

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO PLANNING COMMISSION
REGULAR MEETING
January 21, 2021**

A meeting of the Louisville Metro Planning Commission was held on January 21, 2021 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:

Marilyn Lewis
Lula Howard
Jeff Brown
Rich Carlson
Robert Peterson
Ruth Daniels
Jim Mims
Pat Seitz
Te'Andrea Sistrunk
Patricia Clare

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
Julia Williams, Planning Supervisor
Dante St. Germain, Planner II
Joel Dock, Planner II
Beth Stuber, Engineering Supervisor
Laura Ferguson, Legal Counsel
Pamela M. Brashear, Management Assistant

The following matters were considered:

PLANNING COMMISSION MINUTES
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APPROVAL OF MINUTES

JANUARY 7, 2021 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 January 7, 2021 with a correction to the street name on the W. Manslick case.

The vote was as follows:

YES: Commissioners Brown, Carlson, Clare, Daniels, Mims, Peterson, Seitz, Sistrunk and Howard

ABSTAINING: Commissioner Lewis

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PUBLIC HEARING

LDC REFORM UPDATE – 11.19.20

Project Name: LDC Reform Update
Staff Case Manager: Emily Liu, Director, Planning and Design Services

Discussion

00:06:00 Emily Liu, Planning & Design Director, presented an update to the Land Development Code Reform project being conducted by Planning & Design Services.

00:07:07 Joel Dock presented an interactive map that is being hosted on the PDS website that provides an overview of some of the research and findings associated with the Land Development Code Reform project. Emily Liu stated the first phase of recommendations should be released to the public within the next week. These items will be presented to the Planning Commission at their February 4, 2021 regular meeting. After that presentation, the public will have an opportunity to provide comments prior to a public hearing. There will also be a special Planning Committee meeting on February 8, 2021 to discuss these items.

NO ACTION

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PUBLIC HEARING

PC POLICY AND BYLAWS AMENDMENTS

Project Name: Planning Commission Policies & Bylaw Amendment –
January 2021
Case Manager: Brian Davis, AICP, Planning & Design Manager

Agency Testimony:

00:28:42 Brian Davis presented a proposed change to 3.05.02 (1) of the Louisville Metro Planning Commission Policies. The request came from Metro Council and the change states there shall be no neighborhood meetings the week of Thanksgiving or between December 23 and January 2.

3.05 Neighborhood Meetings

3.05.01 Neighborhood meetings for zoning map amendments and subdivision requests shall be held in accordance with the applicable section of the Land Development Code.

3.05.02 Neighborhood Meeting Scheduling Requirements

(1) Neighborhood meetings shall not be held on national holidays.

Additionally, there shall be no neighborhood meetings scheduled for the week of Thanksgiving nor between December 23 and January 2. It is recommended that religious and other significant holidays be avoided.

(2) Neighborhood meetings shall not be held on the same night as regularly scheduled Metro Council meetings.

(3) Neighborhood meetings shall be held on weekdays (Friday evening is considered a weekend), starting no earlier than 6:00 p.m. and no later than 8:00 p.m.

(4) The date of the meeting must be a minimum of 14 days after the Neighborhood Meeting Notice is sent out. *(NOTE: This includes the electronic notice emailed by Planning & Design Services staff.)*

(5) Neighborhood meetings shall be held inside a building with enough space and seating capacity to accommodate those invited to the meeting.

(6) Neighborhood meetings shall be held in Jefferson County, within reasonable proximity to the subject site. *(NOTE: Neighborhood meetings for Conditional Use Permits are required to be within one (1) mile of the subject site unless approved by the case manager.)*

(7) A virtual neighborhood meeting may be required in addition to a regular neighborhood meeting as a means of providing an additional option for interested parties to participate. This meeting may be held concurrently with the regular neighborhood meeting or

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PC POLICY AND BYLAWS AMENDMENTS

on a separate date and time. The applicant shall be required to meet the Security and Increased Feedback requirements for Virtual Neighborhood Meetings described below.

Deliberation

00:32:09 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 Sistrunk, the following resolution was adopted.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the recommended Bylaws and Policies as presented today.

The vote was as follows:

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

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PUBLIC HEARING

EPSC APPEAL

Project Name: Appeal of a Notice of Violation issued by MSD in accordance with Chapter 159 of the Louisville Metro Code of Ordinances titled Erosion Prevention and Sediment Control Ordinance.
Address: 3617 Mud Lane
Appellant: Jeff Robards
Municipality: Louisville Metro
Council District: 13 – Mark Fox

Discussion:

00:38:44 Laura Ferguson introduced the case and provided an overview of the request. The appellant will present his case, then MSD and both parties will have an opportunity to cross-examine the other. After all the evidence has been introduced, the Planning Commission will render a final decision – Uphold the Notice of Violation or dismiss the Notice of Violation and if it upholds it, can order penalties or corrective action or some combination thereof.

Jeff Robards is the appellant for the action. Robards stated he has been working in this community for over twenty years and this is the first time he has had a notice of violation and has never had an appeal. Documentation of the violation did not appear to follow the usual path based on his experience, and he was not aware a stop work order or violation had been issued. Had the usual steps been taken, his company would have taken corrective measures to bring the site into compliance, which they did on the date of the notice of violation. Robards provided a timeline of events related to the violation.

Commissioner Pat Seitz and Commissioner Jim Mims asked for additional details about the violation.

Jackie Quarles from MSD asked Lauren Butler from MSD to testify (see video for pictures). Lauren Butler’s primary duties are to conduct inspections on land development projects and do enforcement action for Metro ordinances. Butler conducted the inspection of the site and described what was observed on and off the site (See Exhibits 1 through 4). Butler conducted a reinspection the day after the violation. Quarles entered the notice of violation and stop work order as exhibits as well.

Bob Stauble, construction inspection manager from Metropolitan Sewer District (MSD), provided an overview of the purpose of the erosion protection and sediment control ordinance, the regulations regarding enforcement measures, and MSD’s role in the enforcement and inspection process. The fine for this notice of violation was \$1,000.

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EPSC APPEAL

Commissioner Robert Peterson asked if the appellant had previous violations. Bob Stauble does not have that data available.

Jeff Robards asked questions of the MSD representatives. Robards stated the drainage was going to the same outlet as the detention basin for which they were trying to provide relief. Robards asked Stauble when the last training was available, and this was prior to March 2020.

The commissioners asked questions of the appellant and MSD representatives.

Deliberation

01:29:53 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 Seitz, the following resolution was adopted.

RESOLVED, that the Louisville Metro Planning Commission does hereby **UPHOLD** the Notice of Violation.

The vote was as follows:

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

A motion was made by Commissioner Seitz, seconded by Commissioner Peterson to uphold the fine but reduce it from \$1000 to \$250, refunding \$750.

The vote was as follows:

YES: Commissioners Daniels, Mims, Peterson and Seitz

NO: Commissioners Brown, Carlson, Clare, Howard, Sistrunk and Lewis

THE MOTION FAILED

A motion was made by Commissioner Carlson, seconded by Commissioner Peterson to uphold the fine but reduce it to \$500, refunding \$500.

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EPSC APPEAL

RESOLVED, that the Louisville Metro Planning Commission does hereby **UPHOLD** the fine and reduce it to \$500.00, refunding \$500.00.

The vote was as follows:

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

NO: Commissioners Brown, Clare, Howard and Sistrunk

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PUBLIC HEARING

20-MPLAT-0135

Request:	Waiver from Table 5.3.1 to not provide the minimum lot width
Project Name:	Cleo Avenue Minor Subdivision Plat
Location:	1343 Cleo Avenue
Owner:	Brentwood Property Design and Investment
Applicant:	Clarisa De Luna
Representative:	Clarisa De Luna
Jurisdiction:	Louisville Metro
Council District:	2 – Barbara Shanklin
Case Manager:	Molly Clark, Planner I

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:

01:54:40 Ms. Clark discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

John Miller, 1387 South 4th Street, Louisville, Ky. 40202
Clarisa De Luna, 11200 Cherry Lane, Louisville, Ky. 40223

Summary of testimony of those in favor:

John Miller presented on behalf of the applicant. Mr. Miller provided a history of the property and described the surrounding area (see video for presentation). Miller stated the road dead ends at the property so there won't be traffic to potentially notice the proposed lots are narrower than those on the block.

Clarisa De Luna is the owner of the property. Ms. De Luna stated the property area is above the required area for the zoning district. The proposed lots are 33.3 feet wide. The house has been designed with the proposed lot width in mind, and a variance is not needed to construct the homes.

The commissioners asked questions of those in support. There were questions about whether the proposed side yard setbacks shown on the drawing meet the requirements of the zoning district. There were also questions about whether the road width is appropriate and if the fire department is okay with the existing road width.

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20-MPLAT-0135

Deliberation

02:32:55 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 Mims, the following resolution was adopted.

RESOLVED, that the Louisville Metro Planning Commission does hereby **CONTINUE** this case to the February 4, 2021 Planning Commission meeting.

The vote was as follows:

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

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PUBLIC HEARING

20-ZONE-0074

Request: Change in zoning from R-4 to R-7 with detailed district development/revised major preliminary subdivision plan
Project Name: 6106 S. Watterson Trail
Location: 6106 S. Watterson Trail
Owner: Clarence and Lucille Schmitt
Applicant: Highgates Development
Representative: Mindel Scott
Jurisdiction: Louisville Metro
Council District: 23 – James Peden
24 – Madonna Flood
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:

02:41:48 Joel Dock provided an overview of the request and showed a PowerPoint presentation (see staff report and recording for detailed presentation). The applicant is requesting a change in zoning from R-4 to R-7 for a mixed-use development containing 240 multi-family residential units and 67 single-family units utilizing the steep slope development transfer regulation. The site was recently approved for a 128-lot single-family residential subdivision. The proposal appears to be in compliance with Plan 2040 and the Highview Neighborhood Plan.

Commissioner Jeff Brown asked about a potential binding element to cap the number of building permits until the second access point is constructed.

The following spoke in favor of this request:

David Mindel, Mindel, Scott and Associates, 5151 Jefferson Boulevard, Louisville, Ky. 40219
Curtis Mucci, Mindel, Scott and Associates, 5151 Jefferson Boulevard, Louisville, Ky. 40219
Diane Zimmerman, 12803 High Meadows Pike, Prospect, Ky. 40059
Brent Hackworth, 7301 Monte' Circle, Louisville, Ky. 40219

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Summary of testimony of those in favor:

Curtis Mucci, Mindel Scott & Associates, spoke on behalf of the applicant and presented a PowerPoint presentation (see video for details). Mr. Mucci testified there has been some change in the area to show the area has been in transition and the proposal is in keeping with the surrounding development. The presentation provided renderings of the proposed buildings and proposed landscaping. There will be buffering against some of the surrounding properties. The applicant proposes to widen South Watterson Trail to three lane and provided a rendering of that proposed improvement.

The commissioners asked questions of the applicant.

Brett Hackworth, answered a question regarding the design, character, and materials used for the buildings. These buildings have been designed to be in compliance with the Highview recommendations and a variety of building colors will be used to help differentiate the buildings. Applicant agreed to a binding element saying as much.

Diane Zimmerman answered a question regarding the traffic study. The traffic study only assumed the connection to Watterson Trail and not the other stub connections because it can't be guaranteed that those will be constructed. Ms. Zimmerman also explained the traffic distributions that were used for the study. According to the study, drivers would be allowed to turn left onto Hurstbourne without a signal.

David Mindel said on the approved single family plan all the traffic goes to Watterson Trail because there isn't a connection to Hurstbourne on that plan.

Deliberation

03:26:24 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 R-4 to R-7

On a motion by Commissioner Brown, seconded by Commissioner Howard, the following resolution based on the Plan 2040 Staff Analysis and testimony heard today 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 proposed higher intensity district is located between an arterial roadway and collector level roadway within proximity to major employment centers (Fern Valley Road/Poplar Level Road/GE Appliance Park), activity centers (Bardstown Road/Highview Town Center/Outer Loop), and transit corridors (Bardstown Road/Shepherdsville Road, Poplar Level Road); TARC service does not currently operate immediately adjacent to the subject site along S. Hurstbourne from Bardstown Road to Fegenbush Lane. It could be expected that increased demand will drive the location of additional or expanded routes and service; the subject site is adjacent to similar levels of intensity and density (proposed and approved development). The proposal allows for a transition from higher density to lower density moving from the arterial roadway.

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Form because, the subject property does not contain any existing development.

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Community Form because, the subject property contains areas of steep slopes which have been preserved under the development potential transfer regulations of the Land Development Code. MSD has reviewed the proposal and preliminary approval has been received.

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 4: Community Form because, tree canopy compliance with Chapter 10 of the LDC will be provided to preserve landscape features; documentation of any historic resources on the property should be provided prior to demolition. If structures are over 50 years old and determined eligible for the National Register, as per Wrecking Ordinance Section 150.110, there will be a required 30-day hold on the issuance of the permit.

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Mobility because, The proposed higher intensity district is located between an arterial roadway and collector level roadway within proximity to major employment centers (Fern Valley Road/Poplar Level Road/GE Appliance Park), activity centers (Bardstown Road/Highview Town Center/Outer Loop), and transit corridors (Bardstown Road/Shepherdsville Road, Poplar Level Road). TARC service does not currently operate immediately adjacent to the subject site along S. Hurstbourne from Bardstown Road to Fegenbush Lane. It could be expected that increased demand will drive the location of additional or expanded routes and service.

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WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Mobility because, the proposed district is located between an arterial and collector level roadway. Lower intensity districts in the area of the subject site are opposite the collector level roadway from the subject site. No nuisances would be created by access.

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Mobility because, the proposed district is appropriately situated to allow a transition of higher intensity/density along Hurstbourne Parkway to lower density uses at Watterson Trail. The proposed district is near employment centers; the proposed higher intensity district is located between an arterial roadway and collector level roadway within proximity to major employment centers (Fern Valley Road/Poplar Level Road/GE Appliance Park), activity centers (Bardstown Road/Highview Town Center/Outer Loop), and transit corridors (Bardstown Road/Shepherdsville Road, Poplar Level Road). TARC service does not currently operate immediately adjacent to the subject site along S. Hurstbourne from Bardstown Road to Fegenbush Lane. It could be expected that increased demand will drive the location of additional or expanded routes and service; all improvements and dedications will be provided as required; No direct access to high speed roadways is provided for individual units. Multiple access points serving the development will be provided.

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Facilities because, the development is located in an area served by or capable of being served by utilities; the development will have an adequate supply of potable water and water for fire-fighting purposes; MSD has reviewed the proposal and preliminary approval has been received.

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Livability because, tree canopy compliance with Chapter 10 of the LDC will be provided to incorporate the unique characteristics of the landscape; the site contains steep slopes and potential karst terrain. Steep slopes have been identified and no karst features were identified upon inspection by the applicant; MSD review and approval has been received to minimize negative development impacts to the integrity of the regulatory floodplain

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Housing because, the proposed district provides for the appropriate location of housing types which transition from higher densities to lower densities moving from Hurstbourne Parkway; the proposed district and location support aging in place as services and amenities are located within proximity of the subject site at Outer Loop and Bardstown Road. Each road also provides for transit connectivity. TARC service does not currently operate immediately adjacent to the subject site along

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S. Hurstbourne from Bardstown Road to Fegenbush Lane. It could be expected that increased demand will drive the location of additional or expanded routes and service.

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Housing because, the proposal continues the existing pattern of mixed-intensity and density along the corridor that is connected to the neighborhood and nearby centers; the proposed district is located between an arterial roadway and collector level roadway within proximity to major employment centers (Fern Valley Road/Poplar Level Road/GE Appliance Park), activity centers (Bardstown Road/Highview Town Center/Outer Loop), and transit corridors (Bardstown Road/Shepherdsville Road, Poplar Level Road). TARC service does not currently operate immediately adjacent to the subject site along S. Hurstbourne from Bardstown Road to Fegenbush Lane. It could be expected that increased demand will drive the location of additional or expanded routes and service.

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Housing because, the proposed district encourages fair and affordable housing by allowing a variety of ownership options and unit costs throughout Louisville Metro. The district expands opportunities for people to live in quality, variably priced housing in locations of their choice by enabling the provision of affordable housing in dispersed locations throughout Louisville Metro. The proposed district follows existing patterns along the corridor and allows for a transition in intensities moving from S. Hurstbourne Parkway; the proposed district allows for an increase in residential occupancy where the site is primarily vacant; the proposed zoning district allows for a variety of styles and methods of housing to provision fair and affordable housing.

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to Metro Council the change in zoning from R-4, Single Family Residential to R-7, Multi-family Residential on property described in the attached legal description be **APPROVED**.

The vote was as follows:

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

ABSTAINING: Commissioner Sistrunk

**Detailed District Development/Revised Major Preliminary Subdivision Plan
(Development Potential Transfer)**

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PUBLIC HEARING

20-ZONE-0074

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

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 while also allowing for the site to be developed in compliance with the Land Development; and

WHEREAS, safe pedestrian and vehicular connectivity is being provided to connect to adjacent development that is proposed or approved, and the current neighborhood; and

WHEREAS, the provision of sufficient open space (scenic and recreational) to meet the needs of the proposed has been provided in accordance with the Land Development Code; 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 provides for the appropriate location of housing types which transition from higher densities to lower densities moving from Hurstbourne Parkway. The proposal follows existing patterns along the corridor and allows for a transition in intensities moving from S. Hurstbourne Parkway; and

WHEREAS, the Louisville Metro Planning Commission further finds the proposed development plan conforms to Plan 2040 as it is located between an arterial roadway and collector level roadway within proximity to major employment centers (Fern Valley Road/Poplar Level Road/GE Appliance Park), activity centers (Bardstown Road/Highview Town Center/Outer Loop), and transit corridors (Bardstown Road/Shepherdsville Road, Poplar Level Road). TARC service does not currently operate immediately adjacent to the subject site along S. Hurstbourne from Bardstown Road to Fegenbush Lane. It could be expected that increased demand will drive the location of additional or expanded routes and service. The proposal expands opportunities for people to live in quality, variably priced housing in locations of their choice by enabling housing choices in dispersed locations throughout Louisville Metro.

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

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. No outdoor advertising signs, pennants, balloons, or banners shall be permitted on the site.
3. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
4. Prior to issuance of a permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit):
 - a. The development plan must receive full construction approval from Louisville Metro Department of Inspections, Permits and Licenses, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. The property owner/developer must obtain approval of a detailed development plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - c. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
 - d. A major subdivision record plat creating the lots and roadways as shown on the approved district development plan shall be recorded
5. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.

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6. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
7. An original stamped copy of the approved Tree Preservation Plan shall be present on site during all clearing, grading, and construction activity and shall be made available to any DPDS inspector or enforcement officer upon request.
8. The applicant shall install signs, approved by the Metro Public Works Dept., which indicate the future extension of the public rights of way as shown on the preliminary subdivision plan. Such signs shall be installed prior to release of bonds for the installation of the street infrastructure.
9. An encroachment permit and bond may be required by Metro Public Works for roadway repairs on all surrounding access road to the subdivision site due to damages caused by construction traffic activities.
10. Prior to the recording of the record plat, copies of the recorded documents listed below shall be filed with the Planning Commission.
 - a. Articles of Incorporation filed with the Secretary of State and recorded in the office of the Clerk of Jefferson County and the Certificate of Incorporation of the Homeowners Association.
 - b. A deed of restriction in a form approved by Counsel to the Planning Commission addressing responsibilities for the maintenance of common areas and open space, maintenance of noise barriers, maintenance of WPAs, TPAs and other issues required by these binding elements / conditions of approval.
 - c. Bylaws of the Homeowner's Association in a form approved by the Counsel for the Planning Commission.
11. At the time the developer turns control of the homeowners association over to the homeowners, the developer shall provide sufficient funds to ensure there is no less than \$3,000 cash in the homeowners association account. The subdivision performance bond may be required by the planning Commission to fulfill this funding requirement.

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12. Open space/conservation lots shall not be further subdivided or developed for any other use and shall remain as open space in perpetuity. A note to this effect shall be placed on the record plat.
13. The developer shall be responsible for maintenance of all drainage facilities and undeveloped lots ensuring prevention of mosquito breeding, until such time as the drainage bond is released.
14. After release of the drainage bond, mosquito abatement on open space lots shall be the responsibility of the Homeowners Association. Accumulations of water in which mosquito larvae breed or have the potential to breed are required to be treated with a mosquito larvacide approved by the Louisville Metro Health Department. Larvacides shall be administered in accordance with the product's labeling. This language shall appear in the deed of restrictions for the subdivision.
15. Building envelopes shown on single-family residential lots shall be substantially similar to those shown on the preliminary plan and must be shown and recorded on the record subdivision plat. Limits of disturbance shall also be shown and recorded with the record subdivision plat.
16. Prior to the issuance of a building permit for a multi-family structure, review and approval by the Planning Commission or designee shall be required. Building materials shall vary in material and color across the development site.
17. Prior to the issuance of the building permit for the 200th dwelling, either single or multi-family, a second access connection shall be made to a collector level roadway or higher.

The vote was as follows:

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

ABSTAINING: Commissioner Sistrunk

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PUBLIC HEARING

20-ZONE-0082

Request: Change in Zoning from R-4 to C-1 with Detailed District Development Plan and Binding Elements, with Waivers and Variance

Project Name: Circle K

Location: 404 and 406 Mt. Holly Road

Owner: Macs Convenience Stores LLC, Harold Smith Jr.

Applicant: Circle K

Representative: Bardenwerper, Talbott & Roberts

Jurisdiction: Louisville Metro

Council District: 13 – Mark Fox

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

NOTE: COMMISSIONER BROWN LEFT AT 4:56

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:

03:43:48 Dante St. Germain provided an overview of the request and showed a PowerPoint presentation (see staff report and recording for detailed presentation). The applicant is requesting a change in zoning from R-4 to C-1 to demolish the existing structures and construct a new convenience store. Staff believes the design is not compliant with the neighborhood plan.

The following spoke in favor of this request:

John Talbott, Bardenwerper, Talbott and Roberts, 1000 North Hurstbourne Parkway, Louisville, Ky. 40223
Jason Hall, Prism Engineering, 2309 Watterson Trail, Suite 200, Louisville, Ky. 40299
Chad Gardner, 5920 Timber Ridge Drive, Suite 101, Prospect, Ky. 40059
Jeff Donohue, 2101 Top Hill Road, Fairdale, Ky. 40118

Summary of testimony of those in favor:

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John Talbott, Bardenwerper Roberts & Talbott, spoke on behalf of the applicant and showed a PowerPoint presentation (see video for detailed presentation). Mr. Talbott reiterated there has been a gas station in this location for a number of years, and the change in zoning is only needed on a small portion that abuts the current gas station, which the new proposal will expand upon. Mr. Talbott believes the variances and waivers under consideration are warranted and he explained why in his presentation. The proposed layout is similar to the existing layout and is in character with other buildings in the area.

Jason Hall, Prism Engineering, spoke on behalf of the application. Mr. Hall provided an overview of the site plan and how it changed over time as a result of comments from the neighborhood plan, staff and agency comments, etc.

Commissioners Lewis, Seitz, Daniels and Sistrunk left the meeting at 6:00 p.m.

Chad Gardner spoke in support of the application. Mr. Gardner is an adjoining property owner and is affiliated with the adjoining fire department as well. The fire department does not want the sidewalk connection. Mr. Gardner believes the layout is appropriate and wants to see the property developed.

Jeff Donohue spoke in support of the application. Mr. Donohue thinks the gas station is a vital investment in the property and in the Fairdale community. His only request is to make sure the dumpster is properly screened.

The commissioners questioned those who spoke in support. Commissioner Mims asked how much outdoor display would be on the site and asked if banners and signs would cover the windows that are show in the renderings. He would like to see better connection to the street as a way to mitigate one of the waivers. Jason Hall addressed how the store and sidewalk area are designed to help accommodate things like ice machines, propane tank stations, etc. Commissioner Clare asked about another pedestrian connection to the street and whether the building could be pulled further forward. The maneuvering mechanics on the site do not allow an addition sidewalk nor the building to come forward any more than what is proposed.

Deliberation

The planning commissioners deliberated the case. The commissioners requested to verify the gas canopy was similar in style to the proposed building.

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

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Zoning Change from R-4 to C-1

On a motion by Commissioner Peterson, seconded by Commissioner Mims, 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 site is located in an existing activity center. The proposed zoning district change would not constitute a non-residential expansion into a residential area; the proposal would permit higher density and intensity uses. The site is located on a primary collector and in an existing activity center; the proposed zoning district would not permit hazardous uses. Uses with air, noise and light emissions must comply with LMCO and LDC restrictions; the proposed zoning district would not permit uses with noxious odors, particulates and emissions; traffic to the site is routed via Mt. Holly Road, a primary collector at this location.

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Form because, the site is located in an existing activity center at an intersection in the Village Center form; the site has appropriate access and connectivity; the proposed zoning district would permit commercial development. The site is located in an existing activity center in the Village Center form; the proposal would permit a more compact pattern of development in an activity center; the proposed zoning district would allow a mixture of compatible land uses in an activity center; the proposed zoning district would allow for mixed-use multi-story retail buildings; the proposed zoning district would allow for the new development of buildings that provide commercial, office and/or residential uses.

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Community Form because, no natural features are evident on the site; no severe, steep or unstable slopes are evident on the site. Hydric soils are avoided by the development.

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Mobility because, the site is located in an existing activity center.

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Mobility because, access to the site is via Mt. Holly Road, a primary collector at this location.

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WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Mobility because, the proposed zoning district would permit neighborhood serving businesses and services; the proposed zoning district would permit a mixture of compatible land uses that are easily accessible by bicycle, car, pedestrians and people with disabilities. The site is not accessible by transit; Transportation Planning has approved the proposal.

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

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Livability because, the site is not located on karst terrain; the site is not located in the regulatory floodplain.

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 increasing the variety of neighborhood-serving goods and services in the neighborhood.

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 that is connected to the neighborhood and surrounding area; the proposal would permit amenities providing neighborhood goods and services in proximity to housing.

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Housing because, no existing residents will be displaced by the proposal; the proposal would permit innovative methods of housing.

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

The vote was as follows:

YES: Commissioners Carlson, Clare, Mims, Peterson and Howard

NOT PRESENT AND NOT VOTING: Commissioners Brown, Daniels, Seitz, Sistrunk and Lewis

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Waivers

#1 from 10.2.4.B.3 to permit a utility easement to overlap more than 50% with a required LBA (20-WAIVER-0090)

On a motion by Commissioner Peterson, seconded by Commissioner Mims, the following resolution based on the Standard of Review and Staff Analysis, Applicant's Justification and testimony heard today was adopted.

WHEREAS, the waiver will not adversely affect adjacent property owners as the required plantings will still be provided within the LBA; and

WHEREAS, the waiver will not violate specific guidelines of Plan 2040 as Plan 2040 encourages appropriate buffering and transitions between uses that are significantly different in density or intensity. The required buffering will be provided; 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 there is no logical location on the property for the easement except where the applicant has proposed it, and the overlap occurs at a relatively small portion of the required LBA; and

WHEREAS, the Louisville Metro Planning Commission further finds strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant because the required easement cannot be readily moved.

WHEREAS, the waiver will not adversely affect adjacent property owners because this particular Waiver is along the Mount Holly Road where no other residential, commercial or industrial users exist that might conceivably be adversely impacted. Furthermore, the design of the site and aesthetic protective screening provided in this area should be sufficient to mitigate any other possible impacts; and

WHEREAS, the waiver will not violate the Comprehensive Plan for all the reasons set forth in the Detailed Statement of Compliance with all applicable Guidelines and Policies of the Comp Plan 2040 filed with the rezoning application; and

WHEREAS, the Louisville Metro Planning Commission further finds the extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because it will allow the configuration of improvements on the site without having to change the configuration/location of the main primary collector road to the north of this site; and

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WHEREAS, the Louisville Metro Planning Commission further finds strict application of the provisions of the regulation would deprive the applicant of a reasonable use of the land or would create an unnecessary hardship on the applicant because, as said above, it would likely otherwise have to change or adjust the location of the referenced collector road to the east of this site, the expense of which would make this project infeasible.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** a waiver from 10.2.4.B.3 to permit a utility easement to overlap more than 50% with a required LBA (20-WAIVER-0090).

The vote was as follows:

YES: Commissioners Carlson, Clare, Mims, Peterson and Howard

NOT PRESENT AND NOT VOTING: Commissioners Brown, Daniels, Seitz, Sistrunk and Lewis

#2 from 5.5.1.A to allow a gas canopy to be located between the principal structure and the street, and to allow drive lanes to be located between the maximum setback line and the street, and to allow a refuse collection area to be visible from the public street (20- WAIVER-0091)

On a motion by Commissioner Peterson, seconded by Commissioner _____, the following resolution based on the Applicant's Justification and testimony heard today was adopted.

FAILED – LACK OF SECOND

On a motion by Commissioner Mims, seconded by Commissioner Peterson, the following resolution based on the Applicant's Justification and testimony heard today was adopted.

WHEREAS, the waiver will not adversely affect adjacent property owners because no new impacts are proposed, except that, to the extent that the new store slightly deeper into the site could conceivably affect residential buildings to the south although fencing and landscaping are added along adjoining property lines to mitigate adverse impacts, if any. Safety and security require that the canopy and pumps be visible at all times from the store as well as to permit sufficient maneuvering for the fuel trucks as mandated by federal regulations. Access to the abutting properties is not pursued as this would connect to a fire station or existing single-family development which would be unsafe

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and actually cause a hazard and nuisance to the public. Pedestrian access to the site is being provided by the 8- foot wide multi-use path along Mt. Holly Road; and

WHEREAS, the waiver will not violate the Comprehensive Plan for all the reasons set forth in the Detailed Statement of Compliance with all applicable Guidelines and Policies of the Comp Plan 2040 filed with the rezoning application. As a re-build of an as-built location, the only new 2040 Plan Guidelines and Policies of consequence are those pertaining to building design, landscaping and screening, all of which are being improved; and

WHEREAS, the Louisville Metro Planning Commission finds, the extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because as stated, this is an as-built condition that is being improved with a new building, some designated parking spaces and added screening and landscaping. Therefore, retaining the rest of the site in its mostly current condition is not adding to non-compliance with the Land Development Code, but rather, if anything, the partial re-build and site improvements bring the plan into better compliance with the Land Development Code and the Plan 2040 Comprehensive Plan; and

WHEREAS, the Louisville Metro Planning Commission further finds
Strict application of the provisions of the regulation would deprive the applicant of a reasonable use of the land or would create an unnecessary hardship on the applicant because the applicant would not demolish everything that presently exists, such as the pump and canopy locations. Instead, if this waiver and the related waiver and variance applications were denied, the applicant would devote its limited financial resources to improving stores elsewhere, not here, because a complete re-do of the entire site would make these improvements to the site financially infeasible.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** a waiver from 5.5.1.A to allow a gas canopy to be located between the principal structure and the street, and to allow drive lanes to be located between the maximum setback line and the street, and to allow a refuse collection area to be visible from the public street (20- WAIVER-0091), subject to the following **CONDITION OF APPROVAL**:

1. The landscape plan shall be approved by the Planning Commission or its designee prior to landscape plan approval. The applicant shall provide details to the right-of-way improvement to the utility easement in response to the Fairdale Plan. The details will be heard at the Development Review Committee meeting.

The vote was as follows:

YES: Commissioners Carlson, Clare, Mims, Peterson and Howard

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NOT PRESENT AND NOT VOTING: Commissioners Brown, Daniels, Seitz, Sistrunk and Lewis

#3 from 5.9.2.A.1.b.ii to omit vehicular and pedestrian connections between abutting non-residential uses (20-WAIVER-0091)

On a motion by Commissioner Peterson, seconded by Commissioner Mims, the following resolution based on the Applicant's Justification and testimony heard today was adopted.

WHEREAS, the waiver will not adversely affect adjacent property owners because of the proposed gas station/convenience store use and site layout make this requirement inappropriate; in this situation, providing a vehicular and pedestrian connection to the undeveloped property to the west is not practical due to the fact that the 0.29 acre tract owned by GSD Petroleum abutting Mt. Holly Road is a remnant created by the acquisition of right of way for the round-about which has no curb cut and has an existing sidewalk across the front of the site; so providing a vehicular connection would serve no purpose and the Mt. Holly sidewalk does provide a pedestrian connection between the two properties; a vehicular and pedestrian connection to the Fairdale Fire Protection District to the west would create a hazardous condition of commercial traffic potentially interfering with the ingress and egress of fire and emergency service operations; and a vehicular and pedestrian connection to the property to the east would actually have a potentially adverse effect to that property due to the fact that it is a property zoned and used as a single family residence in violation of Plan 2040 Mobility Goal 2, Policy 4; and

WHEREAS, the waiver will not violate the Comprehensive Plan for all the reasons set forth in the Detailed Statement of Compliance with all applicable Guidelines and Policies of Plan 2040 filed with the rezoning application; and

WHEREAS, the extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because any connection to either property (the western properties or the eastern property) would result in the potential of cut through commercial traffic or the mixing of passenger vehicles and emergency service vehicular traffic; pedestrian connectivity is available long the Mt. Holly sidewalk; and therefore, a complete waiver request is the minimum that is practical; and

WHEREAS, strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant given that the connection would not serve the purpose intended by the regulation and are undesired by the adjoining property owners; and provision of such access to the west would also require the elimination of interior landscaping and parking spaces.

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RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** a waiver from 5.9.2.A.1.b.ii to omit vehicular and pedestrian connections between abutting non-residential uses (20-WAIVER-0091).

The vote was as follows:

YES: Commissioners Clare, Mims, Peterson and Howard

No: Commissioner Carlson

NOT PRESENT AND NOT VOTING: Commissioners Brown, Daniels, Seitz, Sistrunk and Lewis

#4 from 10.2.4 to permit a proposed structure to encroach into the required property perimeter Landscape Buffer Area (LBA) (20-WAIVER-0102)

On a motion by Commissioner Peterson, seconded by Commissioner Mims, 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 encroachment is to the rear of the property where no adjacent property owners will be affected; and

WHEREAS, the waiver will not violate specific guidelines of Plan 2040 as Plan 2040 recommends appropriate transitions between adjacent uses which are significantly different in density or intensity. A reduced LBA will be provided and the required plantings will be provided; 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 building must be set far back under the current orientation of the site in order to provide maneuvering area for vehicles; 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 the 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 because the site is relatively large and the building could re-oriented on the site to eliminate the need for the waiver.

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RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** a waiver of 10.2.4 to permit a proposed structure to encroach into the required property perimeter Landscape Buffer Area (LBA) (20-WAIVER-0102)

The vote was as follows:

YES: Commissioners Carlson, Clare, Mims, Peterson and Howard

NOT PRESENT AND NOT VOTING: Commissioners Brown, Daniels, Seitz, Sistrunk and Lewis

Variance from 5.1.12.A.2 to allow a building to be set further back from the street than permitted by infill standards

On a motion by Commissioner Peterson, seconded by Commissioner Mims, the following resolution based on the Applicant's Justification and testimony heard today was adopted.

WHEREAS, the variance will not adversely affect the public health, safety or welfare because this is an aesthetic code requirement; there is no evidence that the extra setback at this location will cause any traffic or other safety problems; indeed the opposite would occur if safe and convenient access and internal circulation were not provided; in addition, the proposed replacement building is in basically the same orientation but approximately 40 ft back on the lot as the original building where it has been without any adverse effects on neighbors; and

WHEREAS, the variance will not alter the essential character of the general vicinity this is an aesthetic code requirement; also, the existing building is outdated, which is proposed to be replaced with a new and improved building with the design aimed to be compatible with the Fairdale Village Center Plan to the extent possible given the nature of fuel stations and their specific needs for safe maneuvering on the site; and landscaping along Mt. Holly Road will mitigate the lack of a storefront adjacent to the roadway; and

WHEREAS, the variance will not cause a hazard or a nuisance to the public because this is an aesthetic code requirement and the proposed building location is similar to existing conditions; because of the reasons set forth above, notably the fact that the existing points of access and circulation shall remain with an added improvement to internal circulation with safe pedestrian access ensures there will not be a hazard or nuisance to the public; and compliance with which will make the investment in the property infeasible; and

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WHEREAS, the variance will not allow an unreasonable circumvention of the requirements of the zoning regulations because this is an aesthetic code requirement, and because this design will result in an improvement of the existing building and current parking layout; and

WHEREAS, the variance arises from special circumstances, which do not generally apply to land in the general vicinity because this is an aesthetic code requirement that should not apply to this type of use; and there is no fueling station in Metro Louisville that complies with this requirement; and

WHEREAS, strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create unnecessary hardship because this is an aesthetic code requirement, and because the expanded gas station and convenience store simply could not be accommodated on this site without these variances; and

WHEREAS, the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the regulation but rather are a result of a constrained site based on size and location and is an existing condition.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the variance from 5.1.12.A.2 to allow a building to be set further back from the street than permitted by infill standards subject to the following **CONDITION OF APPROVAL**:

1. The landscape plan shall be approved by the Planning Commission or its designee prior to landscape plan approval. The applicant shall provide details to the right-of-way improvement to the utility easement in response to the Fairdale Plan. The details will be heard at the Development Review Committee meeting.

The vote was as follows:

YES: Commissioners Carlson, Clare, Mims, Peterson and Howard

NOT PRESENT AND NOT VOTING: Commissioners Brown, Daniels, Seitz, Sistrunk and Lewis

Development Plan and Binding Elements

On a motion by Commissioner Peterson, seconded by Commissioner Mims, the following resolution based on the Applicant's Justification and testimony heard today was adopted.

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WHEREAS, this is a proposal to consolidate three lots and rezone one of the lots from R-4 to C- 1 to allow the continued, but expanded use of the Circle K gas station/convenience store; Circle K has been operating at the site on two of the three lots for years, but wants to invest in upgrading the facility to a modern store with better landscaping, materials, amenities, and quality of use more in keeping to the public investment in this area for the Fairdale Village Center roundabout intersection of Mt. Holly Road and Fairdale Road; the two existing lots Circle K currently uses are zoned C-2 and are pre-plan certain; the other lot, currently used as a non-conforming barbecue restaurant, is zoned R-4 and is being sought to rezone it C-1; all three lots are in the Village Center Form District; and the non-conforming barbecue restaurant will be removed to allow the construction of a new and larger (5200 SF) Circle K gas station and convenience store on the combined 1.41 acre tract; and

WHEREAS, this proposal complies with Community Form Goal 1 and Policies 2.1, 3.1.4, 4.1, 7, 9, 10, 11, 12, 15, 16, 17, 18, 19, 20 and 23 for the following reasons: this is an investment to upgrade neighborhood serving uses (gas and convenience store) in the mix of uses appropriate for a small scale village center which encourages pedestrian and bicycle uses compatible with the mix, scale and intensity of surrounding development; there is no displacement of residential uses and the building and dumpsters are located away (buffered and transitioned) from existing residential uses and has adequate infrastructure as it is located on a primary collector road; there will be no hazardous use, and noise and light emissions will comply with LMCO and LDC restrictions; noise impacts in particular will be mitigated by locating the proposed dumpster adjacent to the fire station and away from residences to the south as well as the p.a. system will not be audible beyond the property line; in further support of the Community Form Policies, the Fairdale Village Center plan states that *“Additional small businesses offering goods or services...would be excellent additions to the community.”* (p. 19); with respect to economic development, it also states *“Existing businesses provide neighborhood level services at present. AS THE POPULATION GROWS THESE BUSINESSES WILL EXPAND.”* (p. 23); this plan accounts for an expansion of a long-term use of the Circle K gas/convenience store, and also provides neighborhood level services, acting much like a “corner grocery store” to the area offering needed goods and services; and

WHEREAS, Land Development Code required height restrictions, interior and perimeter landscaping, minimum parking, maximum lighting and signage and most required setbacks (with only minimal variances or waivers) will also be met; and

WHEREAS, also, as this proposed commercially zoned site is just a short distance from the growing commercial activity center nearby to the round-a-bout, and very close to the Fairdale Elementary School and Fairdale Library, thus travel distances for purposes of shopping are reduced, with a centrally placed gas/convenience store, reducing vehicle miles traveled and contributing to improved air quality; and

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WHEREAS, the quality siding components, more muted color scheme, and style and design of this new store assures compatibility with and improvement to the general quality of construction in the area; plus landscaping, screening, buffering and multi-use path exceeding the bare minimums which assures appropriateness for the Fairdale area and compatibility with adjoining commercial and residential uses; and

WHEREAS, converting these three tracts to “plan certain” will ensure that this site does not result in a new, much less desirable uses and design otherwise permitted in the C-2 district, particularly since the entire three tracts will be utilizing only a C-1 use; and

WHEREAS, the proposal complies with Community Form Goal 2 and Policies 1, 2, 3, 4, 5, 6, 7, 8, 9 and 13 for the reasons set forth below; the site is an expansion of an existing use in an existing activity center providing neighborhood goods and services with a sufficient support population and appropriate access and connectivity with a compact pattern of development; the placement and design of the building is appropriate considering the traditional and ubiquitous design of gas/convenience stores; the Fairdale Village Center Plan, Big Idea #9 Design Standards recommends that buildings be close and oriented to the street and parking located to the rear; the Plan’s illustrations and examples all relate to retail shops and offices along the street side sidewalk; this orientation is wholly impractical for the proposed gas station use and such a design cannot be found anywhere in Metro Louisville; such an unusual site configuration would compromise the safety and security of the operations because it would require two public entrances (at the front facing Mt. Holly Road and in the rear facing the parking field); the safety and maneuverability of the fuel delivery trucks would be compromised, constrained and unable to safely navigate the site; and

WHEREAS, this proposal complies with Community Form Goal 3 and Policies 5, 8, 9, 10 and 12 because there are no natural features, karst terrain, slopes, flood prone areas or hydric soils on the site; and

WHEREAS, the proposal complies with Community Form Goal 4 and Policies 1 and 2 because there are no historic assets or distinctive cultural features evident on the site, with the possible exception of a former structure underneath the existing barbecue restaurant; and the structure has been modified and comprised such that it no longer has any historical value; notice of its demolition was provided in compliance with LMCO 150.110; and

WHEREAS, the Fairdale Village Center Plan notes in its “Existing Conditions” that there are limited bike path connections (p. 13), this proposal complies with Mobility Goal 1 and Policies 1, 3 and 4 as the site will provide not just an 5-foot sidewalk, but will provide an 8-foot multi-use trail along Mt. Holly Road to facilitate connections through the Village Center, connecting for the planned “Louisville Loop” and the Jefferson

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Memorial Forest which addresses Big Idea #4 (p. 39); and a bicycle rack will be provided on site which is located in an existing activity center; and

WHEREAS, the Fairdale Village Center Plan Big Idea #1 state that “The first priority for improving the streetscape is to complete this sidewalk network” and this proposal complies with Mobility Goal 2 and Policies 2 and 4 because the plan includes an 8-foot wide multi-use path along Mt. Holly Road, a primary collector; and there are no current or proposed TARC routes accessible to the site; and

WHEREAS, this proposal complies with Mobility Goal 3 and Policies 5, 6 and 9 to the extent it is within its power to do so; Transportation Planning has preliminarily approved the proposal; there are currently no TARC routes along Mt. Holly Road; the plan does provide a multi-use path along its frontage on a collector level roadway; and there are no new roadway improvements proposed or required; and

WHEREAS, this proposal complies with Community Facilities Goal 2 and Policies 1, 2 and 3 because existing utilities are and have long been available to the site, including potable water and water for sewer services; Fairdale Elementary School is located a short distance away; and a fire station is adjacent to the property, and a Public library and park are located in the heart of Fairdale; and additionally addresses the Fairdale Village Center Plan Big Idea #6 in providing landscaping, benches and a multi-use path, which improvements will be maintained by the developer rather than Metro or KYTC (p. 47); and

WHEREAS, with respect to Economic Development Goal 1, the only applicable Policy is Policy 3 which recommends locating commercial uses generating high volumes of traffic on a major arterial street, at the intersection of two minor arterials, OR AT A LOCATION WITH ADEQUATE ACCESS TO A MAJOR ARTERIAL AND LOCATIONS WHERE NUISANCES AND ACTIVITIES OF THE PROPOSED USE WILL NOT ADVERSELY AFFECT ADJACENT AREAS (Emphasis added); although the site is located at the intersection of two primary collectors, it is an expansion of a pre-existing use that has operated without negative impacts, nuisances or complaints for many years; the nearest arterial is at National Turnpike, a minor arterial, which directly connects to Fairdale Road and East Manslick Road (another primary collector) directly connecting to the only major arterial in Fairdale, the Gene Snyder Freeway; as Louisville Metro’s population continues to grow, so does demand for all types of services such as is provided in this plan; and this proposed improvement and expansion of a current use is part of a developer/owner response to that demand, and as such both stabilizes and offers increased opportunities for employment and tax revenue for Metro Louisville; and

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WHEREAS, this proposal complies with Livability Goal 1 and Policies 4, 5, 17, 21 and 24 because the site is not proposed for industrial zoning and is not located near the Ohio River or the airport and does not contain karst terrain or a regulatory floodplain; and

WHEREAS, the proposed plan satisfies the Fairdale Village Center Plan Big Idea #10 Civic Campus (p. 63) as it provides its specific elements, including safe pedestrian connections, landscaped parking lot and upgraded signage; and

WHEREAS, this proposal complies with Housing Goal 1 and Policy 1 because it supports aging in place by increasing the variety of neighborhood-serving goods and services in the immediate area; the expanded convenience store will provide a wider variety and choice of groceries, household goods and services; and

WHEREAS, this proposal complies with Housing Goal 2 and Policies 1 and 2 because it permits inter-generational, mixed-income and mixed use development connected to the surrounding area and offers amenities in the provision of goods and services in proximity to housing; two of the three subject parcels are currently zoned C-2; the third R-4 parcel is proposed to allow the same use with C-1 zoning; and it has been used commercially for years and is not appropriate or feasible for single family development; and

WHEREAS, this proposal complies with Housing Goal 3 and Policies 2 and 3 because no existing residents will be displaced since the R-4 tract has been used commercially for many years and the plan provides goods and services in close proximity to residential development surrounding this existing activity center;

WHEREAS, for all the reasons explained at LD&T and the Planning Commission public hearing, the public hearing exhibit books and the approved detailed district development plan, this application also complies with all other applicable Goals of the 2040 Plan

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

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

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for review and approval; any changes/additions/alterations not so referred shall not be valid.

2. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
3. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
4. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested:
 - a. The development plan must receive full construction approval from Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. Encroachment permits must be obtained from the Kentucky Transportation Cabinet.
 - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/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. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the December 10, 2020 Land Development and Transportation Committee meeting. A copy of the approved rendering is available in the case file on record in the offices of the Louisville Metro Planning Commission.
5. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
6. No idling of trucks shall take place within 200 feet of residential structures. No overnight idling of trucks shall be permitted on-site.
7. 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

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implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.

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.

Condition of Approval

1. The landscape plan shall be approved by the Planning Commission or its designee prior to landscape plan approval. The applicant shall provide details to the right-of-way improvement to the utility easement in response to the Fairdale Plan. The details will be heard at the Development Review Committee meeting.

The vote was as follows:

YES: Commissioners Clare, Mims, Peterson and Howard

NO: Commissioner Carlson

NOT PRESENT AND NOT VOTING: Commissioners Brown, Daniels, Seitz, Sistrunk and Lewis

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PUBLIC HEARING

20-ZONE-0086

Request: Change in Zoning from R-4 to PRD with Detailed District Development Plan, Binding Elements, Major Preliminary Subdivision and Waivers

Project Name: Tucker Station Road Subdivision

Location: 3311 Tucker Station Road

Owner: Lori and Christopher Jones

Applicant: Tucker Station Development

Representative: Bardenwerper, Talbott & Roberts

Jurisdiction: Louisville Metro

Council District: 20 – Stuart Benson

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:

05:57:40 Dante St. Germain provided an overview of the request and showed a PowerPoint presentation (see staff report and recording for detailed presentation). The applicant is requesting a change in zoning from R-4 to Planned Residential Development District (PRD) to construct a 42-lot single-family subdivision with attached units. There is a pattern book for landscaping and right-of-way requirements for the Urton Lane Corridor. Staff stated the plan does not comply with the Tyler Rural Settlement District Neighborhood Plan.

Commissioner Sistrunk rejoined the meeting at 7:37 p.m.

The following spoke in favor of this request:

John Talbott, Bardenwerper, Talbott and Roberts, 1000 North Hurstbourne Parkway, Louisville, Ky. 40223
Doug Schultz, Sabak, Wilson and Lingo, 608 South 3rd Street, Louisville, Ky. 40202

Summary of testimony of those in favor:

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John Talbott presented on behalf of the applicant and presented a PowerPoint presentation (see recording for details). Talbott said this proposed development will provide an adequate transition from Urton Lane to other properties within the neighborhood plan study area.

Doug Schultz, Sabak Wilson & Lingo, presented on behalf of the applicant. Schultz stated the plan includes increased landscape buffer to help shield the four properties that back up to Urton Lane. The site has also been designed to include some buffering from Tucker Station Road.

John Talbott said they are agreeable to include a four-board fence to help preserve the rural character of the area. A landscape exhibit was shown, and they are agreeable to include take the landscape plan to the Planning Commission or designee for final approval. The applicant believes the plan is forward looking and provides an alternative to other housing choices in the area while providing a more appropriate medium density development along Urton Lane.

The following spoke in opposition to this request:

Steve Porter, 2406 Tucker Station Road, Louisville, Ky. 40299
David Barnes, 12406 Tyler Woods Court, Louisville, Ky. 40299

Summary of testimony of those in opposition:

Steve Porter spoke in opposition to the request and had a PDF outlining his objections to the plan (see video). Steve Porter asked for clarification on the size of the development. John Talbott stated the site is approximately 5.8 acres after the right of way is removed and the seven plus acres is the gross acreage. Mr. Porter also asked the width of the green space. Doug Schultz stated it is 30 feet wide on the west side of the development and 45 feet to the east.

The neighborhood has no objection to the theory of small lots, but objects to the way the small lots have been designed on this site. John Talbott said they are agreeable to Mr. Porter's lighting binding element. Mr. Porter continued to go over the objections outlined in his document.

David Barnes spoke in opposition to the request. His property is located near Tucker Station and lives near the development. He feels the community is more rural in character and the intent of the neighborhood plan was to keep it that way. He objects to the rezoning and supports the opposition and requests Steve Porter is proposing to the applicant.

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Steve Porter resumed his testimony. Mr. Porter agrees with the staff findings on the proposed waivers. He and his clients would be in support of the plan if changes were made to eliminate some of the units. The biggest hang ups with the plan are the rear of the buildings facing Tucker Station and going over four attached units.

The planning commissioners asked questions of those in opposition to the request.

John Talbott agreed on a condition to bring the building renderings back to the Planning Commission or designee for review.

Rebuttal

John Talbott stated they would construct a three or four board horse fence (whatever matches across the street) and would irrigate the berm. He believes the density is appropriate for this portion of the neighborhood plan study area.

Deliberation

07:39:12 Planning Commission deliberation. John Talbott agreed on a condition to bring the building renderings back to the Planning Commission or designee for review.

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 the February 4, 2021 Planning Commission to allow the applicant to consider possible changes to the development plan as discussed.

The vote was as follows:

YES: Commissioners Carlson, Clare, Mims, Peterson and Sistrunk

NO: Commissioner Howard

NOT PRESENT AND NOT VOTING: Commissioners Brown, Daniels, Seitz and Lewis

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PUBLIC HEARING

20-ZONE-0080

Request: Change in Zoning from R-4 to R-7 with Detailed District Development Plan and Binding Elements
Project Name: Cedar Creek Road Apartments
Location: 7703-7705 Cedar Creek Road & Parcels 064702750000 & 064702730000
Owner: Lonnie and Imogene Lawson, Garry and Denise Lawson
Applicant: Highgates Development
Representative: Frost Brown Todd/Mindel Scott & Associates
Jurisdiction: Louisville Metro
Council District: 22 – Robin Engel
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:

08:01:01 Dante St. Germain provided an overview of the request and showed a PowerPoint presentation (see staff report and recording for detailed presentation). The applicant is requesting a change in zoning from R-4 to R-7 to construct a new 168-unit multi-family residential development. The plan includes a private access easement stub to the south which was added at the request of the Land Development & Transportation Committee.

The following spoke in favor of this request:

Tanner Nichols, 400 West Market Street, Louisville, Ky. 40202
David Mindel, Mindel, Scott and Associates, 5151 Jefferson Boulevard, Louisville, Ky. 40219
Adam Kirk, 137 McClellan Springs Drive, Georgetown, Ky.

Summary of testimony of those in favor:

Tanner Nichols spoke on behalf of the applicant and presented a PowerPoint presentation (see video). Tanner Nichols stated this apartment development provides a

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good transition between the commercial activity along Bardstown Road and other properties on Cedar Creek Road.

Commissioner Mims asked about a traffic study. Tanner Nichols said the study showed a left turn lane was not warranted, but the applicant agreed to include one at the request of LD&T.

Adam Kirk stated there was no change of the level of service at the intersection of Bardstown and Cedar Creek. There was a 2-3 second increase in the overall delay. This development is generating 52 trips during the p.m. peak hour. The impacts are minimal.

Commissioner Mims asked if the proposal is in the area of the Fern Creek Area Study. Ms. St. Germain said the study does cover the proposed site but it's very old (2001). The Southeast Metro Regional Center Planning Study is a more recent study and those recommendations take precedence over the older one. There were no recommendations for this site.

Mr. Reverman asked if the right turn lane (assuming it's constructed) on Bardstown Rd. southbound onto Cedar Creek Rd. was included in the traffic study. Ms. Beth Stuber said that was verified this morning (expanded the scenarios). There was no change in level of service.

Mr. Mims asked if the right turn lane was being required. Ms. Stuber said it's been discussed and the other development on the corner will have more impact. The intersection is failing due to existing traffic.

Deliberation

08:31:30 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 R-4 to R-7

On a motion by Commissioner Carlson, seconded by Commissioner Peterson, the following resolution based on the Plan 2040 Staff Analysis and testimony heard today 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 site is located near Bardstown Road, a major transit corridor and activity corridor; the proposal would provide an appropriate transition between the more intensive commercial uses appropriate along the Bardstown Road corridor and the less intensive residential uses farther from the corridor.

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Form because, the proposal would allow new development providing residential uses.

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Community Form because, no wet or highly permeable soils, or severe, steep or unstable slopes are evident on the site.

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 4: Community Form because, no distinctive cultural features are evident on the site. The site is lightly wooded and no built features are evident on site.

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Mobility because, the site is located near an existing activity corridor along Bardstown Road, and the proposal would permit higher density and intensity uses.

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Mobility because, access to the site is via Cedar Creek Road, a secondary collector at this location.

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Mobility because, the proposal will allow a mixture of compatible land uses in the neighborhood, and the proposal will improve accessibility by pedestrians and people with disabilities. The site is easily accessible by bicycle, car, and transit. The proposal will permit housing near an existing activity and employment center; Transportation Planning has approved the proposal; no direct residential access to high speed roadways is proposed.

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.

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WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Livability because, required tree canopy will be provided on the site. An intermittent stream on the site will be protected by required buffers; karst features on the site will be protected.

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Housing because, the proposal would increase the variety of housing types in the neighborhood and allow for accessory residential structures and apartments; the proposal would support aging in place by increasing the variety of housing near an existing activity corridor and transit corridor at Bardstown Road.

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Housing because, the proposal would permit and encourage inter-generational, mixed-income development near an existing activity corridor that is connected to the neighborhood and surrounding area; the proposal would permit housing in proximity to a multi-modal transportation corridor providing safe and convenient access to employment opportunities, as well as within proximity to amenities providing neighborhood goods and services. The proposal would permit higher density residential uses, located near a transit corridor and near an activity corridor.

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Housing because, the proposal would increase the variety of ownership options and unit costs throughout Louisville Metro; no existing residents are located on the site; the proposal would allow the use of innovative methods of housing.

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to Metro Council the change in zoning from R-4, Single Family Residential to R-7, Multi-family Residential on property described in the attached legal description be **APPROVED**.

The vote was as follows:

YES: Commissioners Carlson, Clare, Mims, Peterson, Sistrunk and Howard
NOT PRESENT AND NOT VOTING: Commissioners Brown, Daniels, Seitz and Lewis

Development Plan and Binding Elements

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

WHEREAS, required tree canopy will be provided on the site. An intermittent stream is located on the site; required buffers around the stream are being provided; 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, open space is being provided in compliance with the requirements of the Land Development Code; 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 in compliance with existing and planned future development in the area. The proposal serves as a buffer between existing single-family development and proposed commercial development at the Bardstown Road corridor; and

WHEREAS, the Louisville Metro Planning Commission further finds the development plan conforms to applicable guidelines and policies of the Land Development Code and Plan 2040.

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

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.

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3. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
4. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested:
 - a. The development plan must receive full construction approval from Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. A minor plat or legal instrument shall be recorded consolidating the parcels into one lot. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of the approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
 - 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. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the January 21, 2021 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.
5. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
6. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees,

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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:

YES: Commissioners Carlson, Clare, Mims, Peterson, Sistrunk and Howard
NOT PRESENT AND NOT VOTING: Commissioners Brown, Daniels, Seitz and Lewis

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PUBLIC HEARING

20-ZONE-0092

Request: Change in Zoning from R-4 to PRD with Detailed District Development Plan, Binding Elements, abandonment of existing Binding Elements, and Major Preliminary Subdivision

Project Name: Cedar Ridge

Location: 8203 and 8211 Cedar Creek Road, Parcel 065700830000

Owner: Limestone Builders Inc.

Applicant: Limestone Builders Inc.

Representative: Wyatt, Tarrant & Combs, LLP

Jurisdiction: Louisville Metro

Council District: 22 – Robin Engel

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:

00:35:39 Ms. St. Germain stated this case was noticed without a required waiver. It has since been re-noticed and will need to be continued to the next Planning Commission meeting, February 4, 2021.

Deliberation

00:37:03 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 Howard, seconded by Commissioner Carlson, the following resolution was adopted.

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RESOLVED, that the Louisville Metro Planning Commission **CONTINUE** this case to the February 4, 2021 Planning Commission meeting.

The vote was as follows:

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

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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 10:09 p.m.

Chair

Planning Director