

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO PLANNING COMMISSION
October 1, 2020**

A meeting of the Louisville Metro Planning Commission was held on October 1, 2020 at 1:00 p.m. via Cisco Webex Video Teleconferencing. On the recommendation of the Louisville Metro Department of Health and Wellness regarding congregate events and social distancing, the special Planning Commission meeting set for today was held online.

Commission members present:

Vince Jarboe, Chair
Marilyn Lewis, Vice Chair
Jeff Brown
Lula Howard
Rich Carlson
Robert Peterson
Ruth Daniels
Jim Mims
Pat Seitz

Staff Members present:

Emily Liu, Planning and Design Director
Joe Reverman, Planning and Design Assistant Director
Brian Davis, Planning and Design Manager
Joe Haberman, Planning and Design Manager
Chris French, Planning Supervisor
Julia Williams, Planning Supervisor
Becky Gorman, Planning Coordinator
Dante St. Germain, Planner II
Joel Dock, Planner II
Nia Holt, Planner I
Chastity White, Associate Planner
Heather Pollock, Associate Planner
Rachel Mandell, Associate Planner
Jay Lockett, Planner I
Laura Ferguson, Legal Counsel
Pamela M. Brashear, Management Assistant

The following matters were considered:

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APPROVAL OF MINUTES

SEPTEMBER 17, 2020 PLANNING COMMISSION REGULAR MEETING MINUTES

NO ACTION

PLANNING COMMISSION MINUTES
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CONSENT AGENDA

20-STRCLOSURE-0014

Request: Closure of public right-of-way
Project Name: Hahn Street Alley Closure
Location: Unnamed Alley between Hahn Street and Eastern
Parkway, west of South Floyd Street
Owner: Louisville Metro
Applicant: University of Louisville Foundation
Representative: Sabak, Wilson and Lingo
Jurisdiction: Louisville Metro
Council District: 15 – Kevin Triplett
Case Manager: Jay Lockett, AICP, Planner I

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.)

Discussion

NO DISCUSSION

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.

00:05:31

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

WHEREAS, adequate public facilities are available to serve existing and future needs of the community. The proposed closure does not result in an increase in demand on public facilities or services as utility agencies have coordinated with the applicant and/or applicant's representative and Planning and Design Services staff to ensure that facilities are maintained or relocated through agreement with the developer. No property adjacent or abutting the rights-of-way to be closed will be left absent of public facilities or services or be dispossessed of public access to their property. The applicant will provide necessary easements or relocation of equipment per utility agency requirements; and

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WHEREAS, any cost associated with the rights-of-way to be closed will be the responsibility of the applicant or developer, including the cost of improvements to those rights-of-way and adjacent rights-of-way, or the relocation of utilities and any additional agreement reached between the utility provider and the developer; and

WHEREAS, the Louisville Metro Planning Commission finds, the request to close multiple rights-of-way is in compliance the Goals, Objectives and Plan Elements of the Comprehensive Plan as Mobility Goal 2, Policy 2 states to coordinate use of rights-of-way with community design policies. Ensure accessible rights-of-way to accommodate mobility needs of all transportation network users; Mobility Goal 2, Policy 7 states that the design of all new and improved transportation facilities should be accessible and; Mobility Goal 3, Policy 1 states to provide transportation services and facilities to promote and accommodate growth and change in activity centers through improved access management. Provide walking and bicycling opportunities to enable activity centers to minimize single-occupant vehicle travel. Encourage a mix of complementary neighborhood serving businesses and services in neighborhood and village centers to encourage short trips easily made by walking or bicycling; Mobility Goal 3, Policy 2 seeks to improve mobility, and reduce vehicle miles traveled and congestion, encourage a mixture of compatible land uses that are easily accessible by bicycle, car, transit, pedestrians and people with disabilities. Housing should be encouraged near employment centers; Mobility Goal 3, Policy 3 to evaluate developments for their ability to promote public transit and pedestrian use. Encourage higher density mixed-use developments that reduce the need for multiple automobile trips as a means of achieving air quality standards and providing transportation and housing choices; Mobility Goal 3, Policy 5 to evaluate developments for their impact on the transportation network (including the street, pedestrian, transit, freight movement and bike facilities and services) and air quality; and Mobility Goal 3, Policy 12 states to ensure that transportation facilities of new developments are compatible with and support access to surrounding land uses, and contribute to the appropriate development of adjacent lands. Where appropriate, provide at least one continuous roadway through the development to tie all local access roads or parking areas to the arterial street system. Adequate stub streets and pedestrian connections should be provided by developments. Any cost associated with the rights-of-way to be closed will be the responsibility of the applicant or developer. Adequate public facilities are available to serve existing and future needs of the community. Any facility required to be placed in an easement or relocated will be done so by the developer. Transportation facilities have been provided to accommodate future access and to not dispossess property owners of public access. All adjacent lands maintain access to public infrastructure and utility services will continue to be provided to these lands; and

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CONSENT AGENDA

20-STRCLOSURE-0014

WHEREAS, the Louisville Metro Planning Commission further finds there are no other relevant matters to be considered by the Planning Commission.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the Consent Agenda, a closure of public right-of-way for an unnamed alley between Hahn St. and Eastern Pkwy. west of S. Floyd St., **SUBJECT** to the following condition of approval:

1. The applicant shall secure all necessary easements or provide for the relocation of utility equipment as required by the Louisville Water Company and Louisville Gas and Electric. Written confirmation of this work being completed must be provided to Planning and Design Services by authorized representatives of these utility agencies prior to final recording of the closure.

The vote was as follows:

YES: Commissioners Brown, Carlson, Daniels, Howard, Lewis, Mims, Peterson, Seitz and Jarboe

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BUSINESS SESSION

LDC REFORM UPDATE

Request: LDC Reform Update
Jurisdiction: Louisville Metro
Case Manager: Emily Liu, Planning and Design Director

Discussion

00:06:44 Ms. Liu gave an update on the Land Development Code reform project. Staff has conducted research, done some mapping, collected data, talked with experts and worked with some community organizations.

00:08:54 Ms. Liu introduced staff members working on this project.

00:10:16 Ms. Liu said staff is currently working on the completion of phase I. The Planning Commission will be informed on a regular basis.

00:12:46 Ms. Liu said people who want to inquire about the Land Development Code can visit the website (2) and an email address is provided as well. Also, there's a hotline number.

00:14:35 Commissioner Mims asked, when staff engages with the public, will it be virtually? Ms. Liu said it depends on COVID-19, public safety comes first.

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.

NO ACTION

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PUBLIC HEARING

20-ZONE-0020

Request: Public hearing continuance. Application to be sent back to LD&T to an undetermined date with required notification. Change-in-Zoning from R-4, single-family residential to R-5, single-family; R-6, multi-family and OR-1, office-residential with detailed district development plan and variances

Project Name: Hurstbourne Commons
Location: 8127 Watterson Trail
Owner: John A. Paddock
Applicant: RJ Thieneman
Representative: Dinsmore & Shohl, LLP
Jurisdiction: Louisville Metro
Council District: 11 – Kevin Kramer
Case Manager: Joel P. Dock, AICP, Planner II

NOTE: COMMISSIONER SEITZ RECUSED

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:

00:17:57 Mr. Dock stated this case was set for a night hearing for October 13, 2020. No notice has been sent. The applicant informed staff that they want to continue this case to a LD&T meeting, in which notice will be provided. The applicant will continue working with KYTC regarding possible roadway improvements.

The following spoke in favor of this request:

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

Summary of testimony of those in favor:

00:19:34 Mr. Ashburner stated he received late comments from KYTC regarding the entrance on Hurstbourne Pkwy. and in order to have adequate time to work with KYTC

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PUBLIC HEARING

20-ZONE-0020

and Meijer on the precise configuration of that entrance, the public hearing needs to be delayed. The first LD&T meeting in November would be preferred.

00:21:37 Mr. Dock stated many citizens as well as the council person are under the impression this case would be continued to a date uncertain and new notices would be sent for an LD&T date. Mr. Ashburner agrees to send new notification for the LD&T meeting. Mr. Davis said November 12, 2020 is the first LD&T date.

Deliberation

00:27:23 Planning Commission deliberation.

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

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

RESOLVED, that the Louisville Metro Planning Commission does hereby **CONTINUE** this case to a date uncertain and schedule it for the November 12, 2020 LD&T meeting to allow the applicant time to work out access issues and to set a new night hearing date.

The vote was as follows:

YES: Commissioners Brown, Carlson, Daniels, Howard, Lewis, Mims, Peterson and Jarboe

NOT PRESENT AND NOT VOTING: Commissioner Seitz

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PUBLIC HEARING

19ZONE1016

Request:	Change in zoning from R-4 to R-5B, with Detailed District Development Plan and Binding Elements
Project Name:	Langdon Place Rezoning
Location:	2813 Langdon Drive, 2816 Weissinger Road
Owner:	Leigh Ann Properties LLC
Applicant:	Leigh Ann Properties LLC
Representative:	Bardenwerper Talbott & Roberts
Jurisdiction:	Louisville Metro
Council District:	17 – Markus Winkler
Case Manager:	Dante St. Germain, AICP, Planner II

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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:

00:29:00 Ms. St. Germain stated this case was to be heard today, however in the interim staff has received a petition for a night hearing. More than 200 signatures have been verified. This case and 19ZONE1017 need to be heard together. A night hearing needs to be set today.

The following spoke in favor of this request:

Nick Pregliasco, Bardenwerper, Talbott and Roberts, 1000 North Hurstbourne Parkway, Louisville, Ky. 40223

Summary of testimony of those in favor:

00:30:07 Mr. Pregliasco stated the petition did not have 300 signatures, which is necessary to change the location. The 200 signatures warrant a night hearing at the downtown location. The case could have been heard today at the end of this hearing. Mr. Davis explained that, due to the situation downtown (barriers, protesters and safety issues) it would not be appropriate to have the night hearing downtown. The city of St. Matthews has agreed to allow the night hearing to be held at the St. Matthews Community Center at 310 Ten Pen Ln. (behind Chic-Filet and the bowling alley on Shelbyville Rd.). The new by-laws will be followed at this night hearing. Mr. Pregliasco

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19ZONE1016

objects to changing the venue. The developer is on a tight timeline and needs to move forward. Mr. Davis said it's only an 11 day delay and the venue will not be an added cost.

00:36:01 Commissioner Mims asked if there's a projection of how many people will attend the night hearing at the community center and is there enough space to accommodate everyone. Mr. Davis said the COVID limit is 75 persons.

Deliberation

00:37:38 Planning Commission deliberation.

Commissioner Carlson asked if the night hearing could be started at 6:00 p.m. instead of 6:30 p.m.

00:38:48 Commissioner Peterson said he would not be able to make it at 6:00 or 6:30 (7:00 p.m. would be better).

00:40:26 Commissioner Lewis said she would not be available for that date at all.

00:41:13 Commissioner Daniels said the date is fine at 6:00 p.m.

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 Daniels, the following resolution was adopted.

RESOLVED, that the Louisville Metro Planning Commission does hereby **CONTINUE** this case to a night hearing to be held October 12, 2020, 6:00 p.m. at an in-person meeting located at the St. Matthews Community Center, 310 Ten Pen Lane.

The vote was as follows:

YES: Commissioners Brown, Carlson, Daniels, Howard, Lewis, Mims, Peterson, Seitz and Jarboe

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PUBLIC HEARING

19ZONE1017

Request:	Change in zoning from R-4 to R-5A, with Detailed District Development Plan and Binding Elements
Project Name:	Langdon Place 6-Plex
Location:	9121 Blossom Lane
Owner:	Leigh Ann Properties LLC
Applicant:	Leigh Ann Properties LLC
Representative:	Bardenwerper Talbott & Roberts
Jurisdiction:	Louisville Metro
Council District:	17 – Markus Winkler
Case Manager:	Dante St. Germain, AICP, Planner II

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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:

00:29:00 Ms. St. Germain stated this case was to be heard today, however in the interim staff has received a petition for a night hearing. More than 200 signatures have been verified. This case and 19ZONE1016 need to be heard together. A night hearing needs to be set today.

The following spoke in favor of this request:

Nick Pregliasco, Bardenwerper, Talbott and Roberts, 1000 North Hurstbourne Parkway, Louisville, Ky. 40223

Summary of testimony of those in favor:

00:30:07 Mr. Pregliasco stated the petition did not have 300 signatures, which is necessary to change the location. The 200 signatures warrant a night hearing at the downtown location. The case could have been heard today at the end of this hearing. Mr. Davis explained that, due to the situation downtown (barriers, protesters and safety issues) it would not be appropriate to have the night hearing downtown. The city of St. Matthews has agreed to allow the night hearing to be held at the St. Matthews Community Center at 310 Ten Pen Ln. (behind Chic-Filet and the bowling alley on Shelbyville Rd.). The new by-laws will be followed at this night hearing. Mr. Pregliasco

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19ZONE1017

objects to changing the venue. The developer is on a tight timeline and needs to move forward. Mr. Davis said it's only an 11 day delay and the venue will not be an added cost.

Mr. Davis said a 7-day notice will need to be sent as well as updating the posted signs.

00:36:01 Commissioner Mims asked if there's a projection of how many people will attend the night hearing at the community center and is there enough space to accommodate everyone. Mr. Davis said the COVID limit is 75 persons.

Deliberation

00:37:38 Planning Commission deliberation.

Commissioner Carlson asked if the night hearing could be started at 6:00 p.m. instead of 6:30 p.m.

00:38:48 Commissioner Peterson said he would not be able to make it at 6:00 or 6:30 - 7:00 p.m. would be better.

00:40:26 Commissioner Lewis said she would not be available for that date at all.

00:41:13 Commissioner Daniels said the date is fine at 6:00 p.m.

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 Daniels, the following resolution was adopted.

RESOLVED, that the Louisville Metro Planning Commission does hereby **CONTINUE** this case to a night hearing on October 12, 2020, 6:00 p.m. at an in-person meeting set for those who do not have technology access to be located at the St. Matthews Community Center, 310 Ten Pen Lane.

The vote was as follows:

YES: Commissioners Brown, Carlson, Daniels, Howard, Lewis, Mims, Peterson, Seitz and Jarboe

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PUBLIC HEARING

19-ZONE-0094

Request: Change in zoning from R-5 to C-1, with Detailed District Development Plan and Binding Elements and associated landscape Waiver

Project Name: Westport Road Retail

Location: 917 and 919 Fountain Avenue, 4700 Westport Road

Owner: Estate of Evelyn Kaelin

Applicant: 4700 Westport LLC

Representative: Dinsmore & Shohl LLC

Jurisdiction: Louisville Metro

Council District: 7 – Paula McCraney

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:

00:43:32 Ms. St. Germain stated this case was previously heard at the September 17, 2020 PC meeting and all the public testimony was taken at that time. It was continued today for deliberation only.

00:44:58 Commissioner Brown asked if the staff report reflects the proposed binding elements discussed at the last meeting. The applicant didn't agree to 1 of those proposed by staff. Ms. St. Germain said it was proposed binding element 9. The applicant proposed to exclude restaurants with outdoor alcohol sales from the conditional use permits that would be permitted on the site.

00:45:56 Ms. Ferguson asked for clarification of that binding element. Mr. Ashburner said they want to have the opportunity for other conditional uses, but we will forego the opportunity to have the one conditional use permit outdoor dining with alcohol sales or entertainment.

Deliberation

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19-ZONE-0094

00:47:43 Commissioner Mims said he agrees with the staff report.

00:48:36 Commissioner Seitz stated she's in favor of the entire request. Washburn Ave. is the cut-through, not Fountain Ave. There was commercial in that location in the past.

00:49:28 Commissioner Howard stated she agrees with the staff report as well.

00:50:15 Commissioner Carlson said he's not convinced that the change in zoning is appropriate. It constitutes a non-residential expansion into an existing residential area. All 4 sides are residential. The applicant is not binding out very many uses. The proposal is not compatible.

00:54:38 Commissioner Daniels stated she has the same concerns as Commissioner Carlson and Mims. There should be a better location for this proposal.

00:55:27 Commissioner Brown said R-5 is not the best zoning for that location and nothing over OR-1 would be appropriate. That corner is not commercial because of the Fountain Ave. re-classification.

00:56:14 Commissioner Peterson said he's not in support of the zoning change. Office Residential would be best for this location.

00:56:53 Commissioner Lewis said she agrees with the staff report for the zoning change. The applicant has accommodated the closest neighbor that shares the property line. Also, there was concern for the neighbor across the street and the intrusion of headlights, but that neighbor is in support of the request.

00:58:11 Chair Jarboe said this is a tricky case. It's out of place because it's surrounded by residential but there has been commercial there in the past. The applicant has provided some mitigation.

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-5 to C-1

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

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WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Community Form because, the proposal would constitute a non-residential expansion into an existing residential area. The site is located along a minor arterial (Westport Road) and most traffic to the site will come via Westport Road; the site is located adjacent to Westport Road, a transit corridor; The proposed zoning district would not permit hazardous uses. Disadvantaged populations are not disproportionately impacted by the proposal; the proposed zoning district would not permit uses which create noxious odors, particulates or emissions; the site is located on Westport Road and most traffic to the site will be routed along Westport Road; noise impacts would be addressed by the addition of the proposed Binding Element #9; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Form because, C-N would be an appropriate zoning district for a small activity center in the proposed location, with appropriate design and density. With the addition of the proposed Binding Element #9, C-1 is an appropriate zoning district; the site has appropriate access and connectivity, as it is located on Westport Road and most of the traffic to the site will be routed along Westport Road; the site is not located in an existing activity center. Low-intensity commercial previously existed on a portion of the site and was supported by nearby populations; the proposal would create a new activity center. C-N zoning would support neighborhood-serving commercial, which encourages a more compact development pattern and cost-effective infrastructure investment. C-1 zoning is appropriate with the addition of proposed Binding Element #9; the proposal would permit a mixture of compatible land uses in a new activity center; the proposal would permit residential uses in a new activity center; the proposal would not include any underutilized parking lots; the placement of the structure would be compatible with nearby residences; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Community Form because, no natural systems are evident on the subject site; no wet or highly permeable soils, or severe, steep or unstable slopes are evident on the site; the site is not located in a flood-prone area. No karst features were evident on the site; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 4: Community Form because, the existing structures on the site are not proposed to be preserved. They do not appear to have historic or architectural value; the existing structures on the site are not proposed to be preserved. They do not appear to constitute distinctive cultural features; and

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WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Mobility because, access to the site will be via Westport Road, a minor arterial and transit corridor at this location; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Mobility because, C-1 zoning would permit a mix of complementary neighborhood serving businesses, but also allows uses that would not be appropriate for this location. Proposed Binding Element #9 addresses this; the proposal would permit a mixture of compatible land uses that are easily accessible by bicycle, car, transit, pedestrians and people with disabilities; the site is located on an existing transit corridor and the proposal would encourage higher density mixed-use developments; Transportation Planning has approved the proposal; and

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

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Economic Development because, the site is located on a minor arterial street and does not have adequate access to a major arterial. With the addition of proposed Binding Element #9, the potential intensity of the proposed zoning district is addressed; and

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

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Housing because, the proposal would support aging in place by permitting higher density housing options on the site, or neighborhood-serving commercial uses in proximity to existing residential development; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Housing because, the proposal would permit inter-generational mixed-income and mixed-use development. The site is connected to the neighborhood and surrounding area; the proposal would permit housing in proximity to Westport Road, a multi-modal transportation corridor; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Housing because, Commercial uses adjacent to residential do not necessarily displace existing residents from their community.

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However, the intensity of uses allowed in C-1 but not allowed in C-N may create nuisances to adjoining residential uses, such as noise, noxious odors and emissions, light impacts, etc. The addition of proposed Binding Element #9 addresses this; the proposal would permit innovative methods of housing.

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council the change in zoning from R-5 Single Family Residential to C-1 Commercial on property described in the legal description be **APPROVED**.

The vote was as follows:

YES: Commissioners Howard, Lewis, Mims, Seitz and Jarboe

NO: Commissioners Brown, Carlson, Daniels and Peterson

Waiver from Table 10.2.3 to allow a reduction in required property perimeter Landscape Buffer Area (LBA) from 25' to 20' (19-WAIVER-0107)

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

WHEREAS, the waiver will not adversely affect adjacent property owners as the required screening is proposed to be provided in the reduced landscape buffer area; and

WHEREAS, the waiver will not violate specific guidelines of Plan 2040 as Plan 2040 encourages adequate buffering between uses which are of substantially different intensity or density. The required screening and planting material are proposed to be provided; and

WHEREAS, the Louisville Metro Planning Commission finds, the extent of the waiver of the regulation is not the minimum necessary to afford relief to the applicant as the building could be reduced in size to eliminate the required encroachment; and

WHEREAS, the Louisville Metro Planning Commission further finds the applicant has not incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived, and strict application of the provisions of the regulation would not deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant

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because the applicant could reduce the depth of the proposed structure by 5 feet to accommodate the required landscape buffer area without the encroachment.

RESOLVED, that the Louisville Metro Planning Commission does hereby **DENY** a Waiver from Table 10.2.3 to allow a reduction in required property perimeter Landscape Buffer Area (LBA) from 25' to 20' (19-WAIVER-0107)

The vote was as follows:

YES: Commissioners Brown, Carlson, Daniels, Howard, Mims, Peterson and Jarboe

NO: Commissioners Lewis and Seitz

Detailed District Development Plan and Binding Elements

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

Came out of Deliberation

01:05:05 Commissioner Carlson stated the plan will now change because the waiver was denied. Those changes need to be reviewed.

01:06:00 Ms. St. Germain said the detailed district development plan will have to be adjusted. They may have to reduce the size of the building or parking lot in order to fit the entire landscape buffer area that's required.

01:07:05 Commissioner Howard said the applicant would automatically have to submit a revised detailed district development plan based on the waiver being denied.

01:09:09 Mr. Reverman said without a development plan there won't be any binding elements, which is unusual and confusing. You may consider this plan as being a general plan and adding a binding element indicating this is a general district development plan and before any construction takes place on the property, a detailed district development plan shall be reviewed by the Planning Commission. Also, Ms. St. Germain may want to eliminate some binding elements that were specific to the detailed district development plan.

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01:13:15 Mr. Ashburner said the changes to the plan will be minimal. Staff could then determine compliance. Mr. Reverman said the size of the building will need to be reduced.

01:24:34 Mr. Reverman read the new proposed binding element as follows: No construction shall occur on the property until a revised detailed district development plan is approved by Planning and Design Services staff. The revised detailed district development plan shall provide a 25-foot landscape buffer area along the south property line and in compliance with the Land Development Code.

Back to Deliberation

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

WHEREAS, no natural resources appear to exist on the site. The existing building is not proposed to be retained. However, the existing building does not appear to be a historic 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

WHEREAS, the Louisville Metro Planning Commission finds, the overall site design is compatible with the existing and future development of the area, with the exception of the requested waiver; and

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

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

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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 construction shall occur on the property until a revised detailed district development plan is approved by Planning and Design Services staff. The revised detailed district development plan shall provide a 25-foot landscape buffer area along the south property line and in compliance with the Land Development Code
3. No outdoor advertising signs, small freestanding 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 Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. Encroachment permits must be obtained from the Kentucky Transportation Cabinet for any work in the Westport Road right-of-way.
 - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a certificate of occupancy. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - d. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
 - e. A minor plat or legal instrument shall be recorded consolidating the property into one lot. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of the

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approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.

f. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the June 18, 2020 Planning Commission hearing. A copy of the approved rendering is available in the case file on record in the offices of the Louisville Metro Planning Commission. Windows and doors facing Westport Road and Fountain Avenue shall be constructed of clear glass and offer a view into the building. Measures to control sunlight are specifically authorized. The tops of windows shall be at least eight feet high measured from the sidewalk. The bottom of the windows shall be no more than two feet above the sidewalk.

6. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
7. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system permitted on the site.
8. 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.
9. Any request to modify or amend these Binding Elements shall be noticed to first and second tier adjoining property owners, and to all persons who spoke on this case at the March 5, 2020, June 18, 2020 or September 17, 2020 Planning Commission hearing, as well as to any other parties required by Kentucky Revised Statutes, the Land Development Code, and/or the Planning Commission bylaws for zoning changes, no less than 14 days prior to the meeting at which such modification or amendment shall be heard.

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10. The subject property shall only be used for uses allowed in the C-N Commercial Neighborhood zoning district and the following uses allowed in the C-1 Commercial zoning district:
 1. Pet shop
 2. Paint Store
 3. Music Store
 4. Pet grooming, obedience training and related pet activities, provided the operation is conducted within a soundproofed building, no animals are boarded, and there are no runs or pens outside of the building.
 5. Package liquor stores (no on-site alcohol consumption allowed)
 6. Furniture Stores
 7. Computer sales (hardware and software) and programming services
 8. Conditional uses allowed in the C-1 Commercial zoning district under Chapter 4, Part 2, except for "Outdoor Alcohol Sales and Consumption/Entertainment Activity for Restaurants in the C-1 zoning district" under Chapter 4, Part 2.41

11. The applicant shall screen any mechanical equipment on the east side of the proposed building through the use of a fence, landscaping, or combination thereof, as approved by the Louisville Metro Planning Staff as part of the required landscape plan.

12. The applicant shall provide, at its expense, a planting screen in the front yard of the property located at 916 Fountain Avenue if so requested by the owner of said property.

The vote was as follows:

YES: Commissioners Howard, Lewis, Mims, Seitz and Jarboe

NO: Commissioners Brown, Carlson, Daniels and Peterson

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20-ZONE-0072

Request: Change in zoning from R-4 to EZ-1 with waivers
Project Name: Greenbelt Highway Warehouse - Access Easement
Location: 7101 Greenbelt Highway
Owner: Louisville Metro Government
Applicant: Summit Construction
Representative: Mindel Scott
Jurisdiction: Louisville Metro
Council District: 1 – Jessica Green
12 – Rick Blackwell
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. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

01:34:28 Mr. Dock discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Kent Gootee, Mindel, Scott and Associates, 5151 Jefferson Boulevard, Louisville, Ky. 40219

Michael ?, LDG Development, 1469 South 4th Street, Louisville, Ky. 40202

Summary of testimony of those in favor:

01:41:04 Mr. Gootee gave a power point presentation.

Mr. Gootee stated the entrance plan was denied by KYTC due to the limited access of the Greenbelt. The buffering and landscaping are problematic and that's why the waivers are necessary. The justification for the zoning is that one can't go from a low intensity to high intensity use.

Mr. Gootee discussed the 3 waivers.

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01:48:26 Commissioner Mims asked Mr. Gootee to explain the sidewalk issue. Mr. Gootee said they will put the sidewalk in (not the entire property) on the portion being rezoned.

01:51:16 Michael stated he was involved with the original rezoning and supports the request.

Deliberation

01:52:28 Planning Commission deliberation.

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

Change-in-Form from Neighborhood to Suburban Workplace

On a motion by Commissioner Carlson, seconded by Commissioner Seitz, the following resolution based on the Plan 2040 Staff Analysis and testimony heard today was adopted.

WHEREAS, the Louisville Metro Planning Commission finds, the neighborhood form is not intended to serve industrial uses. It is designed for neighborhood serving commercial activities or residential uses. A form district change to SW, Suburban Workplace is appropriate in conjunction with the zoning change. The SW form is characterized by predominately industrial and office uses where the buildings are set back from the street in a landscaped setting; and

WHEREAS, the Louisville Metro Planning Commission further finds, Suburban Workplaces often contain a single large-scale use or a cluster of uses within a master planned development. The proposal serves a single large warehouse user to the north that is located within the SW form at an appropriate location along an arterial roadway near population and employment centers.

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council the change in Form District from Neighborhood to Suburban Workplace on property described in the attached legal description be **APPROVED**.

The vote was as follows:

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YES: Commissioners Brown, Carlson, Daniels, Howard, Lewis, Mims, Peterson, Seitz and Jarboe

Zoning Change from R-4 to EZ-1

On a motion by Commissioner Carlson, seconded by Commissioner Howard, the following resolution based on the Plan 2040 Staff Analysis and testimony heard today was adopted.

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Community Form because, the proposal would not expand upon a residential area as the area of rezoning serves an adjacent industrial zoning district and use, and is separated from residential areas by streams and vegetated area, some of which may be preserved from development for flood management; the proposed higher intensity use connects an industrial user to a major arterial roadway adjacent to employment centers; the area of rezoning serves an adjacent industrial zoning district proposed to be in the SW form district; The area of rezoning serves an adjacent industrial zoning district proposed to be in the SW form district. The resulting district does not result in adverse impacts upon disadvantaged populations; the area of rezoning serves an adjacent industrial zoning district proposed to be in the SW form district. The zoning change allows for access to be located further south from residential areas along Greenbelt Highway; the proposed change in zoning allows for appropriate access to Greenbelt Highway at an intersection as approved by KYTC; the proposed zoning district minimally increased an existing industrial district and no additional noises will result from this request; the proposed zoning change is located away from population centers and residential area to reduce impacts of hazardous or flammable materials; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Community Form because, the proposal does not substantially impact natural features. It is the minimum area to accommodate access for an adjacent user; the proposal does not substantially impact wet or highly permeable soils, severe, steep or unstable slopes. It is the minimum area to accommodate access for an adjacent user; all MSD requirements will be met by the proposed development and construction plans; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 4: Community Form because, all MSD requirements will be met by the proposed development and construction plans; and

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WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Mobility because, the proposed higher intensity use is located adjacent to similar intensities; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Mobility because, pedestrian connectivity has been provided by the adjacent user; The proposal facilitates appropriate access per KYTC to a major arterial roadway; all improvements necessary to facilitate construction will be made; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Facilities because, utilities will be available to serve the development; an adequate supply of potable water and water for fire-fighting purposes will be available; MSD approval has been received to ensure that all development has adequate means of sewage treatment and disposal to protect public health and to protect water quality; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Economic Development because, the proposed district is needed to allow access to a major arterial roadway for an industrial user in the SW form; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Livability because, the site does not appear to be vulnerable and the development area is minimal; MSD approval has been received.

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council the change in zoning from R-4, Single Family residential to EZ-1, Enterprise Zone on property described in the attached legal description be **APPROVED**.

The vote was as follows:

YES: Commissioners Brown, Carlson, Daniels, Howard, Lewis, Mims, Peterson, Seitz and Jarboe

Waiver of Land Development Code (LDC), section 10.2.4 to omit the 50' landscape buffer adjacent to R-4 zoning district

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20-ZONE-0072

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

WHEREAS, the waiver will not adversely affect adjacent property owners as the nearest residential user with respect to the request is more than 1,000 feet from the subject site. Between the requested buffer waiver and these properties are environmental features that provide a sufficient transition, and these properties are owned by Louisville Metro Government; and

WHEREAS, Guideline 3, Policy 9 of Cornerstone 2020 calls for the protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigate when appropriate. Guideline 13, Policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. The proposed area of improvement would appear to be the minimum necessary to afford access for an industrial user. the nearest residential user with respect to the request is more than 1,000 feet from the subject site; and

WHEREAS, the Louisville Metro Planning Commission finds, the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the proposed area of improvement would appear to be the minimum necessary to afford access for an industrial user to the north that is unable to provide access on their site to the state right-of-way; and

WHEREAS, the Louisville Metro Planning Commission further finds the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as it would require the industrial district to be expanded further upon the residential area.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** a Waiver of Land Development Code (LDC), section 10.2.4 to omit the 50' landscape buffer adjacent to R-4 zoning district.

The vote was as follows:

YES: Commissioners Brown, Carlson, Daniels, Howard, Lewis, Mims, Peterson, Seitz and Jarboe

Waiver of LDC, section 10.2.4 to allow for greater than 50% overlap between easement and landscape buffer areas

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

WHEREAS, the waiver will not adversely affect adjacent property owners as the proposed area of improvement would appear to be the minimum necessary to afford access for an industrial user. the nearest residential user with respect to the request is more than 1,000 feet from the subject site; and

WHEREAS, Guideline 3, Policy 9 of Cornerstone 2020 calls for the protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigate when appropriate. Guideline 13, Policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. The proposed area of improvement would appear to be the minimum necessary to afford access for an industrial user. the nearest residential user with respect to the request is more than 1,000 feet from the subject site; and

WHEREAS, the Louisville Metro Planning Commission finds, the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the proposed area of improvement would appear to be the minimum necessary to afford access for an industrial user to the north that is unable to provide access on their site to the state right-of-way; and

WHEREAS, the Louisville Metro Planning Commission further finds the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as it would require the industrial district to be expanded further upon the residential area.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** a Waiver of LDC, section 10.2.4 to allow for greater than 50% overlap between easement and landscape buffer areas.

The vote was as follows:

YES: Commissioners Brown, Carlson, Daniels, Howard, Lewis, Mims, Peterson, Seitz and Jarboe

Waiver of LDC, section 10.3.5 to omit the screening requirement along Greenbelt Highway

Out of Deliberation

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02:10:27 Mr. Dock suggests the following binding element: An equivalent number of trees shall be planted along the property to north, in addition to those already approved on the landscape plan.

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

WHEREAS, the approval of this waiver will not negatively affect adjacent property owners as there are over 30 acres of forested land, the remainder of the 3 lots that will provide buffering for the nearest single family lots in the Sylvania subdivision. This property is owned by Louisville Metro Government and not likely to be developed as it is area primarily reserved for floodplain compensation; and

WHEREAS, the Louisville Metro Planning Commission finds, the waiver does not violate the Comprehensive plan since the existing vegetation on the remainder of the property will be preserved and provide an adequate buffer for the nearest residential lots; and

WHEREAS, the Louisville Metro Planning Commission further finds, the existing vegetation on the residual property that will be preserved far exceeds the minimum buffer requirement. The strict application of the regulation to provide the buffer on the property being rezoned/the higher intensity zoning creates a larger area than needed being rezoned, larger than needed for the access drive/ access easement and would be an unnecessary hardship.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** a Waiver of the Land Development Code, section 10.3.5 to omit the screening requirement along Greenbelt Highway with an additional binding element number 8 concerning trees that will mitigate the impact of this waiver.

The vote was as follows:

YES: Commissioners Carlson, Daniels, Howard, Lewis, Mims, Peterson, Seitz and Jarboe

NO: Commissioner Brown

Detailed District Development Plan and Binding Elements

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

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WHEREAS, the conservation of natural resources on the property proposed for development, including: trees and other living vegetation, steep slopes, water courses, flood plains, soils, air quality, scenic views, and historic sites will be conserved as the site does not appear to adversely impact these features; and

WHEREAS, provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community will be provided as the proposed roadway provides access at a location preliminarily approved by KYTC; and

WHEREAS, the provision of sufficient open space (scenic and recreational) to meet the needs of the proposed development will be provided; and

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

WHEREAS, the Louisville Metro Planning Commission finds, the proposal is compatible within the scale and site design of nearby existing development and with the form district's pattern of development as the access drive provides access to an industrial users to the north; and

WHEREAS, the Louisville Metro Planning Commission further finds the proposed development plan conforms to Plan 2040 as the proposal is within the SW form district.

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

1. The site shall be maintained in accordance with all applicable sections of the Land Development Code (LDC) and agreed-upon binding elements unless amended pursuant to the LDC. Amendment of any binding element(s) shall be submitted to the Planning Commission or its designee for review and approval; any amendments not so referred shall not be valid.
2. No outdoor advertising signs, small freestanding signs, pennants, balloons or banners shall be permitted.
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

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until all construction is completed. No parking, material storage or construction activities are permitted within the protected area. 4. Before any permit is requested, including but not limited to permits for building, parking lot, change of use, site disturbance, alteration or demolition:

- a. The development plan must receive full construction approval from Develop Louisville, Louisville Metro Public Works and the Metropolitan Sewer District,
- b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways for any work within the state right-of-way.

- 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 a copy of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development and/or use of this site and shall advise all parties of their content. 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. These binding elements shall run with the land and the owner(s) and occupant(s) of the property shall at all times be responsible for compliance with them.
- 7. No overnight idling within 200 ft. of residential property lines. Signs shall be posted restricting idling and establishing a slow acceleration zone along the northern drive aisle.
- 8. An equivalent number of trees, as required within the 30-foot parkway buffer, shall be planted on the adjacent industrial site to the north, in addition to those, the tree canopy previously approved for that site.

The vote was as follows:

YES: Commissioners Brown, Carlson, Daniels, Howard, Lewis, Mims, Peterson, Seitz, and Jarboe

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PUBLIC HEARING

20-ZONE-0058

Request: Change in Zoning from R-5 to R-6 for accessory apartment
Project Name: Rosewood Accessory Apartment
Location: 1616 Rosewood Avenue
Owner: Amanda Donaldson
Applicant: Concept Architects
Representative: Alex C. Davis, PSC
Jurisdiction: Louisville Metro
Council District: 8 – Brandon Coan
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. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

02:14:27 Mr. Dock discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Amanda Donaldson, 1616 Rosewood Avenue, Louisville, Ky.
Kaelin Davis, 1616 Rosewood Avenue, Louisville, Ky.
Rachel Harmon, 1621 Windsor Place, Louisville, Ky.
Dan Spitler, 1621 Windsor Place, Louisville, Ky.
Rachel Winerich, 1603 Rosewood Avenue, Louisville, Ky.
Alex Davis, 1616 Rosewood Avenue, Louisville, Ky.
Michael Gross, 1071 Everett Avenue, Louisville, Ky.

Summary of testimony of those in favor:

02:19:53 Ms. Donaldson stated she's lived at her residence for about 8 years and has undergone major renovations, investing significantly financially. The family is diversified and would like to expand the living space to support the family. The plans are in keeping with the neighborhood.

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02:22:00 Mr. Kaelin Davis said the zoning change would allow the building of a carriage house where he and his brother will live. The project promotes diversity of housing in Louisville for non-traditional families. Currently the living space is very cramped and additional space is needed. COVID-19 and NTI courses make it difficult as well.

02:24:09 Ms. Harmon stated she lives in the adjacent home and touches the back of the proposed home, sharing a property line in the alley.

02:25:02 Mr. Spitler and Ms. Harmon are the architects for Ms. Donaldson.

Mr. Spitler said he was very careful in designing the home in such a way that it works for their family, fits the site and is as unobtrusive as possible, given the site conditions. The elevations show a lot of ways this was done.

02:29:20 Ms. Winerich stated there are garages on the opposite side of Rosewood, on the same block, with independent second living spaces. Having NTI with 4 children in the home is very difficult. The project will allow for their family to expand and grow in a positive way. Their design is very thoughtful and positive for the neighborhood.

02:30:53 Mr. Alex Davis said most of the garages and accessory structures on Rosewood and Windsor are single-story, but there are a handful of 2-story as well. There are also some non-R-5 zoned properties in the neighborhood. After speaking to some neighbors, we agreed to place a binding element on the property for having no short-term rentals.

02:32:46 Mr. Gross stated, in the urban neighborhoods, we should be maximizing the density and accessory structures in the back of the house should be encouraged as it is a walkable community.

The following spoke in opposition to this request:

Robert Rogers, 1637 Windsor Place, Louisville, Ky.
Bill Jordan, 1312 Mossrose Avenue, Louisville, Ky.
Paula Head, 1625 Windsor Place, Louisville, Ky.
Danatta Levine, 1629 Windsor Place, Louisville, Ky.
Jeff Roberts, 1721 Windsor Place, Louisville, Ky.

Summary of testimony of those in opposition:

02:34:54 Mr. Robert Rogers gave a power point presentation.

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Mr. Robert Rogers said his main concern is a precedent being set by this zoning change. The proposed site is completely surrounded by residential with 2 R-7 zonings nearby. The National Registry of Historic Places - the Highlands area is significant to Louisville due to its architectural cohesiveness, quality and quantity. The zoning change is incompatible and there will be no screening or landscaping provided.

02:39:14 Mr. Jordan stated, his major concern is if the owner sells the house, will it become rental property. Also, there's not enough room for people to live on the alley side.

02:41:24 Ms. Head stated she does not object to a garage, however she does object to a large 2-story structure in a small area on a narrow alley. There is one other 2-story structure in the area, but it was not built as a residence and has no plumbing. The city needs to uphold its own standards. The proposal will not be compatible and will be a visual intrusion.

02:50:06 Ms. Levine stated she's not opposed to a garage but is opposed to an apartment.

02:51:47 Mr. Jeff Rogers is opposed to the additional housing unit in the rear along the alley. The neighborhood is mainly single family residential.

Rebuttal

02:55:13 Ms. Donaldson said she's taken the time and effort to consider her family and the communities' needs. The proposal will deepen her roots in the neighborhood as well as add more diversity. Also, a lot of detail went into designing the structure.

02:56:29 Mr. Spitler said Ms. Donaldson did some extensive renovations to the primary house that gives a more modern appearance and the new structure was designed to correspond to the primary structure. It will not sit on the curb but will be set back from it.

Mr. Spitler said the zoning change process is long and drawn out. Also, the neighbors in opposition live on Windsor Ave., not Rosewood Ave.

03:01:28 Commissioner Carlson asked if the proposal is in an architectural review area. Mr. Dock said no. It's in a National Register District, but not a Preservation District.

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03:01:53 Commissioner Howard asked if R-5A was considered for this proposal. Mr. Dock said several alternatives were explored and R-6 is the only one that would work because of the FAR, floor area ratio.

03:03:39 Commissioner Mims asked if there is a conditional use permit process, CUP for an accessory dwelling unit provided the primary structure is occupied by the owner. Mr. Dock said there is a CUP process, but it doesn't work with the FAR of the proposed property. The existing structure doesn't conform to floor area, therefore any increase in an inhabitable space would increase the non-conforming nature of that structure.

Deliberation

03:05:54 Commissioner Peterson said he understands the FAR problem. The zoning change will be appropriate. The design is suitable and the 2-story factor is not overstated.

03:06:36 Commissioner Carlson agrees. Also, the applicant has adequately justified the requested waiver.

03:06:55 Commissioner Howard agrees. The Comprehensive Plan says to provide alternative housing that is consistent with the neighborhood. The block-face will not be changed and this proposal appears to be similar to the average homes in urban areas that have been approved. These carriage homes always allow special living arrangements to locate in residential communities. The proposal is not an apartment, but an addition for special living arrangements. While allowing special living arrangements to locate in residential communities, it avoids a concentration in an individual neighborhood. This is an infill and not projected to expand.

03:08:09 Commissioner Mims said this type of proposal is encouraged in the Comprehensive Plan 2040.

03:08:33 Commissioner Brown said he agrees with everything that's been said.

03:08:39 Commissioner Seitz said she has been in that area recently and there are quite a few carriage houses.

03:09:07 Commissioner Daniels said she is in favor of the proposal and it's a good way of keeping your children home while giving them some independence.

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03:09:30 Commissioner Lewis said she was concerned about the proposal being short-term rental but that issue has been addressed and there's a binding element in place to ensure it will not be used for that purpose. The request is justified.

03:09:51 Chair Jarboe said he agrees. Also, the Planning Commission does not operate off precedent, but whether a proposal follows the Land Development Code.

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-5 to R-6

On a motion by Commissioner Carlson, seconded by Commissioner Peterson, the following resolution based on the Plan 2040 and testimony heard today was adopted.

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Community Form because, the proposed district is located within proximity to a major transit and commercial corridor with multiple TARC routes serving employment and activities centers throughout Louisville Metro; the proposal provides appropriate transitions between uses that are substantially different in scale and intensity or density of development as adjacent uses and surrounding land uses are similar in intensity and density to the proposed district. The proposed density allows no more than 2 dwellings on the property which is the equivalent of one primary dwelling and one accessory dwelling; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Form because, the proposal provides for residential flexibility at an appropriate location within proximity to a wide variety of services and amenities; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Community Form because, the site does not appear to possess any issues related to wet or highly permeable soils, severe, steep or unstable slopes with the potential for severe erosion;

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 4: Community Form because, the proposal preserves existing structures that contribute to the character of the area and allows for the introduction of flexible and alternative housing styles; the proposal contributes to the

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character of the area by allowing for the introduction of flexible and alternative housing styles; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Mobility because, the proposed district is located within proximity to a major transit and commercial corridor with multiple TARC routes serving employment and activities centers throughout Louisville Metro; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Mobility because, access to the site is obtained through public roads crossing similar densities transitioning from the commercial corridor; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Mobility because, the proposed district is easily accessible by bicycle, car, transit, pedestrians and people with disabilities as the area is a well-connected and walkable urban neighborhood near a major transit corridor; existing roadway infrastructure, in conjunction with multi-modal transportation options is adequate to support a wide range of densities; additional improvements to the transportation network are not required of this proposal; existing transportation facilities and services are adequate to support the proposal; no transportation improvements would appear to be occurring along Rosewood Avenue that impact the subject property or greater area; no access to high speed roadways is provided; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Facilities because, the proposal is in an area served by existing utilities or planned for utilities. The subject site is in the urban services district; the proposal has access to an adequate supply of potable water and water for fire-fighting purposes. The subject site is in the urban services district; an adequate means of sewage treatment and disposal to protect public health and to protect water quality will be provided; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Livability because, the proposed development provides alternative housing that is contextually appropriate for the character of the area; no vulnerable geologic features appear to be present within the area of development; the proposed zoning district does not appear to disrupt the integrity of the floodplain. Preliminary approval has been received by MSD; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Housing because, the proposal ensures the continued inclusion of a variety of housing types in a well-connected neighborhood and

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does not disrupt the balance of multi-family and single-family residential in the neighborhood. The proposed housing type is reflective of the greater area; the proposed district allows for a variety of housing options in a well-connected urban neighborhood with a variety of amenities. The subject site is located close to shopping and transit routes, and medical and other supportive facilities; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Housing because, the proposed district allows for a variety of housing options including mixed-income and mixed-use development that is connected to the neighborhood and surrounding area; the proposed district is located within proximity to multi-modal transportation corridors providing safe and convenient access to employment opportunities, as well as within proximity to amenities providing neighborhood goods and services. It is located within proximity to transit corridors and commercial corridor; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Housing because, the proposal helps to create appropriately zoned inclusive housing as the proposed density allows 2 dwellings on the property which is the equivalent of one primary dwelling and one accessory dwelling; the proposed district allows for an appropriate level of density in an area that is well-connected for multi-modal transportation.

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council the change in zoning from R-5, Single Family Residential to R-6, Multi-family Residential on property described in the attached legal description be **APPROVED**.

The vote was as follows:

YES: Commissioners Brown, Carlson, Daniels, Howard, Lewis, Mims, Peterson, Seitz and Jarboe

Waiver of Land Development Code (LDC), section 10.2.4 to omit the required 10-20' landscape buffer along the side property lines

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

WHEREAS, the waiver will not adversely affect adjacent property owners as the proposed accessory structure is consistent with the development patterns of the area

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and no additional landscaping is necessary for this limited intensity of development. The structure complies with all requirements for accessory structures in the traditional neighborhood; and

WHEREAS, Guideline 3, Policy 9 of Cornerstone 2020 calls for the protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigate when appropriate. Guideline 13, Policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. The proposed development does not adversely impact adjacent properties as the development proposed is consistent with the Housing goals of Plan 2040 to provide inclusive housing in accessible locations. The inclusion of buffering would prevent the promotion of these housing goals on the development site. No visual intrusions would result as an accessory structure is permitted in the traditional form district in the area of a residential lot shown on the proposed development plan; and

WHEREAS, the Louisville Metro Planning Commission finds, the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the inclusion of buffering would prevent the promotion of inclusive housing in accessible locations. No visual intrusions would result as an accessory structure is permitted in the traditional form district in the area of a residential lot shown on the proposed development plan; and

WHEREAS, the Louisville Metro Planning Commission further finds the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as the proposed structure is consistent with the requirements of the traditional neighborhood for accessory structures.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVED** a Waiver of the Land Development Code (LDC), section 10.2.4 to omit the required 10-20-foot landscape buffer along the side property lines.

The vote was as follows:

YES: Commissioners Brown, Carlson, Daniels, Howard, Lewis, Mims, Peterson, Seitz and Jarboe

Detailed District Development Plan and Binding Elements

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

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WHEREAS, the conservation of natural resources on the property proposed for development, including: trees and other living vegetation, steep slopes, water courses, flood plains, soils, air quality, scenic views, and historic sites will be conserved as the site development does not appear to adversely impact these features; and

WHEREAS, provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community will provided as all required setbacks are being provided from the alley; and

WHEREAS, the provision of sufficient open space (scenic and recreational) to meet the needs of the proposed development will be provided as the required rear yard is provided; and

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

WHEREAS, the Louisville Metro Planning Commission finds, the proposal is generally compatible within the scale and site design of nearby existing development and with the form district's pattern of development as accessory structures which may contain dwellings are present in the larger area and provide for inclusive housing in a well-connected neighborhood; and

WHEREAS, the Louisville Metro Planning Commission further finds the proposed development plan conforms to Plan 2040 as the proposed land use helps to create inclusive and alternative housing consistent with the character of the area. The proposed development conforms to the requirements of transitional neighborhood residential site design.

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.

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2. Before any permit (including but not limited to building, parking lot, change of use, site disturbance) is requested:
 - a. The development plan must receive full construction approval from Develop Louisville, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter
 - c. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the October 1, 2020 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.
3. 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.
4. 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.
5. 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.
6. The accessory structure/apartment shall not be used for short-term rental.

The vote was as follows:

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YES: Commissioners Brown, Carlson, Daniels, Howard, Lewis, Mims, Peterson, Seitz and Jarboe

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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 4:27 p.m.

DocuSigned by:

Vincent H. Jarboe

Chair

DocuSigned by:

[Signature]

Planning Director