Summary of testimony of those neither for nor against:

01:14:29 Ms. Linville is the president of the St. Joseph Neighborhood Association. They are in agreement with the proposed binding elements and would like to add the following: No front yard or street parking and all the vehicles would be restricted to the back.

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- 01:16:11 Ms. Kruger submitted pictures into the record. There is a concern for the people parking on Miller St. "Why open up Miller St.?" It's very narrow.
- 01:27:25 Commissioner Brown stated, "Miller Ln. is a frontage road and maintained by Metro."
- 01:34:11 Ms. Berner stated, "If the zoning change is granted, Metro Parks does have an interest in the restoration of the parkway frontage, specifically the removal of the full curb cut and driveway apron and the maintenance of a 10 foot wide planting strip for trees between Miller Ave. and the existing sidewalk."

Rebuttal

- 01:38:16 Mr. Wright reiterated that he doesn't owe IPL anything and has not been cited. He read the letter from Carrie G. Pierce, Office of Management and Budget, into the record as evidence to this fact.
- If Mr. Wright requests a sign in the future, it will be in compliance with the regulations. Mr. Mabry said a 60 foot square sign by 6 feet in height is the maximum allowed.
- Mr. Wright remarked, "I want to be a good neighbor and the office will not be an eyesore."
- 01:47:03 Commissioner Brown stated, "It would be nice to have something on the record from the abutting neighbor saying, I realize there's going to be a change in my access."

Deliberation

- 01:53:43 Commissioner Kirchdorfer stated there is \$0 unpaid fines on the property. Also, the property will still be residential.
- 01:55:30 Commissioner Carlson agrees with the proposed land use. There won't be a lot of traffic. Also, it's better to have an occupied building than remain vacant.
- 01:58:01 Commissioner Brown agrees with the zoning change which will have only a minimal impact. The applicant is maintaining the character of the building to blend in with the area. Elimination of the driveway is great for restoring the parkway.
- 01:58:52 Commissioner Peterson said the zoning change is appropriate. The exitonly in the rear is a good idea.

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Commissioner Peterson said it would be nice to see some trees planted on the street frontage after the driveway is removed and the ground is reconditioned.

02:00:25 Commissioner Gazaway agrees with the zoning change, but is concerned about opening up Millers Ln.

02:01:36 Acting Chair Lewis agrees with the zoning change and the removal of the curb cut.

Acting Chair Lewis is concerned that the neighbor most affected was not able to attend this meeting today. An extra 2 weeks will give the applicant extra time to clarify important information.

02:05:19 Ms. Liu would like additional time (2 weeks) to meet with Metro Parks concerning an error on the development plan.

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

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

RESOLVED, that the Louisville Metro Planning Commission does hereby **CONTINUE** Case No. 16ZONE1058 to the next regularly scheduled Planning Commission meeting to limit testimony to the impact of the extension of Miller Ave. on the adjacent property owner and to allow Planning and Design staff to confer with Metro Parks concerning some specific details and to close the record as of today.

The vote was as follows:

YES: Commissioners Brown, Carlson, Gazaway, Kirchdorfer, Lewis and Peterson NOT PRESENT AND NOT VOTING: Commissioners Howard, Jarboe, Smith and Tomes

02:17:04

NOTE: Ms. Liu reminded the commissioners that the next Planning Commission meeting will be the annual meeting and will start at 12:30 p.m. The regular meeting will begin at 1:00 p.m.

STANDING COMMITTEE REPORTS

Land Development and Transportation Committee No report given.

Site Inspection Committee
No report given.

Planning Committee
No report given.

Development Review Committee
No report given.

Policy and Procedures Committee
No report given.

CHAIRPERSON/DIRECTOR'S REPORT

No report given.

ADJOURNMENT

The meeting adjourned at approximately 3:24 p.m.

Chair

Planning Director