

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO PLANNING COMMISSION
January 6, 2022**

A meeting of the Louisville Metro Planning Commission was held on Thursday, January 6, 2022 at 1:00 p.m. via Cisco Webex Video Teleconferencing.

Commission members present:

Marilyn Lewis, Chair
Lula Howard
Jeff Brown
Rich Carlson
Ruth Daniels
Jim Mims
Pat Seitz
Te'Andre Sistrunk
Patricia Clare
Glenn Price

Commission members absent:

None.

Staff Members present:

Emily Liu, Planning and Design Director
Joe Reverman, Planning and Design Assistant Director
Brian Davis, Planning and Design Manager
Julia Williams, Planning Supervisor
Dante St. Germain, Planner II
Laura Ferguson, Legal Counsel
Madison Thomas, Management Assistant

Others present:

Beth Stuber, Transportation Planning Supervisor
Tony Kelly, MSD

The following matters were considered:

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APPROVAL OF MINUTES

DECEMBER 16, 2021 PLANNING COMMISSION MEETING MINUTES

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

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the minutes of the regular meeting of the December 16, 2021 Planning Commission.

The vote was as follows:

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

NO: No one.

ABSTAIN: Commissioner Clare.

PRESENT: Commissioner Price.

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PUBLIC HEARING
CASE NO. 21-ZONE-0034

Request: Change-in-Zoning from OTF to C1, with Detailed District Development Plan and Binding Elements, and Variance
Project Name: Jagers @ Indian Springs
Location: 10700 Westport Road
Owner: M&T LLC
Applicant: M&T LLC
Representative: Bardenwerper, Talbott & Roberts
Jurisdiction: Louisville Metro
Council District: 17 – Markus Winkler
Case Manager: **Dante St. Germain, AICP, Planner II**

Notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicants.

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

Agency Testimony:

00:06:20 Dante St. Germain presented the case and showed a Power Point presentation (See staff report and recording for detailed presentation.)

The following spoke in favor of this request:

Bill Bardenwerper, Bardenwerper Talbott & Roberts PLLC, 1000 North Hurstbourne Parkway, Louisville, KY 40223

Mike Hill, Land Design & Development, 503 Washburn Avenue, Louisville, KY 40222

Diane Zimmerman, 12803 Pine Meadows Pike, Prospect, KY 40059

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

Russell Arbuckle, 14207 Willow Grove Circle, Louisville, KY 40245

Summary of testimony of those in favor:

00:15:44 Bill Bardenwerper, the applicant's representative, presented the applicant's case and showed a PowerPoint presentation (see recording for detailed presentation.)

In response to Commissioner Mims' question about landscape screening for the back of the building, Bill Bardenwerper responded that the overall site plan and enhanced landscaping along the access road is satisfactory to the neighborhood.

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In response to Commissioner Seitz's question, Mike Hill explained where the dumpster area is and said it will be screened and gated.

In response to Commissioner Carlson's question about the traffic study, Diane Zimmerman explained what an increase within acceptable limits is.

In response to Commissioner Carlson's about the drive-thru space, Mike Hill explained how Jagers designed the drive-thru and that it has sufficient space to avoid conflicting with traffic.

00:43:32 Steve Porter explained that he represents the Indian Springs Community Association and they have negotiated with the developers and appreciate their compromise. Mr. Porter also explained the 4000 degrees Kelvin restriction in the Binding Elements. The association supports the project with the Binding Elements agreed upon.

Commissioner Carlson asked about removing the language in Binding Element #11 that states, "and will be warm white with a tinge of yellow." Steve Porter and Bill Bardenwerper agreed that they could remove that language.

There was discussion about adding language to Binding Element #12 to clarify, "No lighted attached signage shall be placed more than 25' above ground, measured from grade to the top of the sign."

Commissioner Brown asked if the list of uses that would be prohibited on this property align with what is stated in the Land Development Code. Dante St. Germain explained there are a lot of uses that are not allowed in C-1 that are listed, but staff had no objections to the list. Steve Porter said the same list was in the Deed of Restrictions that is being filed.

Rebuttal

00:58:33 Bill Bardenwerper explained he was happy to work out a compromise with Steve Porter and Indian Springs Community Association. Mr. Bardenwerper also explained that Jagers is a new business entity of Texas Roadhouse.

00:59:40 Commissioners' deliberation.

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

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

Change in Zoning:

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Community Form because the proposal would not constitute a non-residential expansion into a residential area. The site is already OTF and located in an existing activity center; and the site is located on Westport Road, a minor arterial at this location, and in proximity to a transit route and major activity center across Westport Road; and the proposal would not permit hazardous uses. Uses with air, noise and light would need to comply with LMCO and LDC restrictions; and the proposed zoning district would not permit uses which produce noxious odors, particulates and emissions; and access to the site is via Indian Lake Drive from Westport Road; and noise from uses permitted by the proposed zoning district would be unlikely to impact existing communities, as the multi-family development to the south has its recreational facilities closest to the site, and the site is otherwise surrounded by commercial development; and

WHEREAS, the Commission further finds that the proposal meets Land Use & Development Goal 2: Community Form because the site is located in an existing activity center; and the site has appropriate access and connectivity. It would share an access point with the adjacent hotel; and the site is located in an existing activity center; and the proposed zoning district would permit a compact development pattern by permitting utilization of an underutilized parking lot; and the site is located in an existing activity center. The proposed zoning district would permit a mixture of compatible land uses; and the proposed zoning district would permit residential and office uses above retail or other mixed-use multi-story retail buildings; and the proposed zoning district would permit new development providing commercial uses; and the proposal would permit new commercial development in an outlot of a currently-underutilized parking lot of existing development; and the site is located in an existing activity center. The proposed zoning district would permit neighborhood-serving uses which are of an appropriate design and scale in the existing center; and

WHEREAS, the Commission further finds that the proposal meets Land Use & Development Goal 3: Community Form because no flood-prone areas are evident on the site. No karst features are evident on the site; and

WHEREAS, the Commission further finds that the proposal meets Land Use & Development Goal 4: Community Form because no historic assets are evident on the site; and no distinctive cultural features are evident on the site; and

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WHEREAS, the Commission further finds that the proposal meets Land Use & Development Goal 1: Mobility because the site is located in an existing activity center; and

WHEREAS, the Commission further finds that the proposal meets Land Use & Development Goal 2: Mobility because no access is proposed through development of significantly lower intensity or density. Access to the site is via Indian Lake Drive from Westport Road; and

WHEREAS, the Commission further finds that the proposal meets Land Use & Development Goal 3: Mobility because the proposed zoning district would permit a mix of neighborhood serving businesses and services in an activity center; and the site is easily accessible by bicycle, car, transit, pedestrians and people with disabilities. The proposed zoning district would permit employment near housing; and Transportation Planning has approved the proposal; and

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

WHEREAS, the Commission further finds that the proposal meets Land Use & Development Goal 1: Economic Development because the site has adequate access and connectivity to Westport Road, a minor arterial at this location, and I-265; and

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

WHEREAS, the Commission further finds that the proposal meets Land Use & Development Goal 1: Housing because the proposal would support aging in place by permitting neighborhood-serving commercial uses in proximity to established neighborhoods; and

WHEREAS, the Commission further finds that the proposal meets Land Use & Development Goal 2: Housing because the proposal would permit inter-generational mixed-income and mixed-use development. The site is connected to the neighborhood and the surrounding area; and the proposal would permit neighborhood-serving amenities providing goods and services to established neighborhoods; and

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

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RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** that Louisville Metro Council **APPROVE** the change in zoning in case 21-ZONE-0034 from OTF, office tourist facility, to C-1, commercial for the property at 10700 Westport Road.

The vote was as follows:

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

NO: No one.

PRESENT: Commissioner Price.

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

21-VARIANCE-0044:

WHEREAS, the Louisville Metro Planning Commission finds the requested variance will not adversely affect the public health, safety or welfare as the excess setback will not have a public health or safety impact; and

WHEREAS, the Commission further finds the requested variance will not alter the essential character of the general vicinity as the existing hotel already exceeds the 80' maximum setback; and

WHEREAS, the Commission further finds the requested variance will not cause a hazard or nuisance to the public as the excess setback will not impact sight lines, and the building will be constructed to building code; and

WHEREAS, the Commission further finds the requested variance will not allow an unreasonable circumvention of the zoning regulations as the proposed setback is similar to the hotel setback; and

WHEREAS, the Commission further finds the requested variance does not arise from special circumstances which do not generally apply to land in the general vicinity or the same zone because the lot and the proposed development do not exist yet and the site could be designed differently; and

WHEREAS, the Commission further finds the strict application of the provisions of the regulation would not deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant because the site could be redesigned without the excess setback; and

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WHEREAS, the Commission further finds the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as the applicant is requesting the variance and has not begun construction.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the variance from Table 5.3.2 to exceed the maximum allowed setback of 80 feet along the Westport Road frontage to 85', variance of 5', for the property described in the staff report, based on the staff's analysis and testimony heard today.

The vote was as follows:

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

NO: No one.

PRESENT: Commissioner Price.

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

Revised Detailed District Development Plan:

WHEREAS, the Louisville Metro Planning Commission finds that no natural resources are evident on the site. The site is currently used as a parking lot. Tree canopy will be provided; and

WHEREAS, the Commission further finds 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, the Commission further finds no open space requirements are pertinent to the request; and

WHEREAS, the Commission further finds 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 Commission further finds the overall site design is compatible with existing and projected future development of the area. The site will be developed at an appropriate intensity and scale for the form district and the area; and

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WHEREAS, the Commission further finds the development plan conforms to applicable guidelines and policies of the Land Development Code, with the exception of the requested variance, and conforms with the Comprehensive Plan.

Proposed 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.
3. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
4. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested:
 - a. The development plan must receive full construction approval from Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a certificate of occupancy. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - 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 minor subdivision plat shall be recorded creating the lot lines as shown on the development plan. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
 - e. The materials and design shall be substantially the same as depicted in the rendering as presented at the January 6, 2022 Planning Commission

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meeting. A copy of the approved rendering is available in the case file on record in the offices of the Louisville Metro Planning Commission.

- f. A reciprocal access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be created between the Jagers site and the Aloft site and recorded. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; a copy of the recorded instrument shall be submitted to the Division of Planning and Design Services prior to obtaining a building permit.
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. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
7. 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.
8. The following uses are prohibited: Bingo parlor; adult entertainment; drug paraphernalia; gas stations; convenience store; tattoo parlor; dry cleaning plant; automobile, truck, trailer, boat, or recreational vehicle sales, leasing, or display; auto repair including body shop or parts sales; video arcade; billiard hall; night club; dance hall; pawn shop; car wash; "Dollar" store; grocery store; laundries or laundrettes; package liquor store; smoke, vape or tobacco shop; tanning salon; variety store; pet store; or gun shop.
9. Operating hours of any use shall be limited to 6:00 a.m. to 10:00 p.m.
10. All exterior street lights and parking lot lights shall be fully shielded, shall utilize flat or hidden lenses, and shall be pointed directly to the ground. Building lighting shall also be pointed directly to the ground and signage lighting shall be customary as restricted by local authorities.

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11. The LED lighting on the building and in the parking lot shall not exceed a correlated color temperature (CCT) of 4000 degrees Kelvin.
12. No lighted attached signage shall be placed more than 25' above ground, measured from grade to the top of the sign.
13. Except for the menu board, no changing image or moving signs shall be permitted.
14. All freestanding monument signage shall not exceed seven feet in height, measured from grade, or as limited by the Land Development Code, whichever is less.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the Revised Detailed District Development Plan for case 21-ZONE-0034 along with the Binding Elements on pages 16 and 17 of the staff report including the proposed Binding Elements presented today, based on the staff report and testimony heard today.

The vote was as follows:

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

NO: No one.

PRESENT: Commissioner Price.

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CASE NO. 21-ZONE-0127

Request: Change in Zoning from R-4 to R-6, with Detailed District Development Plan with Binding Elements
Project Name: Flats at Bardstown
Location: 2100/2044 Buechel Bank Road & 4134 R Bardstown Road
Owner: Hook Family Land LLC
Applicant: Marian Development
Representative: Dinsmore & Shohl, PLLC.
Jurisdiction: Louisville Metro
Council District: 2 – Barbara Shanklin
Case Manager: **Julia Williams, AICP, Planning Supervisor**

Notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicants.

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

Agency Testimony:

01:08:38 Julia Williams presented the case and showed a Power Point presentation (See staff report and recording for detailed presentation.)

Commissioner Mims asked if there was sidewalk connectivity to the shopping center. Julia Williams explained it is fully connected and does have a consistent sidewalk up to the Buechel Bypass and went into more detail on the sidewalk connectivity to the development.

The following spoke in favor of this request:

Cliff Ashburner, Dinsmore and Shohl, 101 South 5th Street, Suite 2500, Louisville, KY 40202

Ashley Bartley, 1046 East Chestnut Street, Louisville, KY 40204

Summary of testimony of those in favor:

01:17:00 Cliff Ashburner, the applicant's representative, presented the applicant's case and showed a PowerPoint presentation (see recording for detailed presentation.)

01:22:24 Ashley Bartley went into more detail on the proposed development plan and explained the revisions to the entrances.

01:26:09 Cliff Ashburner continued the presentation.

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Commissioner Brown noted the median would need to be pulled out of the public right-of-way.

The following spoke in opposition to this request:

Norma Howard, 2020 Buechel Bank Road, Louisville, KY 40218

Charisse Spalding, 2018 Buechel Bank Road, Louisville, KY 40218

Summary of testimony of those in opposition:

01:34:42 Norma Howard stated traffic concerns, explaining the traffic is already horrible in the area. Ms. Howard asked what is being done for the residents that already live on Buechel Bank Road and what compromises are being made to mitigate their concerns.

01:38:56 Charisse Spalding asked if there was a geological or geographical survey done about the plumbing, blasting, or sewage. Ms. Spalding stated concerns about drainage and flooding in the area. Ms. Spalding stated concerns about the traffic from the development and asked if a traffic survey was done.

Rebuttal

01:44:00 Cliff Ashburner addressed opposition explaining some of the issues are more systemic and beyond the scope of this development, particularly what is being done for the neighborhood. Mr. Ashburner said they will be dedicating a significant amount of right-of-way to the county to help with roadway improvements and that the entrance was widened so when Buechel Bank Road is widened in the future, a turn lane can be put in, and that they will be adding sidewalks in front of the development. Mr. Ashburner said Public Works did not have any concern about traffic being added to the area from this development.

Commissioner Howard asked if the representatives could address the flooding and sewage concerns of the opposition. Ashley Bartley explained how the drainage on the site will work to prevent flooding. Ms. Bartley also went into detail on the geotechnical survey and said that there won't be any blasting.

Commissioner Carlson asked if this was market rate housing or affordable housing. Cliff Ashburner said it will be affordable housing.

Binding Element #7 was read into the record to state, "Upon the development of the adjacent commercial property to the east as retail, restaurant, office, residential or any other use determined by the Planning Director, and within 90 days of a request by the Planning Director, a pedestrian connection shall be made by the developer from the subject site to the commercial property to the east."

02:03:20 Commissioners' deliberation.

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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, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

Change in Zoning:

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 along a collector roadway with sidewalk connectivity to TARC service nearby along an arterial to the north and along a local road to the south. There is also pedestrian and vehicular connectivity to activity centers; and the proposed district is in an area that maintains higher intensities and densities along Buechel Bank Road; and

WHEREAS, the Commission further finds that the proposal meets Land Use & Development Goal 2: Community Form because the mainly vacant property is proposed to be rezoned to a district providing housing at appropriate locations. The site is connected to the activity center along Buechel Bypass and Bardstown Road; and

WHEREAS, the Commission further finds that the proposal meets Land Use & Development Goal 3: Community Form because a wetland has been identified on the site. No development is occurring in the wetland area; and

WHEREAS, the Commission further finds that the proposal meets Land Use & Development Goal 4: Community Form because a wetland has been identified on the site. No development is occurring in the wetland area; and 2100 Buechel Bank Rd., there is a circa 1940 masonry home located at 2044 Buechel Bank Rd. that is shown to be removed. The demolition of the structure could have an adverse effect on sites potentially eligible for the National Register. Land Use and Development Goal 4: Community Form in Plan 2040 stresses the protection of historic resources. Historic Preservation staff recommends adaptive re-use of the structure instead of 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. The site is not historic even if the existing building is considered historic; and

WHEREAS, the Commission further finds that the proposal meets Land Use & Development Goal 1: Mobility because the proposed higher intensity use is connected to two nearby transit corridors and an activity center zoned for a variety of goods and

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services. The site is connected to an efficient public transportation system to the north and south of the site; and

WHEREAS, the Commission further finds that the proposal meets Land Use & Development Goal 2: Mobility because the proposed district is located along a collector roadway where a mix of densities exist and where an activity center exists at the intersection of Buechel Bypass and Bardstown Road (an arterial roadway). Having mixed intensities and densities would not create a significant nuisance with respect to accessing the site; and

WHEREAS, the Commission further finds that the proposal meets Land Use & Development Goal 3: Mobility because the subject property is easily accessible by bicycle, car, transit, pedestrians and people with disabilities as public sidewalks and transit service are available and connectivity from the site to activity centers is readily available; and the sidewalk along the frontage will be a minimum of 5' wide; and all improvements to the right-of-way and/or dedication will be made as requested; and the roadway fronting the development site is intended to serve high volumes of vehicular traffic, public sidewalks are available, and transit service is accessible. The development is appropriately located to take advantage of the existing transportation network. Any additional improvements necessary as a result of traffic impact study for the development plan will be addressed; and any roadway improvement will be made with the proposal; and no direct access to high speed roadways is provided for individual units. One access point to the site will be provided; and

WHEREAS, the Commission further finds that the proposal meets Land Use & Development Goal 2: Community Facilities because the site will be served by existing utilities or capable of being served by public or private utility extensions; and the development will have an adequate supply of potable water and water for fire-fighting purposes; and MSD has preliminarily approved the proposal; and

WHEREAS, the Commission further finds that the proposal meets Land Use & Development Goal 1: Livability because the site does not appear to contain unique landscape characteristics. Tree canopy will be provided as required; and the proposal will not negatively impact the groundwater; and a compensation basin is proposed to positively affect any floodplain issues; and

WHEREAS, the Commission further finds that the proposal meets Land Use & Development Goal 1: Housing because the proposed district provides for appropriately located high density development between major transit corridors in the Neighborhood form district. The district remains consistent with the pattern of the corridor in provisioning for alternative forms of housing; and the proposed district and location support aging in place as distance and transit connectivity to nearby services and amenities reduce travel time to essential services; and

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WHEREAS, the Commission further 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; and the subject site and proposed district provides safe and convenient access to employment opportunities and amenities as distance and transit connectivity to nearby services and amenities reduce travel time to essential services, employment, and amenities in the area and throughout Louisville Metro; and

WHEREAS, the Commission further 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; and the proposed district allows for an increase in residential occupancy where none currently exists on the site; and the proposed zoning district allows for a variety of styles and methods of housing to provision the requested density and fair and affordable housing.

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** that Louisville Metro Council **APPROVE** the change in zoning for case 21-ZONE-0127 from R-4 to R-6 for the property located at 2100/2044 Buechel Bank Road & 4134 R Bardstown Road.

The vote was as follows:

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

NO: No one.

PRESENT: Commissioner Price.

On a motion by Commissioner Carlson, seconded by Commissioner Seitz, the following resolution was adopted:

Revised Detailed District Development Plan:

WHEREAS, the Louisville Metro Planning Commission finds the environmental constraints identified on the site are located in an area where no development is occurring. There are no historic resources on the subject site. Tree canopy requirements of the Land Development Code will be provided on the subject site; and

WHEREAS, the Commission further finds provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community has been provided, and Metro Public Works and has approved the entrance onto Buechel Bank Road; and

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WHEREAS, the Commission further finds the open space provided on the plan for the multi-family proposal meets the Land Development Code requirements and the needs of the development; and

WHEREAS, the Commission further finds 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 Commission further finds the overall site design and land uses are compatible with the existing and future development of the area. Appropriate landscape buffering and screening will be provided to screen adjacent properties and roadways. Buildings and parking lots will meet all required setbacks; and

WHEREAS, the Commission further finds the development plan conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code.

Proposed 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 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) is requested:
 - a. The development plan must receive full construction approval from Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.

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- b. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in 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 minor subdivision plat or legal instrument shall be recorded dedicating additional right-of-way to Buechel Bank Road to provide a total of 40 feet from the centerline. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services prior to obtaining a building permit.
 - d. A minor plat or legal instrument shall be recorded consolidating the property into one lot. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services prior to obtaining a building permit.
 - e. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
 - f. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the January 6, 2022 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, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
7. Upon the development of the adjacent commercial property to the east as retail, restaurant, office, residential or any other use determined by the Planning Director, and within 90 days of a request by the Planning Director, a pedestrian connection shall be made by the developer from the subject site to the commercial property to the east.

PLANNING COMMISSION MINUTES

January 6, 2022

PUBLIC HEARING

CASE NO. 21-ZONE-0127

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the Detailed District Development Plan for case 21-ZONE-0127 along with the Binding Elements on pages 11 and 12 of the staff report with the revision of Binding Element #7 presented today along with the condition the median at the entrance be moved out of the public right-of-way, based on the staff report and testimony heard today.

The vote was as follows:

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

NO: No one.

PRESENT: Commissioner Price.

PLANNING COMMISSION MINUTES

January 6, 2022

BUSINESS SESSION

CASE NO. 3 Binding Element Final Order

Request: Binding Element Citation Final Order - 7701 Smyrna Parkway

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

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

Agency Testimony:

02:15:23 Laura Ferguson presented the case. She said this is a binding element citation that was issued in October 12, 2021 and was not appealed. This citation is for violation of Binding Element #1. See recording for detailed presentation.

The following spoke in support of this request:

John Torsky, Legislative Assistant to Councilman James Peden, 601 W. Jefferson Street, Louisville, KY 40202

Summary of testimony of those in support:

02:18:27 John Torsky asked if this was a one-time \$1000 fine as this property seemed to be habitual offenders. Mr. Torsky said they reached out to the general manager and found out that this improper storage is considered Dollar General's business model. Mr. Torsky asked if the council had the ability to raise the rate of the fine.

In response to Mr. Torsky's questions about the fines, Laura Ferguson explained in detail of how the fines are determined through KRS and how the fines can be increased.

Commissioner Carlson asked if they could have the code enforcement officers return to the site at the end of the 30 days. Joe Reverman responded that would be the typical process. Laura Ferguson said the main reason for waiting 30 days is to give time for the Planning Commission's action.

Laura Ferguson explained the citation and appeal process to the Planning Commission of the inspector's action in detail and the different actions that can be taken in response to these violations.

Commissioner Lewis asked if the code enforcement officers could return to the site tomorrow. Laura Ferguson explained that they could go out and start on a new violation.

Laura Ferguson explained that the action before the committee is to uphold the citation that was issued on October 12, 2021 and to approve the form of the Final Order.

PLANNING COMMISSION MINUTES

January 6, 2022

BUSINESS SESSION

CASE NO. 3 Binding Element Final Order

In response to Commissioner Carlson's question asking if the code enforcement officers have to observe the violation or if testimony can be taken from others as evidence to increase the fine, Laura Ferguson responded that the code enforcement officers would have to go out and observe in order to issue citations and violations, but for purposes of determining how many days the violation has occurred, testimony could be taken as additional evidence in terms of setting a daily fine.

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 Howard, the following resolution was adopted:

RESOLVED that the Louisville Metro Planning Commission does hereby uphold the citation issued at 7701 Smyrna Parkway on October 12, 2021 as there was no appeal of the citation filed within the allotted time, and does hereby approve the form of the Final Order, based on testimony provided by legal counsel.

The vote was as follows:

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

NO: No one.

PRESENT: Commissioner Price.

PLANNING COMMISSION MINUTES

January 6, 2022

BUSINESS SESSION

CASE NO. 4 Binding Element Final Order

Request: Binding Element Citation Final Order – 9267 Smyrna Parkway

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

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

Agency Testimony:

02:38:07 Laura Ferguson presented the case. She said this is a binding element citation that was issued on October 12, 2021 and was not appealed. This citation is for violation of Binding Element #1. See recording for detailed presentation.

This is a different owner from the previous property.

The following spoke in support of this request:

John Torsky, Legislative Assistant to Councilman James Peden, 601 W. Jefferson Street, Louisville, KY 40202

Summary of testimony of those in support:

02:40:45 John Torsky said they have tried to bring notice to the property owner that this is occurring but have been unsuccessful. Mr. Torsky described the improper storage occurring at the property.

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 Howard, the following resolution was adopted:

RESOLVED that the Louisville Metro Planning Commission does hereby uphold the citation issued at 9267 Smyrna Parkway on October 12, 2021 as there was no appeal of the citation filed within the allotted time, and does hereby approve the form of the Final Order, based on testimony provided by legal counsel.

The vote was as follows:

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

NO: No one.

PRESENT: Commissioner Price.

PLANNING COMMISSION MINUTES
January 6, 2022

ADJOURNMENT

The meeting adjourned at approximately 3:58 p.m.

DocuSigned by:
Marilyn Lewis
Chair

DocuSigned by:
[Signature]
Planning Director