

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO PLANNING COMMISSION MEETING
September 1, 2022**

A meeting of the Louisville Metro Planning Commission was held on Thursday, September 1, 2022 at the Old Jail Building, located at 514 West Liberty Street, Louisville KY 40202, and via Webex.

Commissioners present:

Marilyn Lewis, Chair
Jeff Brown
Patricia Clare
Jim Mims (left at 3:04 p.m.)
Glen Price
Rich Carlson
Lula Howard
Te'Andre Sistrunk
Ruth Daniels (arrived at 1:07 p.m.)
Suzanne Cheek

Commissioners absent:

No one.

Staff members present:

Emily Liu, Director, Planning & Design Services
Joe Reverman, Assistant Director, Planning & Design Services
Brian Davis, Planning & Design Manager
Julia Williams, Planning Supervisor
Dante St. Germain, Planner II
Jay Lockett, Planner II
Laura Ferguson Assistant County Attorney
Beth Stuber, Metro Transportation Planning
Chris Cestaro, Management Assistant

Others Present:

Tony Kelly, MSD

The following matters were considered:

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APPROVAL OF MINUTES

August 18, 2022 Planning Commission minutes

00:04:03 On a motion by Commissioner Howard, seconded by Commissioner Sistrunk, the following resolution was adopted:

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the minutes from the August 18, 2022 Planning Commission public hearing.

The vote was as follows:

YES: Commissioners Cheek, Price, Mims, Brown, Howard, Sistrunk, and Lewis.

ABSENT: Commissioner Daniels.

ABSTAIN: Commissioners Carlson and Clare.

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PUBLIC HEARING

Case No. 21-MSUB-0001

Request: Preliminary Major Subdivision (MRDI) and Floyds Fork DRO Review
Project Name: Broad Run Road Subdivision
Location: 8000 Broad Run Road
Owner: Walton Investments LLC
Applicant: Highgates Development
Representative: Bardenwerper Talbott & Roberts
Jurisdiction: Louisville Metro
Council District: 22 - Robin Engel
Case Manager: Jay Lockett, 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:

00:05:06 Jay Lockett said the applicant has requested that this case be continued to the September 15, 2022 Planning Commission public hearing.

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

00:05:52 On a motion by Commissioner Carlson, seconded by Commissioner Howard, the following resolution was adopted:

RESOLVED, the Louisville Metro Planning Commission does hereby **CONTINUE** this case to the September 15, 2022 Planning Commission public hearing.

The vote was as follows:

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YES: Commissioners Cheek, Price, Mims, Brown, Clare, Howard, Carlson, Sistrunk, and Lewis.

ABSTAIN: Commissioner Daniels.

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PUBLIC HEARING

Case No. 21-ZONE-0156

Request: Change in zoning from R-4 to R-5A, with Detailed District Development Plan and Binding Elements
Project Name: Burnett Ridge Lofts
Location: 600/604 Burnett Ridge Place
Owner: Linda Watson
Applicant: Stewart Companies
Representative: LDD Inc.; Wyatt Tarrant and Combs LLP
Jurisdiction: Douglass Hills
Council District: 18-Marilyn Parker
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:

00:06:49 Julia Williams said she had no new information to present, so she deferred to the applicant.

The following spoke in support of the request:

Jon Baker, Wyatt Tarrant & Combs, 400 West Market Street Suite 2000, Louisville, KY 40202

Summary of testimony of those in support:

00:07:31 Jon Baker, the applicant's representative, said the applicant is requesting another continuance (see recording for detailed presentation.)

00:09:36 In response to a question from Commissioner Howard, Mr. Baker discussed whether or not the changes being made to the request would require a revised site plan (see recording for detailed discussion.)

00:10:24 The Commissioners and Mr. Baker discussed whether a revised plan would have to go back to LD&T. Joe Reverman, Assistant Director of Planning & Design Services, said the decision about whether or not a revised plan would need to

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go before the LD&T Committee can be made by staff after they have seen the plan.
See recording for full discussion.

The following spoke in opposition to the request:

No one spoke.

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

00:14:55 On a motion by Commissioner Carlson, seconded by Commissioner Mims, the following resolution, based on evidence and testimony heard today, was adopted:

RESOLVED, the Louisville Metro Planning Commission does hereby **CONTINUE** this case to the **October 6, 2022** Planning Commission public hearing.

The vote was as follows:

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

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PUBLIC HEARING

CASE NO. 22-AMEND-0002

Request: Appeal of LD&T Action to Partially Deny Amendment to Binding Elements
Project Name: Old New Cut Road Apartments Binding Element Amendment Appeal
Location: 6501 Old New Cut Road
Owner: Newtown Woods LLC
Applicant: LDG Development
Representative: Dinsmore & Shohl, Heritage Engineering
Jurisdiction: Louisville Metro
Council District: 13 - Mark Fox
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:

00:15:48 Dante St. Germain presented the case, showed a Power Point presentation, and responded to questions from the Commissioners (see staff report and recording for detailed presentation).

The following spoke in support of the request:

Cliff Ashburner, Dinsmore & Shohl, 101 S 5th St #2500, Louisville, KY 40202

John Campbell, Heritage Engineering, 642 S. 4th Street Suite 100, Louisville, KY 40202 (signed in but did not speak)

Michael Gross, 1469 S. 4th Street, Louisville, KY 40208 (signed in but did not speak)

Diane Zimmerman, 12803 High Meadows Pike, Louisville, KY 40059

Summary of testimony of those in support:

00:24:39 Cliff Ashburner, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.)

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He read into the record the proposed binding element that the applicant would agree to, as follows:

Within 60 days of the southbound turn lane from New Cut Road to Old New Cut Road being warranted and Louisville Metro Public Works making a request to the property owner, the property owner shall provide Louisville Metro Public Works with ½ of the costs of the southbound turn lane up to a maximum of \$50,000.

00:32:04 In response to a question from Commissioner Daniels, Mr. Ashburner said the proposed apartments will be market-rate housing.

00:32:25 In response to a question from Commissioner Mims, Mr. Ashburner said that a rough estimate of the cost of this right-turn lane is approximately \$100,000, due to the amount of utilities that would have to be relocated.

00:32:56 In response to a question from Commissioner Cheek, Mr. Ashburner said he did not think that additional right-of-way would have to be acquired.

The following spoke in opposition to the request:

No one spoke.

Rebuttal:

There was no rebuttal.

Deliberations:

00:34:01 Commissioners' deliberation.

00:38:27 At Ms. St. Germain's request, the Commission came out of Business Session to ask some questions and discuss some issues. Ms. St. Germain said that the applicant is willing to provide funds now, instead of in the future. See recording for detailed discussion.

00:40:09 In response to some questions from Commissioner Mims, Diane Zimmerman, the applicant's traffic engineer, discussed traffic safety issues at this intersection, particularly crash data from the Kentucky State Police website. See recording for detailed discussion.

00:42:39 The Commission resumed Business Session 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.

Amendment to Binding Elements

00:48:16 On a motion by Commissioner Mims, seconded by Commissioner Cheek, the following resolution, based on the Standard of Review and Staff Analysis, and evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the site currently includes tree canopy and a stream, which are being preserved as shown on the original site plan; and

WHEREAS, the Commission further finds that 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 previously approved the site plan; and

WHEREAS, the Commission further finds that open space is being provided per the requirements of the Land Development Code; and

WHEREAS, the Commission further finds that the Metropolitan Sewer District has previously 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 that the site plan is unchanged from the previously approved plan; and

WHEREAS, the Commission further finds that the site plan with the amended binding element would comply with the Land Development Code. The Planning Commission must determine if the revision complies with the Comprehensive Plan; now therefore be it

RESOLVED, The Louisville Metro Planning Commission does hereby overturn the previous decision by the Land Development and Transportation Committee, **ON CONDITION** that the 12 (a) binding element be stricken and that the proposed binding element be added. The binding element shall read as follows:

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12 (a) Within 60 days of the southbound turn lane from New Cut Road to Old New Cut Road being warranted and Louisville Metro Public Works making a request to the property owner, the property owner shall provide Louisville Metro Public Works with ½ of the costs of the southbound turn lane up to a maximum of \$50,000.

The vote was as follows:

YES: Commissioners Cheek, Price, Daniels, Mims, Clare, Howard,

NO: Commissioners Brown, Carlson, Sistrunk, and Lewis.

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PUBLIC HEARING

CASE NO. 21-ZONE-0161

Request: Change in zoning from R-5 to C-M, with Detailed District Development Plan and Binding Elements, and Waiver
Project Name: Southside Drive Rezoning
Location: 6101 - 6107 Southside Drive, 101 - 111 Steedly Drive
Owner: Teresa Nguyen & Justin Dihn
Applicant: Teresa Nguyen & Justin Dihn
Representative: Wyatt, Tarrant & Combs
Jurisdiction: Louisville Metro
Council District: 25 - Amy Holton Stewart
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:

00:49:44 Dante St. Germain presented the case, showed a Power Point presentation, and responded to questions from the Commissioners (see staff report and recording for detailed presentation).

00:57:02 Laura Ferguson, Legal Counsel for the Planning Commission, said that the County Attorney's Office has been working with the Metro Council regarding binding elements that "bind out" certain uses. She and Ms. St. Germain reviewed what would be expected from the Planning Commission regarding binding elements at today's hearing (see recording for detailed discussion.)

The following spoke in support of the request:

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

Ann Richard, Land Design & Development, 503 Washburn Ave # 101, Louisville, KY 40222

Diane Zimmerman, 12803 High Meadows Pike, Louisville, KY 40059

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CASE NO. 21-ZONE-0161

Justin Dinh and Theresa Nguyen, 6105 and 6107 Southside Drive, Louisville, KY 40214

Summary of testimony of those in support:

00:58:29 Jon Baker, the applicant's representative, presented the applicant's case and showed a PowerPoint presentation (see recording for detailed presentation).

01:12:42 Ann Richard discussed the site design (see recording for detailed presentation.)

01:16:45 Mr. Baker discussed the traffic study and concluded the presentation.

01:20:45 Justin Dinh and Theresa Nguyen, the applicants, presented their case. He said there was much support in the surrounding neighborhood for this proposal.

01:24:15 In response to a question from Commissioner Cheek, Mr. Baker said that a booklet that had been presented to the Commissioners was from the Iroquois Neighborhood Association.

01:24:31 In response to a question from Commissioner Cheek, Ms. Richard discussed parking requirements for this plan. She said this plan provides 179 spaces (see recording for detailed discussion.)

01:25:24 In response to questions from Commissioners Carlson and Price, Mr. Baker discussed what will ensure that the commercial buildings will be neighborhood-serving uses (the Commission can "bind-out" certain uses.) Julia Williams, Planning Supervisor with Planning & Design Services, said that, at this time, the Land Development Code does not have a specific definition of "neighborhood-serving use". See recording for detailed discussion.

01:30:26 In response to a question from Commissioner Mims, Ms. Richard discussed the width and length of the retail buildings.

The following spoke neither for nor against the proposal ("Other"):

Councilwoman Amy Holton Stewart, 601 West Jefferson Street, Louisville, KY 40202

Summary of testimony of those neither for nor against:

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01:31:57 Councilwoman Amy Holton Stewart discussed the traffic study (along Southside Drive), and expressed some concern about semi-tractor trailers entering and exiting this property. She had questions about the number of contractor shops – she said the renderings appeared to show more than 5 loading doors, which may indicate more than 5 contractor shops per building. She emphasized the importance of “neighborhood-serving uses”.

01:37:08 Commissioner Carlson asked Mr. Baker if the applicant would be willing to limit the uses to those listed in the C-N (Commercial Neighborhood) zoning district. Mr. Baker said he would discuss this with the applicant. Commissioner Howard said the uses that are allowed in C-N that were listed by Commissioner Carlson are also allowed in C-1. See recording for detailed discussion.

01:39:57 Ms. St. Germain said the Land Development Code permits restaurants in C-N, but outdoor alcohol sales are not (patio service).

***NOTE: The Planning Commission took a 10-minute recess before hearing the opposition testimony.**

The following spoke in opposition to the request:

Betsy Ruhe, 4902 Southern Parkway, Louisville, KY 40214

Ann Ramser, 307 East Kenwood Drive, Louisville, KY 40214

Maureen Welch, 7101 Venetian Way, Louisville, KY 40214

Summary of testimony of those in opposition:

01:40:46 Betsy Ruhe said she was in favor of the idea of the plan but was concerned about the warehouse space. She said the residents want to make sure that there is no industrial development here and no semi-trucks coming into or out of the site. She said she is in favor of commercial, doctor's office, etc. but is not in favor of the warehouses.

01:42:55 Ann Ramser, speaking on behalf of the Iroquois Neighborhood Association, said the Association **does** want this property developed; however, they want any development to be compatible with the neighborhood. She said the Association objects to the C-M zoning designation. She also showed a Power Point presentation (See recording for detailed presentation.) She said the Association's major

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concern is that they do not want warehouses on this site, and she explained why the C-2 zoning category, instead of C-M, would give the applicant what they want while still maintaining compatibility with the area.

01:50:39 Maureen Welch said the requested industrial zoning category is not compatible or appropriate for the surrounding residential area. She said the neighbors who provided comments to the Planning Commission support something like a shopping center, but are “strongly” opposed to commercial manufacturing and warehouses. She expressed concerns about increased traffic, particularly truck traffic. She asked if the applicant could request a lower zoning category like C-1 or C-2, instead of C-M.

Rebuttal:

01:57:48 Mr. Baker delivered rebuttal (see recording for detailed presentation.)

01:57:57 Before Mr. Baker delivered rebuttal, Commissioner Price asked what the trip generation numbers are for warehouses. Mr. Baker said that information is in the traffic study and can be addressed after his presentation.

He said that, after hearing the opposition comments and speaking with the applicant, the applicant is willing to change their request from C-M to C-2.

02:02:47 In response to a question from Commissioner Lewis, Ms. Richard said the contractor shops have roll-up doors. They are grade level, not loading docks.

Deliberations:

02:03:24 Commissioners' deliberation. *NOTE: Commissioner Mims left the meeting at 3:04 p.m. and did not vote on this case.

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

Change in zoning from R-5 Single Family Residential to C-2 Commercial Manufacturing

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02:04:23 On a motion by Commissioner Brown, seconded by Commissioner Sistrunk, the following resolution, based on the Standard of Review and Staff Analysis, and evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Community Form: Goal 1 because the proposed zoning district would not constitute a non-residential expansion into an existing residential area. The area is mostly industrial and the proposal would extend an existing industrial employment center; the site is located adjacent to an existing employment center; the proposal is for industrial zoning. The site is located in the Suburban Workplace form; no hazardous uses would be permitted by the proposed zoning district. Uses with air, noise and light emissions must comply with LMCO and LDC restrictions; the proposed zoning district would permit uses with noxious odors, particulates and emissions, and the site is in proximity to residential uses. The proposal would buffer any adverse impacts by providing commercial development between the industrial development and nearby residences; access to the site is via Southside Drive, a minor arterial at this location; adverse impacts from noise would be mitigated by situating the contractors' shops farther from the residences, with intervening commercial to buffer any noise; and junkyards, landfills and quarries would not be permitted in the proposed zoning district. No hazardous or flammable materials are permitted within the proposed zoning district; and

WHEREAS, the Commission further finds that the proposal meets Community Form: Goal 2 because the proposal would be appropriate for the Suburban Workplace form. Retail would be permitted by the proposed zoning district. The site is located in an existing employment center and close to housing; the proposed zoning district would permit a more compact pattern of development in an existing activity center; the site is in an existing activity center and the proposal would permit a mixture of compatible land uses; the proposal would provide new development of commercial uses; and the proposal does not include underutilized parking lots; and

WHEREAS, the Commission further finds that the proposal meets Community Form: Goal 3 because no natural features are evident on the site; no wet or highly permeable soils, or severe, steep or unstable slopes are evident on the site; the site is not located in the Ohio River Corridor; and the site is not in a flood prone area. The site is not located on karst terrain; and

WHEREAS, the Commission further finds that the proposal meets Community Form: Goal 4 because the potentially historic structure on the site is under review via LMCO 150.110.; and no distinctive cultural features are evident on the site. The potentially historic structure on the site is under view via LMCO 150.110; and

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WHEREAS, the Commission further finds that the proposal meets Mobility: Goal 1 because the site is located in a Workplace form and adjacent to an existing employment center; and

WHEREAS, the Commission further finds that the proposal meets Mobility: Goal 3 because Transportation Planning has approved the proposal; and

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

WHEREAS, the Commission further finds that the proposal meets Economic Development: Goal 1 because the proposal would meet the needs of a Workplace form; the proposal would permit commercial uses generating high volumes of traffic. The site has adequate access to Southside Drive, a minor arterial at this location. Transportation Planning has reviewed the traffic study and determined that adverse impacts to the adjacent areas are insufficient to warrant improvements to the road network; the site is not located near the airport or the Ohio River; and the site is located in an industrial subdivision; and

WHEREAS, the Commission further finds that the proposal meets Livability: Goal 1 because no karst terrain is evident on the site; and the site is not located in the floodplain; and

WHEREAS, the Commission further finds that the proposal meets Housing: Goal 1 because the proposed zoning district would not permit housing. The proposal would support aging in place by permitting the development of a commercial center in proximity to existing residential; and

WHEREAS, the Commission further finds that the proposal meets Housing: Goal 2 because the proposed zoning district would not permit housing. The proposal would permit development of a commercial center in proximity to existing residential, providing safe and convenient access to employment opportunities and amenities providing neighborhood goods and services; and

WHEREAS, the Commission further finds that the proposal meets Housing: Goal 3 because no existing residents would be displaced by the proposal; now therefore be it

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RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the proposed change in zoning from R-5 Single Family Residential to C-2 Commercial (instead of C-M) be **APPROVED**.

The vote was as follows:

YES: Commissioners Cheek, Price, Daniels, Brown, Clare, Howard, Carlson, Sistrunk, and Lewis.

ABSENT: Commissioner Mims.

Waiver from 5.9.2.A.1.b.ii to not provide vehicular and pedestrian connections to the east and south adjoining properties (22-WAIVER-0012)

02:05:07 On a motion by Commissioner Brown, seconded by Commissioner Sistrunk, the following resolution, based on the Standard of Review and Staff Analysis, and evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the waiver will not adversely affect adjacent property owners as the most affected properties are a secured industrial facility and an LG&T substation, neither of which would benefit from vehicular and pedestrian circulation; and

WHEREAS, the Commission further finds that the waiver will not violate specific guidelines of Plan 2040 as Plan 2040 encourages appropriate mobility provisions, but the most affected properties would not benefit from circulation; and

WHEREAS, the Commission further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the provision of circulation between the site and the adjacent non-residential development would not provide public benefits. Circulation is provided for to the site to the north should it develop in a manner that is commercial in nature; and

WHEREAS, the Commission further finds that strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant because provision of the required circulation would require the applicant to stub into fenced-in properties, providing no benefit to the affected properties or the public; now therefore be it

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RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Waiver from 5.9.2.A.1.b.ii to not provide vehicular and pedestrian connections to the east and south adjoining properties (22-WAIVER-0012).

The vote was as follows:

YES: Commissioners Cheek, Price, Daniels, Brown, Clare, Hoard, Carlson, Sistrunk, and Lewis.

ABSENT: Commissioner Mims.

Detailed District Development Plan with Binding Elements

02:05:50 On a motion by Commissioner Brown, seconded by Commissioner Sistrunk, the following resolution, based on the Standard of Review and Staff Analysis, and evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that no natural resources are evident on the site. The site is mostly undeveloped but is mostly cleared; and

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

WHEREAS, the Commission further finds that 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 that the overall site design is in compliance with existing and planned future development in the area. The applicant proposes to have the heavier uses – the contractors' shops – located to the east, close to the existing industrial development, and more public-serving uses – the commercial/restaurant businesses – located close to Southside Drive. The site design would therefore provide an appropriate transition between the heavy industrial uses to the east, and the residential uses to the west and south-west; and

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WHEREAS, the Commission further finds that the development plan conforms to applicable requirements of the Land Development Code and Plan 2040 with the exception of the requested waiver. The site plan generally complies with the policies and guidelines of the Comprehensive Plan. The site plan would provide appropriate transitions between the existing industrial development and the existing residential development, by providing a step-down in intensity. The proposed site plan would provide regional-serving uses to the rear, and more neighborhood-serving uses to the front, permitting a mix of compatible land uses on the edge of the Suburban Workplace Form; now therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the requested 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.
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 for any work in the Southside Drive right-of-way.

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- 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 September 1, 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.
 - f. A minor plat or legal instrument shall be recorded consolidating the property into one lot. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of the approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
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. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
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 owner/developer will construct a 5X15 foot wide boarding area on Southside Drive as shown on the development plan between the sidewalk curve/edge of pavement and install upon it a bench and trash receptacle. The owner/developer will maintain the transit stop and empty the trash receptacle on an as needed basis.

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9. No power equipment that will cause a noise disturbance will be run between the hours of 10 p.m. and 6 a.m.

10. The following uses shall be prohibited on site:
 - Package Liquor Store
 - Smoking Retail Store
 - Quick Loan or Payday Loan Businesses

The vote was as follows:

YES: Commissioners Cheek, Price, Daniels, Brown, Clare, Howard, Sistrunk, and Lewis.

ABSTAIN: Commissioner Carlson.

ABSENT: Commissioner Mims.

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ADJOURNMENT

The meeting adjourned at approximately 3:15 p.m.


Chairman


Division Director