

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO PLANNING COMMISSION MEETING
FEBRUARY 15, 2018**

A meeting of the Louisville Metro Planning Commission was held on February 15, 2018 at 1:00 p.m. at the Old Jail Building, located at 514 W. Liberty Street, Louisville, KY 40202.

Commissioners present:

Marilyn Lewis, Vice Chair
Jeff Brown
Ramona Lindsey
Rich Carlson
Emma Smith
Laura Ferguson

Commissioners absent:

David Tomes
Robert Peterson
Lula Howard
Vince Jarboe, Chair

Staff members present:

Emily Liu, Director, Planning & Design Services
Joe Reverman, Assistant Director, Planning & Design Services
Julia Williams, Planning & Design Supervisor
Laura Mattingly, Planner II
Joel Dock, Planner II
Beth Stuber, Transportation Planning
Tony Kelly, MSD
John Carroll, Legal Counsel
Travis Fiechter, Legal Counsel
Kristen Padron, Management Assistant

The following matters were considered:

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APPROVAL OF MINUTES

CORRECTION TO THE JANUARY 4, 2018 PLANNING COMMISSION MEETING MINUTES

00:10:47 On a motion by Commissioner Carlson, seconded by Commissioner Ferguson, the following resolution was adopted:

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the correction to the minutes of its meeting conducted on January 4, 2018.

The vote was as follows:

YES: Brown, Lindsey, Lewis, Ferguson, Smith, and Carlson

NOT PRESENT: Peterson, Jarboe, Howard, and Tomes

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00:11:45 On a motion by Commissioner Carlson, seconded by Commissioner Smith, the following resolution was adopted:

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the minutes of its meeting conducted on February 1, 2018.

The vote was as follows:

YES: Brown, Lindsey, Lewis, Smith, and Carlson

NOT PRESENT: Peterson, Jarboe, Howard, and Tomes

ABSTAINING: Ferguson

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PUBLIC HEARING

CASE NUMBER 17ZONE1027

Project Name:	Eberle Orthodontics
Location:	13913 Shelbyville Road
Owner(s):	SJE, Inc.; Faith Community Church UCC, Inc.
Applicant:	SJE, Inc
Representative(s):	Bardenwerper, Talbott, & Roberts, PLLC
Project Area/Size:	0.70 acres
Jurisdiction:	Louisville Metro
Council District:	19 – Julie Denton
Case Manager:	Joel P. Dock, 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:

00:12:56 Joel Dock discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

John Talbott, 1000 N Hurstbourne Pkwy., Louisville, KY 40223

Summary of testimony of those in favor:

00:19:25 John Talbott summarized the applicant's proposal and showed a presentation. He responded to questions from the Commissioners.

The following spoke in opposition to this request:

No one spoke.

Deliberation:

00:34:06 The Commissioners concur that the proposal is justified.

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-4 to OR

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00:38:46 On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution, based on the Cornerstone 2020 Checklist, the applicant's findings of fact, and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Community Form guideline because the proposal is located along a major transportation corridor and surrounded by a mixture of single-family and multi-family residential uses (R-4, R-5, PRD, R-6, and R-7), as well as a variety of commercial uses (C-1 and CN) providing goods and service to the surrounding population. The area consists of many existing structures, structures under construction, and proposed development. The proposed use is an existing low intensity use. The improvements/expansion requiring the CIZ is being proposed in the lowest intensity office zoning district to permit the proposed use along a major arterial, and

WHEREAS, the Commission further finds that the proposal meets the Centers guideline because the proposal does not create a new center. It includes the reuse of an existing structure. Population surrounding and to come in the future would appear to support the neighborhood service provided by the expanded use. The proposed use is compact. All parking facilities are located to the rear of the existing structure. The proposed development supports alternative modes of transport. Bicycle parking and pedestrian connections to public ways will be provided. The proposal is an office use and is adequately supported by surrounding retail and residential uses. Future cross-access will be provided upon the redevelopment of the abutting religious grounds for any other non-residential use. MSD comments have been addressed. Any other provisions to provide service to the subject site and facilitate future services to abutting uses will be provided at time of construction. The proposal is designed to support easy access by bicycle, car and transit and by pedestrians and persons with disabilities. Bicycle parking and pedestrian connection to public ways have been provided. The required number of handicap space will be provided at a convenient location at the rear of the building, and

WHEREAS, the Commission further finds that the proposal meets the Compatibility guideline because the proposal does not constitute a non-residential expansion into an existing residential area as the abutting use is "religious grounds" or non-residential. Furthermore, the use is appropriately located in a mixed use area and would have minimal impact on abutting residential uses to the West and appropriate landscaping will be provided. Proposed building materials are consistent with exiting materials and surrounding neighborhood. There would not appear to be any nuisances created by odor or emissions, as the site is a low intensity office use. The subject site is located along a major transportation corridor. The impact of this low intensity office use upon exiting traffic patterns is minimal. Lighting will be no more than required to provide safety and security. The proposed low-intensity office use is located along an arterial level roadway and within proximity of nearby commercial and medium to high density uses. Appropriate transitions between uses that are substantially different in scale and intensity or density of development will be provided. Landscape buffers and tree canopy will be provided along the Western property line. Expansions to the parking areas comply with required setbacks. The proposal mitigates the impacts caused when incompatible developments unavoidably occur adjacent to one another by using buffers. Landscape buffers and tree canopy will be provided along the Western property line. Expansions to the parking areas comply with

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required setbacks. Setbacks, lot dimensions and building heights are compatible with those of nearby developments that meet form district standards. Minimal changes are being made to the existing structure. All changes being made are consistent with the integrity of the existing structure and surrounding property. Parking, loading and delivery areas located adjacent to residential areas have been designed to minimize adverse impacts of lighting, noise and other potential impacts, and that these areas are located to avoid negatively impacting motorists, residents and pedestrians. The parking areas are located to the rear of the lot away from Shelbyville Road which is a designated parkway. Tree canopy and landscape buffering will be provided along the Western line adjacent to residential homes and buffers will be provided along property lines shared with the abutting religious grounds. The proposal includes screening and buffering of parking and circulation areas adjacent to the street. Shelbyville Road is a designated parkway and planting and buffers will be provided to comply with parkway standards. It does not appear that any changes are being requested to the existing dimensions of signage, and

WHEREAS, the Commission further finds that the proposal meets the Open Space guideline because open space is not required for this application and the site is being developed in a manner to make the improvements as compact as possible. The proposal integrates natural features into the pattern of development as tree canopy credit areas are being provided along the Western property line to preserve existing tree masses, and

WHEREAS, the Commission further finds that the proposal meets the Natural Areas and Scenic and Historic Resources guideline because no significant changes appear to be made to the site that will result in environmental degradation as the site does not appear to contain sensitive features. The property is not recognized as historic and does not appear to have any features of historical significance. The building is currently a repurposed single family residence and expansions are consistent with exiting conditions. There do not appear to be any significant environmental issues related to soils, and

WHEREAS, the Commission further finds that the proposal meets the Economic Growth and Sustainability guideline because the proposal is not a retail commercial use. Parking indicates that it may, however, generate significant traffic. It is located on an arterial level roadway, and

WHEREAS, the Commission further finds that the proposal meets the Circulation guideline because no roadway improvements or work within the right-of-way will be conducted with the exception of sidewalk connectivity to the facility. Bicycle parking and pedestrian connection to public ways will be provided. The proposal's transportation facilities are compatible with and support access to surrounding land uses, and contribute to the appropriate development of adjacent lands as no new work is being done within the right-of-way and future access will be provided in the event of non-residential development to the East. No dedication of right-of-way will be required. A parking waiver to exceed the maximum number required by the proposed use has been requested. Based upon site specific studies conducted by the applicant, reviewed by staff, and further elaborated upon in the standard of review the parking spaces requested appear to be sufficient to provide for employees and customers of this orthodontic practice, and

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WHEREAS, the Commission further finds that the proposal meets the Transportation Facility Design guideline because future cross access will be provided in the event of non-residential development to the East. Access to the subject site is immediately obtained from an arterial level roadway. Appropriate linkages have been made to facilitate vehicular users of public streets and maintain hierarchy, and

WHEREAS, the Commission further finds that the proposal meets the Bicycle, Pedestrian and Transit guideline because the proposal provides, where appropriate, for the movement of pedestrians, bicyclists and transit users around and through the development, provides bicycle and pedestrian connections to adjacent developments and to transit stops, and is appropriately located for its density and intensity. Bike parking will be provided, pedestrian connection has been indicated, and future access will be provided if needed to adjacent lands, and

WHEREAS, the Commission further finds that the proposal meets the Flooding and Stormwater guideline because all MSD comments have been addressed, and

WHEREAS, the Commission further finds that the proposal meets the Air Quality guideline because the proposal has been reviewed by APCD and found to not have a negative impact on air quality, and

WHEREAS, the Commission further finds that the proposal meets the Landscape Character guideline because no natural corridors are impacted by the proposal, and

WHEREAS, the Commission further finds that the proposal meets the Infrastructure guideline because the proposal is located in an area served by existing utilities or planned for utilities. The proposal has access to an adequate supply of potable water and water for fire-fighting purposes. The proposal has adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams, and

WHEREAS, the Commission further finds that the subject property is located in a Neighborhood Form District which contemplates the location of "civic uses and neighborhood centers with a mixture of uses, such as offices, retail shops, restaurants and services"; the orthodontist's office will provide additional office space near the thriving commercial area and adjoining the densely populated residential area which it will serve; this office is located on a major arterial (Shelbyville Road) and is surrounded by a church to the east which is not adversely impacted by the use, and by residences to the west, which will be served by the business and not materially adversely impacted, but which will be further mitigated through landscape screening and other improvements being made to the property; this type of service and office is ideally suited for the Neighborhood Form District as a type of low intensity commercial use, and it will provide a "stub" for future potential connectivity with the church property, as well as a walkway/sidewalk to the building and bike racks to encourage pedestrian and bicycle access; ultimately, this project will allow for the continued operation of the existing orthodontic business to continue to serve the neighborhood, rather than move to another area, opening the site to more intensive possible uses or deterioration of the property, and

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WHEREAS, the Commission further finds that the application complies with the applicable Intents and Policies 2, 4, 5, 7 and 16 of this Guideline because it is located in an established section of eastern Metro Louisville, where through a combination of design measures and the nature of the use itself, will not create any nuisances for surrounding residential properties; where office and residential uses are frequently located adjacent to each other and encouraged to do so because of the relatively low intensity and to reduce traffic by placing services and employment in close proximity to the residential areas, and

WHEREAS, the Commission further finds that this Guideline also encourages mixed land uses organized around compact activity centers that are existing, proposed or planned in order to promote efficient use of land and investment in existing infrastructure; the proposed project is located on Shelbyville Road, between the intersections with S. English Station Rd./Lake Forest Pkwy. and N. Beckley Station Rd.; this property was formerly a single family home with a driveway onto Shelbyville Road before being granted the CUP in 2006, and not connected to any other residential property before being converted to an orthodontists' office; retail, office, and other more intense uses are immediately across Shelbyville Road from this site; and the infrastructure is already in place for the changes to this property to slightly increase the square footage of the building and to increase parking, and

WHEREAS, the Commission further finds that Policy 2 of this Guideline is met as this is a non-residential development in what is already an orthodontist's office; Policy 4 and 5 are met as it is a more compact development resulting in efficient land use mixing compatible uses; Policy 7 is met by the slight expansion of the office use; and Policy 16 is met as it is easily utilized by bicycle use, with bike racks being added; by automobile utilizing Shelbyville Road; and by pedestrian traffic because of its close proximity to residential areas and through the walkway being proposed, and

WHEREAS, the Commission further finds that the application complies with the applicable Intents and Policies 1, 2, 4-9, 12, 21, 22, 23 and 24 of this Guideline because it is designed to be compatible with the surrounding land uses through the reuse of an existing house, which consists of durable, residential style building materials, including brick; the property will have an entrance on Shelbyville Road that if approved by traffic and transportation planners where there will be sufficient parking; noise and odors from offices is nonexistent; further, hours of operation will only be during times when area residents are awake; lighting will be designed in accordance with Land Development Code requirements, and, because of the buffers on the east and west side of the property, visual impacts will be minimal, and improved in many instances to what is currently existing; moreover, at the request of DPDS staff, all additional parking is being positioned on the north side of the property, to shield it from view from Shelbyville Road; additionally, appropriate landscape screening will be utilized to make the property compatible and reduce unwanted impacts with the residential properties to the west; and offices, being neighborhood serving uses, are often appropriate transitions to higher intensity uses (such as those that exist south of this site) and offices provide a good transition to the lower intensity residential areas, and

WHEREAS, the Commission further finds that the application complies with the applicable Intents and Policies 1, 3 and 7 of this Guideline because of the large amount of open space in

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the front of the property, as well as the large amount of open space which is within the Shelbyville Road landscape buffer area and between the improvements; this is not the type of site to utilize open space for actual activities due to the use and location, but the primary benefit of the "open space" to the community would be visual aesthetics from the arterial of Shelbyville Road, which is probably more than 100 feet from the pavement of the road, satisfying this guideline, and

WHEREAS, the Commission further finds that the application complies with the applicable Intents and Policy 6 of this Guideline because the proposed orthodontist's office will provide opportunities for employment at the orthodontist's office close to the residential properties and nearby population; it is located on a major arterial, providing good access, where nuisances and activities will not adversely affect adjacent areas; and potential users will be users that are compatible with the area, such as families with children, and

WHEREAS, the Commission further finds that the application complies with the applicable Intents and Policies 1, 2, 6, 9, 10 and 16 of this Guideline because it provides adequate parking while at the same time providing pedestrian connections and good access to the site; the property is easily accessible to and from all of Shelbyville Road and the surrounding area; the parking layout works as far as access and circulation are concerned, and the small office should not generate traffic which is not significant compared to the present traffic on the major arterial of Shelbyville Road; and the plan also includes a stub for possible future connectivity with the parking lot of the church to the east in the event it is ever developed further, and

WHEREAS, the Commission further finds that the application complies with the applicable overall Intents of this Guideline 8, and the specific Policies 8, 9, 10 and 11 of this Guideline, because Shelbyville Road is adequate to handle the proposed small amount of added traffic from this office; the changes to the property, with the landscaping and design, will not negatively impact the aesthetics of Shelbyville Road; a stub is also being added to the back of the parking lot to allow for potential future connectivity with the adjacent church to the east; the parking lot addition will allow for appropriate internal circulation; and access and sight distances from Shelbyville Road will not be negatively affected, and

WHEREAS, the Commission further finds that the application complies with the applicable Intents and Policies 1, 2, and 4 of this Guideline because TARC sidewalks will be added, and the property will be accessible by bicycle, with bike racks being added; and it is not believed that TARC presently serves this property, but the sidewalk from the building will allow easy access if and when TARC accesses the property in the future, and

WHEREAS, the Commission further finds that the application complies with the applicable Intents and Policies , 1, 6, 7, 10 and 11 of this Guideline because the downstream system is adequate to handle all stormwater runoff coming from subject property, and the post development rate of run-off will not exceed predevelopment conditions; and the water will drain to the adjacent church property, the owners of which are agreeable to accepting this additional run off volume, if any, and

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WHEREAS, the Commission further finds that the application complies with the applicable Intents and Policy 3 of this Guideline as it will comply with all soil erosion and sedimentation control regulations, and

WHEREAS, the Commission further finds that the application complies with the applicable Intents and Policies 1 and 8 of this Guideline because it will capture traffic otherwise headed to office facilities located at greater distances than this one from the residential population in this area; the plan also encourages the use of bicycles and pedestrian traffic with the addition of the walkway and the bike racks; and because of these improvements, the proposed development will have zero adverse impact on air quality, and

WHEREAS, the Commission further finds that the application complies with the applicable Intents and Policies 1, 2, 4, 5, 6 of this Guideline because the proposed development plan provides adequate landscape buffer areas and utilizes presently existing natural landscape buffers between it and the residential uses to the east, west and north; now, therefore be it

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

The vote was as follows:

YES: Brown, Lindsey, Lewis, Ferguson, Smith, and Carlson

NOT PRESENT: Peterson, Jarboe, Howard, and Tomes

Variance

00:39:33 On a motion by Commissioner Brown, seconded by Commissioner Smith, the following resolution, based on the Standard of Review and Staff Analysis, the applicant's findings of fact, and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the requested variance will not adversely affect public health safety or welfare as the proposed building additions do not impact site lines for vehicular or pedestrian traffic or create conflict with the provisions of appropriate drainage and buffering from abutting uses, and

WHEREAS, the Commission further finds that the requested variance will not alter the essential character of the general vicinity as the proposed building additions are consistent with style and material of the existing structure and conform to the existing setback established by the current Western sidewall of the structure, and

WHEREAS, the Commission further finds that the requested variance will not cause a hazard or nuisance to the public as the encroachments are to facilitate improvements to a low-intensity office use and zone, and

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WHEREAS, the Commission further finds that the requested variance will not allow an unreasonable circumvention of zoning regulations as the setback is in keeping with the established setback of the existing structure, and

WHEREAS, the Commission further finds that the requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone as the property was originally a single-family residence and maintained setbacks common to single-family residential properties. The current and expanded use maintains those previously established setbacks, and

WHEREAS, the Commission further finds that the strict application of the provisions of the regulation would deprive the applicant of reasonable use of the land as front and rear setbacks, along with parkway buffers are being complied with and the encroachments are in keeping with the currently established side setback, and

WHEREAS, the Commission further finds that 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 no improvements have been made on the site that create conflict with the current regulations, and

WHEREAS, the Commission further finds that the variance will not adversely affect the public health, safety or welfare because none of the addition to the building will encroach any more than the pre-existing building currently encroaches in the setback; the additional encroachment will simply extend the line of the pre-existing structure slightly further on the front and the back of the building; further, the main addition in the front will significantly benefit the primary and likely only residence affected by the addition because it will eliminate a large window which faces the residence and currently impacts that neighbor's privacy; the new addition will eliminate the window, thereby greatly increasing the privacy for the neighbor on the front of the lot; and the additional encroachment on the back of the building is only very slight, and it will continue to be shielded by the landscaping and fence currently separating the properties, and

WHEREAS, the Commission further finds that the variance will not alter the essential character of the general vicinity for all the reasons set forth above, and

WHEREAS, the Commission further finds that the variance will not cause a hazard or a nuisance to the public for all the reasons set forth above, particularly by eliminating the large window which is the primary concern of the most impacted residential neighbor, thereby increasing privacy between the residential and non-residential use as a result of the new encroachment, and

WHEREAS, the Commission further finds that the variance will not allow an unreasonable circumvention of the requirements of the zoning regulations for all the reasons set forth above, and

WHEREAS, the Commission further finds that the variance arises from special circumstances, which do not generally apply to land in the general vicinity because the variance is the result of

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what is set forth above, notably the pre-existing footprint of the current, as-built building, and the resulting necessity to continue that line of the building; and moreover, this plan prevents further encroachment into the rear (north) part of the site and the east side of the site, 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 unnecessary hardship because it would significantly increase the cost of adding a modest amount of square footage to continue the usefulness of the site to the low intensity use and require an inefficient use of the added space; and the fact that the variance will allow the privacy of the neighbor most impacted is a good balance to the issue where both affected parties mutually benefit, and

WHEREAS, the Commission further finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the regulation but rather the need for the variance is the result of the current pre-existing, as built footprint of the building, and the resulting practical need to continue on the same building line; now, therefore be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the variance of LDC, section 5.3.1.C.5 to reduce the required 15 foot non-res to res setback to 5 feet for proposed building additions.

The vote was as follows:

YES: Brown, Lindsey, Lewis, Ferguson, Smith, and Carlson
NOT PRESENT: Peterson, Jarboe, Howard, and Tomes

Waivers

00:40:12 On a motion by Commissioner Brown, seconded by Commissioner Smith, the following resolution, based on the Standard of Review and Staff Analysis, the applicant's findings of fact, and testimony heard today, was adopted:

Landscape Waiver of LDC, section 10.2.4 to reduce the required 15 foot Landscape Buffer Area (LBA) to 5 feet for proposed building additions

WHEREAS, the Louisville Metro Planning Commission finds that the waiver will not adversely affect adjacent property owners as adjacent property owners are accustomed to the existing buffering along this section of the property that has existed with the current conditions. The expansion allows for the structure to remain compatible with the existing conditions. Any screening or material will be provided as required, and

WHEREAS, the Commission further finds that Guideline 3, Policy 9 of Cornerstone 2020 calls for the protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigate when appropriate. Guideline 13, Policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and

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rural areas. The waiver will not violate these specific guidelines as the proposed encroachment is in keeping with the established buffer of the existing structure and does not encroach beyond that point. No intrusions upon public spaces or streets are created and the proposed encroachment allows the structure to be developed in a compatible manner with existing conditions, 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 an expansion to the East would conflict with drive lanes, expansion out the rear would conflict with parking facilities, and the expansion is in line with existing structures, and

WHEREAS, the Commission further finds that the 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 as the encroachments allow for the structure to remain compatible with the existing conditions and surrounding neighborhood while facilitating the growth of the operation, and

WHEREAS, the Commission further finds that the waiver will not adversely affect adjacent property owners because none of the addition to the building will encroach any more than the building currently encroaches on the LBA; the additional encroachment will simply extend the line of the building slightly further on the front and the back of the building; further, the main addition in the front will significantly benefit the primary and likely only residence affected by the addition because it will eliminate a large window which faces the residence and currently impacts that neighbor's privacy; the new addition will eliminate the window, thereby greatly increasing the privacy for the neighbor on the front of the lot; the additional encroachment on the back of the building is only very slight, and is and will continue to be shielded by the landscaping and fence currently separating the properties, and

WHEREAS, the Commission further finds that 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 Cornerstone 2020 Comprehensive Plan filed with the original rezoning application, and

WHEREAS, the Commission further finds that the extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because the building cannot be expanded to the west without encroaching on the necessary area for ingress and egress of vehicles and because increasing the square footage vertically on a second floor would be more of an intrusion on the neighbors and much more costly, and

WHEREAS, the Commission further finds that 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 it would significantly increase the cost of adding a modest amount of square footage to continue the usefulness of the site for this low intensity use; and the fact that the waiver will allow the privacy of the neighbor most impacted by the requested waiver is a good balance to the issue where both affected parties mutually benefit, and

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Landscape Waiver of LDC, section 10.2.4 and 10.2.10 to reduce the required 10 foot LBA/VUA LBA to 5 feet

WHEREAS, the Commission further finds that the waiver will not adversely affect adjacent property owners as the adjacent use is religious grounds/non-residential and significant open spaces exist on the abutting property, and

WHEREAS, the Commission further finds that Guideline 3, Policy 9 of Cornerstone 2020 calls for the protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigate when appropriate. Guideline 13, Policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. The waiver will not violate these specific guidelines as the encroachments are located to the rear of existing parking away from the street and public views, are in line with existing facilities, and the abutting users is non-residential, 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 application of the full LBA on this side of the property would result in the inability to provide for adequate vehicular circulation and parking demand, and may result in the applicant requesting to reduce the LBA on the opposite side which contains single-family residential uses that are more susceptible to nuisances than the property to the East, and

WHEREAS, the Commission further finds that the 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 as provision of adequate parking and circulation will be adversely impacted by the full application of the LBA, and

WHEREAS, the Commission further finds that the waiver will not adversely affect adjacent property owners because the immediately adjacent property impacted by this waiver is a church, with very little use except on Sundays, when the applicant's business will not be in use; further, the church is selling the land to the applicant which supports the conclusion that it is not adversely impacted; moreover, the waiver to reduce the LBA on the east side of the property is directly caused by moving some of the parking away from Shelbyville Road and the sight lines therefrom, and

WHEREAS, the Commission further finds that 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 Cornerstone 2020 Comprehensive Plan filed with the original rezoning application, and

WHEREAS, the Commission further finds that the extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because this waiver will allow the necessary number of parking spaces to permit the proper operation of the applicant's orthodontist's office, while at the same time allowing some of the parking to be positioned away from Shelbyville

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Road preserving the visual aesthetics from the arterial, and screening the parking with the applicant's building, and

WHEREAS, the Commission further finds that 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 it would not allow the necessary number of parking spaces to be included in the project to properly operate the applicant's business and to still allow the necessary space for ingress and egress from the parking lot, which is limited by the existing placement of the building, and

Landscape Waiver of LDC, section 10.2.4.B.3 to allow a utility easement and LBA to overlap for a width that is greater than 50%

WHEREAS, the Commission further finds that the waiver will not adversely affect adjacent property owners as all screening and planting material is being provided as required, and

WHEREAS, the Commission further finds that Guideline 3, Policy 9 of Cornerstone 2020 calls for the protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigate when appropriate. Guideline 13, Policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. The waiver will not violate these specific guidelines as all screening and planting material is being provided as required, 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 all screening and planting material is being provided as required, and

WHEREAS, the Commission further finds that the 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 as all screening and planting material is being provided as required, and

WHEREAS, the Commission further finds that the waiver will not adversely affect adjacent property owners because the utilities and sewer and drainage are as built conditions which will not be changed at all as a result of this development plan; further, the utilities and sewer and drainage will not be adversely affected in any way as a result of the landscaping being utilized in the current easement; in fact, several of the neighbors have complained about the unkempt look of some of the vegetation currently in place, which this waiver will allow the applicant to cure for the neighbors by changing the landscaping to meet their requests where possible, and

WHEREAS, the Commission further finds that 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 Cornerstone 2020 Comprehensive Plan filed with the original rezoning application, and

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WHEREAS, the Commission further finds that the extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because moving the utilities and sewer and drainage would not create any benefit to anyone, but allowing the LBA to be placed with the current as-built condition of the easements will allow the parking necessary to be expanded, and

WHEREAS, the Commission further finds that 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 cost of moving the sewer lines would be unnecessarily high without any material benefit; also the drainage of the site cannot be changed in a feasible manner, and including this area in the LBA mutually benefits the neighbors by shielding their view of the site and benefits the owner by allowing the necessary parking to be placed on the site, and

Parking Waiver to exceed the 25 space maximum parking requirement and provide 33 spaces

WHEREAS, the Commission further finds that Guideline 7 Policy 10 states that parking requirements should take into account the density and relative proximity of residences to businesses in the market area, the availability and use of alternative modes of transportation, and the character and pattern of the form district. Additional considerations including hours of operation and opportunities for shared parking may be factored on a site by site basis. On-site parking standards should reflect the availability of on-street and public parking. Parking standards should include the minimum and maximum number of spaces required based on the land use and pattern of development in the area. Based on site specific information for the current use on-site and projected employment and customer expansions the maximum parking standards restrict the applicant from the providing adequate parking to meet the demand of the proposed use. Due to the nature of the proposed use (orthodontic office), the combination of employees present during work hours, patients being treated, and patients waiting to be treated the peak demand during certain periods can reach thirty vehicles. The application includes provisions for pedestrian connection to public ways and bicycle parking, but the majority of trips generated will be automobile dependent. The parking facilities are compact and compatible with the surrounding area. On-street parking is not available and the location of facility does not allow for accessible parking off-site, and

WHEREAS, the Commission further finds that due to the location of the subject site along a major arterial roadway abutting residential properties and smaller commercial uses on the same side of the street, parking is not conveniently accessible on property under the same ownership or through joint use provisions. ON-street parking is not available, and

WHEREAS, the Commission further finds that the requirements found in Table 9.1.2 do not allow the provision of the number of parking spaces needed to accommodate the parking needs of the proposed use as the combination of employees present during work hours, patients being treated, and patients waiting to be treated results in a peak demand during certain periods of roughly thirty vehicles, and

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WHEREAS, the Commission further finds that the requested increase is the minimum necessary to provide adequate parking to meet the demand of the proposed use, and

WHEREAS, the Commission further finds that the waiver will not adversely affect adjacent property owners because the residential development immediately to the west of the subject property will not be affected in any way because of the significant landscape screening and buffering which will shield the only homes with yards facing the subject property; the property immediately to the east is a church which is selling the property to the applicant, which is evidence that the church does not believe it will be adversely affected; the homes to the north of the property are sufficiently screened by current natural vegetation, and are still relatively far from any parking; further, the amount of traffic produced by the waiver and additional parking is miniscule to the amount of traffic already flowing on the major arterial of Shelbyville Road and compared to the significant developments in Landis Lakes and other current commercial uses across Shelbyville Road to the south of the property; and

WHEREAS, the Commission further finds that 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 Cornerstone 2020 Comprehensive Plan filed with the original rezoning application; moreover, waiving the parking study requirement contained in Section 9.1.16 is allowed pursuant to Section 9.1.17 and upon reviewing the "Contents" of the parking study, it is clear that the parking study requirements are neither necessary, helpful, or required; the site use is unique to this business, and it would be very difficult to find effectively the same size orthodontist's office with the same number of employees, patients, and also having the unique situation of not having overflow parking available to it; and finally requiring three site surveys and "peak parking" analysis would add little to no useful information, when the number of spaces needed is a simple function of the number of employees and patient chairs, with a slight addition for vendors; and

WHEREAS, the Commission further finds that the extent of waiver of the regulation is the minimum necessary to afford relief to the applicant as an office/residential user operating an orthodontist's office; currently the office is having severe parking problems, causing many employees to be required to park off site, necessitating a long walk to the office, often made dangerous because of the high volume of traffic on Shelbyville Road as well as having to deal with inclement weather, such as rain, storms and snow at times; much like a pediatrician's office, an orthodontist's office primarily serves children who are driven to the office for care by a parent and which has a relatively constant turnover of patients, with one group receiving care, and with another group on site waiting for their turn to receive orthodontic care; and as a result, along with the number of employees needed to serve the patients, the waiver of the parking limit is the minimum necessary to afford relief requested; and

WHEREAS, the Commission further finds that 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 of the unique type of office use business being operated; unlike many offices, an orthodontist's office has many patients which come and go, in addition to a relatively high number of employees needing to park to serve those patients; despite the added parking spaces needed, the orthodontist office use is very much in keeping

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with the area and purpose as a low intensity office use next to the residences and the church, while at the same time serving the purpose of being a good transition from the residential properties; now, therefore be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE (1)** the Landscape Waiver of LDC, section 10.2.4 to reduce the required 15 foot Landscape Buffer Area (LBA) to 5 feet for proposed building additions, **(2)** the Landscape Waiver of LDC, section 10.2.4 and 10.2.10 to reduce the required 10 foot LBA/VUA LBA to 5 feet, **(3)** the Landscape Waiver of LDC, section 10.2.4.B.3 to allow a utility easement and LBA to overlap for a width that is greater than 50%, and **(4)** the Parking Waiver to exceed the 25 space maximum parking requirement and provide 33 spaces.

The vote was as follows:

YES: Brown, Lindsey, Lewis, Ferguson, Smith, and Carlson

NOT PRESENT: Peterson, Jarboe, Howard, and Tomes

Detailed District Development Plan

00:41:26 On a motion by Commissioner Brown, seconded by Commissioner Smith, the following resolution, based on the Standard of Review and Staff Analysis and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that tree canopy credit areas to preserve existing tree masses are proposed along the western property line. A parkway buffer is being provided to preserve views along the parkway, 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 as pedestrian connection to the public way, bike park, and safe and convenient parking to meet the demands of the proposed use are provided on site, and

WHEREAS, the Commission further finds that open space is not required for this application and the development is compact, and

WHEREAS, the Commission further finds that the Metropolitan Sewer District has approved the preliminary development plan and will ensure the provisions 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 and land uses are compatible with the surrounding area as the subject site parking areas are located to the rear of existing facilities, expansions to the building are in keeping with materials of the current structure and surrounding area, and landscaping is provided to buffer adjacent single-family uses, and

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WHEREAS, the Commission further finds that the development plan conforms to applicable guidelines and policies of the Comprehensive Plan as demonstrated in the Cornerstone 2020 Staff Review Checklist for the change in zoning request contained in Attachment 3 of the staff report; now, therefore be it

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.
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 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 plan for screening (buffering/landscaping) as described in Land Development Code, 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.
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. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the February 15, 2018 Planning Commission public hearing.

The vote was as follows:

YES: Brown, Lindsey, Lewis, Ferguson, Smith, and Carlson

NOT PRESENT: Peterson, Jarboe, Howard, and Tomes

Abandonment of Conditional Use Permit (B-54-06)

00:42:09 On a motion by Commissioner Brown, seconded by Commissioner Lindsey, the following resolution, based on the Staff Report and testimony heard today, was adopted:

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the abandonment of conditional use permit (B-54-06) and all conditions of approval, on condition and effective immediately at the time of final action by the Louisville Metro Council approving the change in zoning.

The vote was as follows:

YES: Brown, Lindsey, Lewis, Ferguson, Smith, and Carlson

NOT PRESENT: Peterson, Jarboe, Howard, and Tomes

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Project Name:	St. Matthews Animal Clinic
Location:	107-113 Fairfax Avenue
Owner(s):	Multiple Owners
Applicant:	Reidlee Construction and Development
Representative(s):	Bardenwerper, Talbott, & Roberts
Project Area/Size:	0.7 acres
Jurisdiction:	City of St. Matthews
Council District:	9 – Bill Hollander
Case Manager:	Joel P. Dock, Planner II

Notice of this public hearing appeared in The Courier-Journal, a notice was posted on the property, and notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicants.

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

Agency Testimony:

00:43:55 Joel Dock discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

John Talbott, 1000 N Hurstbourne Pkwy., Louisville, KY 40223

Summary of testimony of those in favor:

00:50:15 John Talbott summarized the applicant's proposal and showed a presentation. He responded to questions from the Commissioners.

The following spoke in opposition to this request:

Jonas Wilson, 400 W Market Street, Suite 3200, Louisville, KY 40202
Mike Schardein, 12801 Deer Cross Drive, Prospect, KY 40059

Summary of testimony of those in opposition:

00:59:39 Jonas Wilson stated that he does not understand how the destruction of any existing structure for surface parking meets the Comprehensive Plan. He feels this project will be a detriment socially, environmentally, and economically, and that the business has outgrown the location and should relocate.

Rebuttal:

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01:01:47 Mr. Talbott spoke in rebuttal and stated that this is the first time he has heard complaints from Mr. Wilson, and no one appeared at the neighborhood meeting in opposition. The sidewalks will remain, and livability will not be affected. Parking is needed in St. Matthews. He responded to questions from the Commissioners.

01:03:43 Mike Schardein responded to questions from the Commissioners regarding the existing structures.

Deliberation:

01:05:22 The Commissioners concur that the proposal is justified.

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 OR-3 to C-1

01:07:50 On a motion by Commissioner Brown, seconded by Commissioner Lindsey, the following resolution, based on the Cornerstone 2020 Checklist, the applicant's findings of fact, and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Community Form guideline because the proposal supports a compact mixture of moderately intense uses such as shopping, restaurants and offices, and may include civic uses such as libraries, government offices, police or fire stations and religious facilities. The C-1, commercial zoning district adds to the diversity of uses within the area in a manner that is appropriate in scale to the surrounding center. It is immediately adjacent and abutting similar zones. There are some concerns with the removal of the structures along Fairfax as this would impact the existing street frontage of previously residential structures. However, the angle of the street grid relative to Shelbyville presents an interesting dilemma in the event of expansion of the animal clinic as the animal clinic is most present from Shelbyville Road and the alley serves as a primary means of access from Shelbyville Road to the Clinic. Existing facilities not party to this proposal limits expansion to only two sides and the parking requirements for the City of St. Matthews necessitate the removal of these structures to meet the minimum standards. The neighborhood maintains a relatively high level of pedestrian and transit connectivity. Sidewalks will be provided or repaired as needed along Fairfax Avenue. The subject site is located within close proximity to a major thoroughfare, and abutting at the rear alley to this thoroughfare, and

WHEREAS, the Commission further finds that the proposal meets the Centers guideline because the proposal does not create a new center, but rather adds to the diversity of uses within the center. The population in the immediate area is medium density. The area also includes employees and customers of adjacent uses and the nearby commercial corridor. Parking facilities are as compact as possible to accommodate the minimum parking requirements for the proposed addition. The existing center contains a mix of land uses that will

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reduce trips, support the use of alternative forms of transportation and encourage vitality and sense of place. The proposal creates office space above and within an animal clinic. Access to parking areas is available from the primary street and alley. It would not appear that any new utilities would be required to service the proposal. The surrounding neighborhood has a relatively high level of pedestrian and transit connectivity, and

WHEREAS, the Commission further finds that the proposal meets the Compatibility guideline because the proposed building materials increase the new development's compatibility. The use of brick and glass with projecting 2nd story features are consistent with the surrounding area and improve the appearance from Shelbyville Road. The proposal is located within an existing mixed-use activity center. The proposal mitigates any potential odor or emissions associated with the development. Outdoor dog runs/kennels will be fully enclosed or removed. The scale of the use and district proposed would not appear to have any adverse impact of traffic in the area. Lighting would not be a concern given the impact of Shelbyville Road light and higher intensity uses nearby that project larger amounts on lights onto the neighborhood. The subject site is located within close proximity to a major arterial roadway and is within an existing mixed-use activity center. Uses are appropriate in scale as the area is built-out for non-residential uses or multi-family use. Setbacks, lot dimensions and building heights are compatible with those of nearby developments. Parking areas are consistent with requirements for proposed use and do not impact residential development. The proposal includes screening and buffering of parking and circulation areas adjacent to the street, and uses design features or landscaping to fill gaps created by surface parking lots. Landscaping will be provided along the alley to comply with article 12 (4' LBA). Signage will comply with sign ordinance for St. Matthews, and

WHEREAS, the Commission further finds that the proposal meets the Open Space guideline because open space is not needed on the subject site to meet the needs of the community. Nearby parks provide adequate open space to serve the community. The proposal does not contain any significant natural features, and

WHEREAS, the Commission further finds that the proposal meets the Natural Areas and Scenic and Historic Resources guideline because the proposal does not contain any significant natural features or improvements that would result in environmental degradation. There are some concerns with the removal of the structures along Fairfax as this would impact the existing street frontage of previously residential structures. However, the angle of the street grid relative to Shelbyville presents an interesting dilemma in the event of expansion of the animal clinic as the animal clinic is most present from Shelbyville Road and the alley serves as a primary means of access from Shelbyville Road to the Clinic. Existing facilities not party to this proposal limits expansion to only two sides and the parking requirements for the City of St. Matthews necessitate the removal of these structures to meet the minimum standards. The area does not appear to contain wet or highly permeable soils, severe, steep or unstable slopes with the potential for severe erosion, and

WHEREAS, the Commission further finds that the proposal meets the Economic Growth and Sustainability guideline because the proposed commercial development is located in an existing activity center and within close proximity to a major arterial providing vehicular, pedestrian, and transit connectivity, and

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WHEREAS, the Commission further finds that the proposal meets the Circulation guideline because any improvements required to improve the roadway will be made. The proposal promotes mass transit, bicycle and pedestrian use and provides amenities to support these modes of transportation. The neighborhood maintains a relatively high level of pedestrian and transit connectivity. Sidewalks will be provided or repaired as needed along Fairfax Avenue. The proposal's transportation facilities are compatible with and support access to surrounding land uses, and contribute to the appropriate development of adjacent lands. Right-of-way dedication will not be required. Parking, as well as transit and pedestrian corridors are sufficient to support a commercial zoning district, and

WHEREAS, the Commission further finds that the proposal meets the Transportation Facility Design guideline because access to the subject site is from areas of similar intensity. The site is appropriately linked to the alley and primary streets, as well as transit corridors via public sidewalk, and

WHEREAS, the Commission further finds that the proposal meets the Bicycle, Pedestrian and Transit guideline because the proposal provides, where appropriate, for the movement of pedestrians, bicyclists and transit users around and through the development. The neighborhood maintains a relatively high level of pedestrian and transit connectivity. Sidewalks will be provided or repaired as needed along Fairfax Avenue, and

WHEREAS, the Commission further finds that the proposal meets the Flooding and Stormwater guideline because the proposal's drainage plans have been approved by MSD, and

WHEREAS, the Commission further finds that the proposal meets the Air Quality guideline because the proposal has been reviewed by APCD and found to not have a negative impact on air quality, and

WHEREAS, the Commission further finds that the proposal meets the Infrastructure guideline because the proposal has access to an adequate supply of potable water and water for fire-fighting purposes. It is within the St. Matthews Fire district. The proposal has adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams, and

WHEREAS, the Commission further finds that the proposed zone change complies with all of the applicable Intents and Policies of Town Center Form Area/Form District of Guideline 1 because although St. Matthew's has not adopted the Cornerstone 2020 Land Development Code (LDC), it did adopt Form Areas, although perhaps not the LDC's "Form Districts"; this site is located in the Town Center Form Area/Form District, which is a traditional form with an identifiable core usually located along a historic crossroads and or major thoroughfare, such as US 60 (an arterial) in this case; the Town Center form typically has a compact mixture of a variety of moderately intense uses, with buildings generally oriented toward and located near the primary street; this existing business location and the surrounding commercial uses are located on small lots and are very compact; this application complies with this Guideline because the existing use, that is proposed for expansion, already conforms to most, if not all,

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Town Center characteristic, some as enumerated; and like most town centers, this property provides easy access, both pedestrian and vehicular, as well as TARC service, and

WHEREAS, the Commission further finds that the application complies with the Intents and applicable Policies 1, 2, 3, 4, 5, 7, 8, 11, 13, 14, 15 and 16 of this Guideline because the Intents and Policies of this Guideline all pertain to how a specific land use in a given Form Area/District should be designed in terms of the specific context and site; this proposed development is compatible with the adjoining uses as this is an expansion of an existing use on the property for some time; the fact that the current building and property are not sufficient for the existing business demonstrates there is an adequate population in the area to support the request; this application complies with this Guideline, its Intents and Policies because it is located in the Town Center of St. Matthews and is, as the development plan filed with this application and land use map demonstrate, fits within its compact setting surrounded by a mixture of compatible uses; this proposal is compatible with the nearby residential as there is no residentially zoned property within a block or more, and in some directions, even further; parking will be increased and the site will also have access to public transportation; and the property already has access to all utility services needed, and

WHEREAS, the Commission further finds that the application complies with the Intents and applicable Policies 1, 2, 4, 5, 6, 7, 8, 9, 11, 19, 21, 22, 23, 24, and 28 of this Guideline because the Intents and Policies of this Guideline all pertain to the mitigation of various impacts, such as design, considering building materials, odors, traffic, noise, lighting, screening and buffering and signage; this is an existing use that desires to better serve its active customer base and it is not intending to introduce new impacts to an area that do not already exist; it will add very much needed parking and also improve access by removing two existing structures; the use will be largely fully enclosed, and further because parking and access are improved, while lighting and signage will not significantly change, once again new negative impacts are not created; existing impacts will be fully mitigated, just as they have been in the past, or through added binding elements; the applicant will demonstrate the style, design, and building materials of the proposal are compatible with the surrounding uses through elevations/renderings to be provided for review; this proposal requests a rezoning of a property zoned OR-3 and thus does not constitute an expansion into a residential area; the property is located adjacent to an arterial road allowing easy access; a large portion of the existing customers live in the St. Matthews area, the added capacity to serve more local residents will keep these customers from having to drive further for veterinary services; because the proposed new building will be enclosed, noise and odors will be decreased from what they are currently; because this is a redevelopment of an already developed site, this proposal will reduce the impervious surface on the site; and therefore this application complies with this Guideline and its applicable Intents and Policies as enumerated above and for reasons set forth above and in the development plan, and

WHEREAS, the Commission further finds that the application complies with the Intents and applicable Policies 1, 2, 3, 5, 6 and 11 of this Guideline because the Intents and Policies of this Guideline all pertain to ensuring viable successful businesses, especially those that seek to expand at their current locations; this application complies with this Guideline, its Intents and Policies because it represents precisely what is largely encouraged through this Guideline, which is an adaptive reuse of an existing facility through expansion, encourage investment in

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existing commercial areas, and to provide employment with access to population centers, in order to sustain and grow an existing business; and the growth of an existing business in a heavily commercial area is preferred over new development in areas that have less intense uses and that would have more impacts on adjoining properties, and

WHEREAS, the Commission further finds that the application complies with the Intents and applicable Policies 1, 2, 3, 4, 6, 9, 10, 13, 14, 16, and 18, of Guideline 7; Policies 1, 7, 9, and 10 of Guideline 8; and Policies 1, 2, and 4 of Guideline 9 because the Intents and Policies of these Guidelines all pertain to transportation, whether that be vehicular, transit, pedestrian or bicycle; although this is largely an existing site, with the addition of the two lots for expansion, sidewalks will be added, greatly enhancing pedestrian traffic, access points will be added improving internal circulation and access to the surrounding street system, and parking will be added, reducing pressure on current congested parking; the property is located in close proximity to multiple TARC lines on US-60; any ROW dedication requests will be complied with; with the preliminary stamp of approval from Metro Works and the St. Matthew's City Engineer, all of the Intents and applicable Policies of these Guidelines are fully satisfied, and

WHEREAS, the Commission further finds that the application complies with the Intents and applicable Policies 1, 2, 3, 6, 10 and 11 of this Guideline because the Intents and Policies of this Guideline all pertain to MSD's concerns about stormwater management; this proposal will reduce the current impervious surface and will actually improve stormwater runoff; this application complies with the Intent and these Policies of this Guideline because it has received, by the time of official Planning Commission and City of St. Matthew's review, the preliminary stamp of approval from MSD, thus assuring no adverse consequences of stormwater run-off on nearby properties, and

WHEREAS, the Commission further finds that the application complies with the Intents and applicable Policies 3, 5 and 8 of this Guideline because MSD has promulgated both soil erosion/sedimentation control regulations and even newer ones with respect to water quality; and construction plans for this center will require compliance with these regulations prior to obtaining building permits, and

WHEREAS, the Commission further finds that the application complies with the Intents and applicable Policies 2, 3, and 8 of this Guideline because this proposed expansion of a veterinary clinic is located in the heart of the City of St. Matthews' Town Center, it will provide sidewalks and access to public transportation, thus reducing the vehicle miles driven for people in the area, and also providing services for people already engaged in commerce residing in the area; reduced miles driven leads to improved air quality, and

WHEREAS, the Commission further finds that the application complies with the Intents and applicable Policies 1, 2, 4 and 6 of this Guideline because the Intent and Policies of this Guideline address the same things that are more specifically found in the applicable St. Matthew's landscape regulation; and this application complies with the Intent and these Policies of this Guideline to the maximum extent that it can as an as-built building as on as-built site; now, therefore be it

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RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the City of St. Matthews that the change in zoning from OR-3, Office/Residential to C-1, Commercial1 on property described in the attached legal description be **APPROVED**.

The vote was as follows:

YES: Brown, Lindsey, Lewis, Ferguson, Smith, and Carlson
NOT PRESENT: Peterson, Jarboe, Howard, and Tomes

Variance

01:08:25 On a motion by Commissioner Brown, seconded by Commissioner Smith, the following resolution, based on the Standard of Review and Staff Analysis, the applicant's findings of fact, and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the requested variance will not adversely affect public health safety or welfare as the proposed development does not impact the safe movement of vehicles or pedestrians or impact significant natural features, and

WHEREAS, the Commission further finds that the requested variance will not alter the essential character of the general vicinity as the requested variances associated with the development plan are consistent with development in a C-1 zoning district and adjacent to C-1 development, and

WHEREAS, the Commission further finds that the requested variance will not cause a hazard or nuisance to the public as adjacent users are non-residential, and

WHEREAS, the Commission further finds that the requested variance will not allow an unreasonable circumvention of zoning regulations as the setbacks are in keeping with the character of the area and similar C-1 properties in the area, and

WHEREAS, the Commission further finds that the requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone as the abutting zoning district triggers requirements for additional setbacks to be that of office districts. The proposed use to the South has requested a change in zoning to C-1 and the setbacks for which variances have been requested would be null upon approval of that project, and

WHEREAS, the Commission further finds that the strict application of the provisions of the regulation would deprive the applicant of reasonable use of the land as the minimum parking standards require the provision of parking spaces to be located in setbacks and the building additions are in keeping with the existing setback of the current building, and

WHEREAS, the Commission further finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is

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sought as no improvements have been made on the site that create conflict with the current regulations, and

WHEREAS, the Commission further finds that the variance will not adversely affect the public health, safety or welfare because this is in part an existing use; 107 Fairfax currently has parking and a drive which extends into the 5 foot side yard area; 113 Fairfax does not have parking in this area, but the property immediately next to it (111 Fairfax Ave) also has parking which extends all the way to the side-yard property line, so the variance will make the property consistent with the immediately adjacent property of 111 Fairfax Ave. and other nearby properties which is not part of this project; and this encroachment will allow the property to better serve its active customer base and allow the better flow of traffic through the site and increased parking which is needed in the area and at a premium in this part of the Town Center, and

WHEREAS, the Commission further finds that the variance will not alter the essential character of the general vicinity because this site is located in the Town Center of St. Matthews and is, as the development plan filed with this application and land use map demonstrate, fits within its compact setting surrounded by a mixture of compatible uses; further, this is an existing business for the veterinary clinic that has been operating at the location of 111R Fairfax Ave. for many years and any increase in needed parking from the site will be offset by the businesses being removed from 107 and 113 Fairfax Ave. and the parking spaces being added, and

WHEREAS, the Commission further finds that the variance will not cause a hazard or a nuisance to the public because this clinic has been operating at the location of 111R Fairfax Ave. in St. Matthew's for many years; the applicant is expanding the clinic to better serve its customers and the added parking will add valuable parking to an already underserved area so as to not create any negative impacts of parking problems on the neighboring businesses; it is not intending to introduce new impacts to an area that do not already exist; and because parking is being added and the flow of traffic improved, new impacts will not be appreciably created, and

WHEREAS, the Commission further finds that the variance will not allow an unreasonable circumvention of the requirements of the zoning regulations because the only reason the variance is required is because the existing buildings are being removed to provide additional parking for the veterinary business which has been located at 111R Fairfax for an extended period of time, and

WHEREAS, the Commission further finds that the variance arises from special circumstances which do not generally apply to land in the general vicinity because it is an existing business within St. Matthews which has not adopted the Cornerstone 2020 Land Development Code (LDC) though it did adopt Form Areas; this site is located in the Town Center Form Area/Form District, which is a traditional form with an identifiable core usually located along a historic crossroads and or major thoroughfare, such as US 60; the Town Center form typically has a compact mixture of a variety of moderately intense uses, with buildings generally oriented toward and located near the primary street; this application complies with the Form Area

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because the existing use that is proposed for expansion already conforms to most, if not all, Town Center characteristics, 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 unnecessary hardship because this is an existing business which is purchasing two adjacent lots for expansion to serve its growing customer base, and has served in this location for many years; this entire site is located in the Town Center of St. Matthews, many of the businesses in the area currently extend parking into the 5 foot side setback, and it fits within its compact setting surrounded by a mixture of compatible uses, and

WHEREAS, the Commission further finds that another adjacent property, 115 Fairfax Ave. is also currently pursuing a zoning change to C-1, which would lessen the impacts of this request if such plan and zoning change are approved; now, therefore be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the variance from Development Code, section 6.3.C.2.e for encroachments into the front, side, and rear yards as described on the development plan.

The vote was as follows:

YES: Brown, Lindsey, Lewis, Ferguson, Smith, and Carlson

NOT PRESENT: Peterson, Jarboe, Howard, and Tomes

Revised Detailed District Development Plan

01:08:58 On a motion by Commissioner Brown, seconded by Commissioner Smith, the following resolution, based on the Standard of Review and Staff Analysis and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the site does not contain significant natural features. Structures along the frontage will need to be removed to provide the minimum parking required for the City of St. Matthews, 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 as the neighborhood maintains, and

WHEREAS, the Commission further finds that open space is not required for this application and the development is compact, and

WHEREAS, the Commission further finds that the Metropolitan Sewer District has approved the preliminary development plan and will ensure the provisions 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

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WHEREAS, the Commission further finds that the overall site design and land uses are compatible with the surrounding area as the use of brick and glass with projecting 2nd story features are consistent with the surrounding area and improve the appearance from Shelbyville Road. The proposal includes screening and buffering of parking and circulation areas adjacent to the street, and uses design features or landscaping to fill gaps created by surface parking lots. Landscaping will be provided along the alley, street, and property lines to comply with article 12 (4' LBA). The proposal mitigates any potential odor or emissions associated with the development Outdoor dog runs/kennels will be fully enclosed or removed, and

WHEREAS, the Commission further finds that the development plan conforms to applicable guidelines and policies of the Comprehensive Plan as demonstrated in the Cornerstone 2020 Staff Review Checklist for the change in zoning request contained in Attachment 3 of the staff report; now, therefore be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the City of St. Matthews that the revised 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 and to the City of St. Matthews for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. The development shall not exceed 8,452 square feet of gross floor area.
3. Pursuant to the "Permitted Uses" listed in the C-1 Commercial District, the operation shall be conducted within a soundproofed building, no boarding of animals shall occur, and there shall be no runs or pens outside of the building. The C-1 approval is only for the operation of an Animal Clinic and no other C-1 use is granted. Any other use will require the owners to come before the City of St. Matthews City Council for approval.
4. The basement shall be used only for storage and employee break room. The second floor shall be used only for pet grooming.
5. Signs shall be in accordance with City of St. Matthews sign ordinance and regulations, and Chapter 11 as shown on the approved development plan (44 sq ft, in area and 11 ft. tall). No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site. Where there is any conflict between St. Matthews Sign Regulations and Metro Sign Regulations, St. Matthews Sign Regulation shall control.
6. Before any permit, including but not limited to, building, parking lot, change of use, site disturbance, alteration permit or demolition permit is requested:

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- 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.
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 implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission and the City of St. Matthews.
8. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the February 15, 2018 Planning Commission public hearing of the Louisville Metro Planning Commission and the City of St. Matthews City Council.
9. The above binding elements may be amended as provided for in the Zoning District Regulations upon approval of the City of St. Matthews.

The vote was as follows:

YES: Brown, Lindsey, Lewis, Ferguson, Smith, and Carlson

NOT PRESENT: Peterson, Jarboe, Howard, and Tomes

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CASE NUMBER 16ZONE1031

Project Name: Circle K
Location: 12411/12415 Taylorsville Road
Owner(s): Mac's Convenience Stores LLC
Applicant: Mac's Convenience Stores LLC
Jurisdiction: Louisville Metro
Council District: 11-Kevin Kramer
Case Manager: Julia Williams, RLA, AICP, Planning Supervisor

Notice of this public hearing appeared in The Courier-Journal, a notice was posted on the property, and notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicants.

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

Agency Testimony:

01:10:39 Julia Williams discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Nick Pregliasco, 1000 N Hurstbourne Pkwy., Louisville, KY 40223
Kevin Burns, 222 S. 1st Street, Suite 206, Louisville, KY 40202
Gregg Guy, 1709 Golden Leaf Way, Louisville, KY 40245

Summary of testimony of those in favor:

01:17:49 Nick Pregliasco summarized the applicant's proposal and showed a presentation. He responded to questions from the Commissioners.

01:43:48 Architect Kevin Burns responded to questions from the Commissioners and spoke about the rear façade of the proposed structure.

01:45:02 Circle K Real Estate Director Gregg Guy also spoke about structure's rear façade. Mr. Pregliasco and Ms. Williams further responded to questions from the Commissioners.

The following spoke in opposition to this request:

Steve Porter, 2406 Tucker Station Road, Louisville, KY 40299
Casey Witt, 12404 Tyler Woods Circle, Louisville, KY 40299
David Kaelin, 2421 Tucker Station Road, Louisville, KY 40299
Bill Moad, 12405 Tyler Woods Court, Louisville, KY 40299

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Summary of testimony of those in opposition:

01:54:35 Steve Porter spoke on behalf of several from Tyler Woods Court and the Tucker Station Neighborhood Association. He stated that they are close to reaching an agreement with the applicant, but the current proposal would violate the Tyler Rural Settlement District Neighborhood Plan. Mr. Porter summarized the opposition's concerns, noting that one of the main concerns is Circle K's desire to be open 24 hours a day.

02:09:03 Casey Witt is a neighbor who is in opposition to the proposal. She owns the property to the west of the subject site. She stated that there is a considerable wooded buffer between her home and the current gas station and she would like it to remain as is.

02:11:33 David Kaelin is also a neighbor who is opposed to the proposal. He feels this project will not be in accordance with the Tyler Town Center Form District. He is opposed to the business operating 24 hours a day.

02:14:20 Bill Moad is a neighbor who spoke in opposition to the gas station operating 24 hours per day.

Rebuttal:

02:16:16 Mr. Pregliasco and Mr. Guy spoke in rebuttal and answered questions from the Commissioners.

Deliberation:

02:27:12 The Commissioners discussed various issues with the proposal, such as the hours of operation and the potential impact of the existing neighborhood plan.

02:37:07 Mr. Pregliasco stated that the applicant would agree to limit the hours of operation to 6:00 a.m. to 11:00 p.m.

02:38:10 The Commissioners continued their deliberation and discussed binding elements with Ms. Williams.

02:45:42 Tony Kelly with MSD stated that he would not be able to make any changes to the easement without first reviewing the case at his office.

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-4 to C-1

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02:52:22 On a motion by Commissioner Brown, seconded by Commissioner Smith, the following resolution, based on the applicant's findings of fact and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the proposed gas and convenience store on this site is appropriate because Suburban Neighborhoods contain retail uses at appropriate locations at appropriate scale when designed to be compatible with residential neighborhoods; this proposal is to combine a new unzoned site with an already C-1 zoned site that takes into account, as noted above, Tyler Rural Settlement District design criteria as promoted by the Tucker Station Neighborhood Association; and the result is a gas and convenience store closer to the design expectations of the Suburban Neighborhood form district,

WHEREAS, the Commission further finds that the proposed gas and convenience store complies with all of the applicable Intents and Policies 2, 3, 4, 5, 7, 8, 9, 11, 12, 13, 14 and 15 of Guideline 2 because the added site, adjacent to an already properly C-1 zoned site that has long been a gas station site, involves an efficient use of land similarly used next door and an investment in existing infrastructure; gas and convenience customers already visiting the existing gas station long established next door will have travel times and distances reduced when buying their gas and convenience items along a busy arterial already lined from Tucker Station Road east to the Snyder Freeway with other Planned Development District (PDD) zoned properties; since this is an expansion of an already properly C-1 zoned site with a history of gas station use located next door, this rezoning does not involve an isolated commercial use expansion; the activity center already established along this stretch of Taylorsville Road means this involves an expansion of same and not the creation of a new activity center; the small addition of land to a long-standing gas and convenience store site promises to enhance the commercial use already existing at that location; the new Circle K store to locate here and next door will be of a high-end design, much more closely compatible with Tyler Rural Settlement District design criteria; existing utilities will be utilized; and parking will be well landscaped and screening is imposed along the residential side of the property to the north where the proposed detention basin is located, and

WHEREAS, the Commission further finds that the proposed gas and convenience store complies with all of the applicable Intents and Policies 1, 2, 4, 5, 6, 7, 8, 9, 20, 21, 22, 23, 24, 28 and 29 of Guideline 3; this is because the proposed new gas and convenience store here and next door is a compatible use in an area of other PDD/commercial activities; the proposed Circle K store will replace the presently existing older store on the already C-1 zoned adjacent site which will hereinafter include an attractive building consisting of building materials and design elements selected to conform to the maximum extent possible with the Tyler Rural Settlement District design criteria; odors and air quality emissions, traffic, noise, lighting and visual impacts are addressed on this DDDP site by virtue of proposed detailed landscaping, screening, lighting, drainage facility and store designs proposed through meetings with the Tucker Station Neighborhood Association and other neighbors; and the accompanying images from the neighborhood meetings detail a lot of this, including enhanced setbacks with good screening and buffering, less intense lighting and much better building design, and

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WHEREAS, the Commission further finds that the proposed gas and convenience store complies with all of the applicable Intents and Policies 1, 2, 5 and 6 of Guideline 6; this is because this site represents a small expansion at a high-traffic location to accommodate a new gas and convenience store in an already existing activity center; and this reduces costs of land development and further promotes an existing employment center with good access to a support population that will visit this new gas and convenience store, and

WHEREAS, the Commission further finds that the proposed gas and convenience store complies with all of the applicable Intents and Policies 1, 2, 4, 10, 11, 13, 14, 15 and 18 of Guideline 7, Policies 1, 5, 7, 8, 9, 10 and 11 of Guideline 8, and Policies 1, 2, 3 and 4 of Guideline 9; this is because Taylorsville Road has adequate traffic-carrying capacity for business growth, and the applicant is mitigating any negative impact through the addition of a deceleration lane; and a updated gas and convenience store with better design does not necessarily generate more traffic than at present but rather better serves its existing customers; since roads systems are adequate, the issues to address, as addressed on the DDDP accompanying this application, involve the issues of parking adequacy, alternative transportation modes, and whether internal traffic movements, internal parking arrangements and access from Taylorsville Road are appropriately designed; the DDDP accompanying this application satisfies all of the design requirements of Metro Public Works and Transportation planning which are inherent in all three of these Guidelines; and the DDDP must receive the preliminary stamp of approval from these agencies prior to public review, and

WHEREAS, the Commission further finds that the proposed gas and convenience store complies with all of the applicable Intents and Policies 1, 3, 6, 7, 10 and 11 of Guideline 10, Policies 3 and 5 of Guideline 11, and Policies 1, 4, 7, 8 and 9 of Guideline 12; this is because MSD requires that post development peak rates of runoff do not exceed pre-development conditions and that adjacent properties are not adversely affected by the subject site's new and through drainage from storm water run-off; the detention basin shown on the DDDP accomplishes this; MSD's preliminary stamp of approval will be required on the DDDP prior to public review; MSD has also established soil erosion and sediment control as well as water quality standards which must be met with this development's construction plans; and as to all of the Policies associated with air quality, they are always addressed when commuting times and distances are reduced when new activities congregate, as here, in an existing activity center, and

WHEREAS, the Commission further finds that the proposed gas and convenience store complies with all of the applicable Intents and Policies 1, 2, 3, 4, 5 and 7 of Guideline 13; this is because, as the concept landscape plan produced at the neighborhood meetings and accompanying this application demonstrate, as will be included in the eventual landscape plan filed with DPDS post zoning approval, that this site will not just comply with, but rather exceed, LDC landscape requirements; and as mentioned above as respects stormwater management, enhanced landscaping, screening and buffering are added next door where not required, and

WHEREAS, the Commission further finds that for all the reasons explained at LD&T and the Planning Commission public hearing and also in the public hearing exhibit books on the approved detailed district development plan, this application also complies with all other

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applicable Guidelines and Policies of the Cornerstone 2020 Comprehensive Plan; no, therefore be it

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

The vote was as follows:

YES: Brown, Lewis, Ferguson, Smith, and Carlson

NO: Lindsey

NOT PRESENT: Peterson, Jarboe, Howard, and Tomes

Variance

02:53:35 On a motion by Commissioner Brown, seconded by Commissioner Smith, the following resolution, based on the applicant's findings of fact and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the variance will not adversely affect the public health, safety or welfare because 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; and the proposed new building will also not set back any further from Taylorsville Road than the existing gas station building currently does, and

WHEREAS, the Commission further finds that the variance will not alter the essential character of the general vicinity because the existing building is an old and unsightly cinder block building, which is proposed to be replaced with a new and improved building with the design aimed to be compatible with the Tyler Rural Settlement District neighborhood plan after meeting with representatives of the neighboring homes and association; and the additional gas canopies will also provide the appearance of being closer to Taylorsville Road, and

WHEREAS, the Commission further finds that the variance will not cause a hazard or a nuisance to the public because of the reasons set forth above, notably the fact that the existing points of access and circulation shall remain with an added improvement for a new turn lane, and

WHEREAS, the Commission further finds that the variance will not allow an unreasonable circumvention of the requirements of the zoning regulations because this design will result in an improvement of the existing building and current parking layout, and

WHEREAS, the Commission further finds that the Variance arises from special circumstances, which do not generally apply to land in the general vicinity because this is an as-built site that is

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out of Land Development Code compliance, and this proposal represents an opportunity to utilize an underperforming site and to bring investment to the area, 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 unnecessary hardship because the expanded gas station and convenience store simply could not be accommodated on this site without this variance, and

WHEREAS, the Commission further finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the regulation which relief is sought but rather are a result of a constrained site based on size and location; now, therefore be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the variance from 5.1.8 to exceed the maximum 80' setback by 17' on the Tucker Station Road side and by 107'+/- on the Taylorsville Road side.

The vote was as follows:

YES: Brown, Lewis, Ferguson, Smith, and Carlson

NO: Lindsey

NOT PRESENT: Peterson, Jarboe, Howard, and Tomes

Waiver

02:54:14 On a motion by Commissioner Brown, seconded by Commissioner Smith, the following resolution, based on the binding elements proposed and testimony heard today, was adopted:

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the Waiver from 5.5.2 and 5.6.1.C to not provide animating features or clear windows and doors on the Tucker Station Road building façade.

The vote was as follows:

YES: Brown, Lewis, Ferguson, Smith, and Carlson

NO: Lindsey

NOT PRESENT: Peterson, Jarboe, Howard, and Tomes

District Development Plan

02:55:08 On a motion by Commissioner Brown, seconded by Commissioner Smith, the following resolution, based on testimony heard today, was adopted:

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RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the 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. Signs shall be monument style.
3. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
4. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
5. Before any permit (including but not limited to building, parking lot, change of use, site disturbance) is requested:
 - a. The development plan must receive full construction approval from Develop Louisville, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
 - 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 building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - 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 the issuance of 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.
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.

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7. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
8. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
9. The property owner shall provide a cross over access easement if the property to the west is ever developed for a nonresidential use. A copy of the signed easement agreement shall be provided to Planning Commission staff upon request.
10. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the February 15, 2018 Planning Commission meeting.
11. No idling of trucks shall take place within 200 feet of single-family residences. No overnight idling of trucks shall be permitted on-site.
12. Any uses other than a gas station or convenient store shall require approval by the Louisville Metro Council.
13. Landscaping shall be provided as depicted at the February 15, 2018 Planning Commission meeting.
14. Lighting:
 - a. All exterior lighting, whether freestanding or attached to any structure, including parking lot pole lights and lighting for any signage, shall be fully shielded, shall utilize flat or hidden lenses, and shall be pointed directly to the ground. In addition to the Land Development Code requirements, lighting shall be designed to avoid any glare from adjoining property or street. All lighting shall respect the "Dark Sky".
 - b. No LED or metal halide lighting shall have a correlated color temperature (CCT) exceeding 4000 Kelvins.
 - c. The lighting on the site shall be in accordance with the lighting plan presented at the February 15, 2018 Planning Commission public hearing with two changes:
 - i. Pole # 3 along Tucker Station Road shall be moved to the north side of the entrance and directed south;
 - ii. There shall be no lighting on the north side of the building (the rear); and

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- iii. The canopy lights shall have flat lenses.
- 15. Windows: The east façade of the building shall have real or faux windows consistent with the appearance of the south façade.
- 16. Signage: One freestanding commercial sign, substantially similar to the monument style sign presented at the February 15, 2018 Planning Commission meeting, shall be allowed, made of materials similar to the building construction and no higher than eight feet off the ground. Signage shall be lighted by down-lighting mounted from above.
- 17. Fuel Sales: No diesel fuel pumps designed for semi-trucks shall be allowed. Car and small diesel fuel sale shall be allowed.
- 18. Woodland Protection:
 - a. The site shall be developed in accordance with the woodland protection areas delineated on the site plan, tree preservation plan and related notes. Any modification of the woodland protection area requires notification of adjoining property owners and LD&T action.
 - b. The applicant shall provide deeds of restriction ensuring that WPAs will be permanently protected in a manner consistent with these binding elements and the approved plan. The form of the deed restrictions shall be approved by Planning Commission counsel. Deed Restrictions must be recorded prior to tree preservation approval. All plans setting out woodland protection areas must contain the following notes:
 - c. Woodland Protection Areas (WPAs) identified on this plan represent portions of the site on which all existing vegetation shall be permanently preserved. All clearing, grading, and fill activity in these areas must be in keeping with restrictions established at the time of development plan approval. No further clearing, grading, construction or other land disturbing activity shall take place within designated WPAs beyond pruning to improve the general health of the tree or to remove dead or declining trees that may pose a public health and safety threat. As trees are lost thru natural causes new trees shall be planted in order to maintain minimum tree canopy as specified in Chapter 10, Part 1 of the LDC and as shown on the approved Tree Canopy/Landscape Plan. Except that MSD shall be able to enter in and do required work within their easements as shown on the approved development plan.
- 19. Noise and Operations: No construction activities, trash removal, deliveries, or parking lot cleaning (except snow and ice) shall occur between the hours of 10:00 p.m. and 6:00 a.m. The hours of operation for the business shall be from 6:00 a.m. to 11:00 p.m.
- 20. Fence: An eight foot tall solid fence, substantially similar to the fence presented at the February 15, 2018 Planning Commission meeting, being constructed of brick or stone (real or faux) or of wood, or of durable materials copying the appearance of wood, brick or stone, such as vinyl, shall be constructed and maintained in the area shown on the Detailed District

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Development Plan. Then fence shall be located in such a manner to protect and preserve as much vegetation and tree canopy as possible along the western and northern boundaries of the property.

21. Historic Marker: The Tyler Settlement historic marker shall be retained.

The vote was as follows:

YES: Brown, Lewis, Ferguson, Smith, and Carlson

NO: Lindsey

NOT PRESENT: Peterson, Jarboe, Howard, and Tomes

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PUBLIC HEARING

CASE NUMBER 16ZONE1083

Project Name: Tucker Station Senior Apartments
Location: 1408-1412 Tucker Station Road
Owner(s): Arnold Family Living Trust
Applicant: Clover Construction Management West
Jurisdiction: Louisville Metro
Council District: 20-Stuart Benson
Case Manager: Julia Williams, RLA, AICP, Planning Supervisor

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:

03:11:43 Julia Williams discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Rob Sweet, 5721 Dragon Way, Cincinnati, OH 45227
Steve Porter, 2406 Tucker Station Road, Louisville, KY 40299

Summary of testimony of those in favor:

03:17:32 Rob Sweet summarized the applicant's proposal and showed a presentation. He responded to questions from the Commissioners.

03:31:04 Steve Porter spoke on behalf of the Tucker Station Neighborhood Association, and they are in support of this proposal.

The following spoke in opposition to this request:

No one spoke.

Deliberation:

03:32:35 The Commissioners concur that the proposal is justified.

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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Change in Zoning from PEC to OR-1

03:34:26 On a motion by Commissioner Brown, seconded by Commissioner Smith, the following resolution, based on the Cornerstone 2020 Checklist, the applicant's findings of fact, and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Community Form guideline because the proposal will meet the required setbacks for the form district. Office zoning is compatible with the mix commercial/industrial zoning of PEC albeit less intense than the surrounding zoning. PEC permits office uses. Transit is not available in the area. The existing sidewalk along Tucker Station north of the site will be extended along the frontage of the site, and

WHEREAS, the Commission further finds that the proposal meets the Compatibility guideline because OR-1 zoning is generally compatible to the existing office/warehouse zoning of the area as the proposal only differs in intensity. The building materials are more related to the existing and proposed residential in the area and are more compatible to the existing residential rather than that of the existing office/warehouses. The proposal is compatible with the adjacent areas as it allows for both office and residential uses. OR-1 zoning allows for multi-family which is currently not permitted in the existing PEC zoning. Buffers and open space are provided on the site. Transportation Planning has not indicated that the development would cause adverse impacts to traffic. Lighting will comply with the LDC. The OR-1 proposal permits office uses in addition to a variety of densities. The development plan indicates a proposal for multi-family which is not common in the SWFD but multi-family zoning can be found across Tucker Station from the site. The proposal has been specifically identified for senior users. The proposal allows for both office and residential uses. Multi-family zoning is located across Tucker Station from the site. The building design is similar to the other proposed multi-family in the area as well as the single family residential along Tucker Station. LDC compliant buffers and open space are provided on the plan to separate the site from the adjacent office/warehouse zoning. Setbacks and building heights are in compliance with LDC requirements, and

WHEREAS, the Commission further finds that the proposal meets the Open Space guideline because recreational open space is provided on the site in the form of an interior courtyard. There is also a detention basin along the frontage. Recreational open space is provided on the site in the form of an interior courtyard. There is also a detention basin along the frontage, and

WHEREAS, the Commission further finds that the proposal meets the Circulation guideline because roadway improvements along Tucker Station will be made by the applicant/developer. No new roadways are created with the proposal. Cross access is not appropriate with the proposed land uses. The proposal includes the dedication of ROW, and

WHEREAS, the Commission further finds that the proposal meets the Transportation Facility Design guideline because no new roadways are created with the proposal. Cross access is not appropriate with the proposed land uses, and

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WHEREAS, the Commission further finds that the proposal meets the Bicycle, Pedestrian and Transit guideline because all types of transportation are provided for on the site. There is interior pedestrian connectivity to the public sidewalk. While transit is not currently available pedestrian access will be. The public sidewalk network connects to a larger network within the adjacent business park, and

WHEREAS, the Commission further finds that the proposal meets the Flooding and Stormwater guideline because MSD has preliminarily approved the proposal, and

WHEREAS, the Commission further finds that the proposal meets the Infrastructure guideline because planned utilities will be expanded to serve the site. An adequate water supply is available to the site. The Health Department has no issues with the proposal; now, therefore be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the change in zoning from PEC to OR-1 on property described in the attached legal description be **APPROVED**.

The vote was as follows:

YES: Brown, Lindsey, Lewis, Ferguson, Smith, and Carlson

NOT PRESENT: Peterson, Jarboe, Howard, and Tomes

District Development Plan

03:34:58 On a motion by Commissioner Brown, seconded by Commissioner Lindsey, the following resolution, based on the Standard of Review and Staff Analysis and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that there do not appear to be any environmental constraints on the subject site. Tree canopy requirements of the Land Development Code will be provided on the subject site.

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.

WHEREAS, the Commission further finds that open space requirements have been met on the site. Recreational open space is being provided. Additional open space in the form of a detention basin will also be provided.

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.

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WHEREAS, the Commission further finds that 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.

WHEREAS, the Commission further finds that the development plan conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code; now, therefore be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the 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, demolition) is requested:
 - a. The development plan must receive full construction approval from Develop Louisville, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - c. 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 receiving a building permit.
 - 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.

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- e. A minor subdivision plat or legal instrument shall be recorded dedicating additional right-of-way to Tucker Station Road. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services prior to obtaining a building permit.
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. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the February 15, 2018 Planning Commission meeting.
8. The developer shall construct Tucker Station Road improvements as per Public Works requirements as indicated on the approved development plan and/or binding elements and road improvement schematic. Developer shall be responsible for utility relocations (if required), final surface overlay, signage, and striping associated with required road improvements. Construction plans, bond, and permit are required by Metro Public Works prior to construction approval. Developer shall not receive a certificate of occupancy until road improvements are complete.
9. The developer shall participate in the funding for the design and installation of a traffic signal at Tucker Station Road and Bluegrass Parkway up to \$7,200, if and when required by Metro Public Works, assuming same have not been previously required as a consequence of other development plan approvals; traffic signal installation shall be performed by Metro Electrical Maintenance (pursuant to Docket #9-67-05).
10. If any proposals for Detailed District Development Plans or changes to these binding elements are made, prior written notice shall be given to the Tucker Station Neighborhood Association.
11. All stormwater drainage from impervious area of development shall be channeled to a stormwater retention basin in order to achieve established standards for minimizing impact on the water quality, quantity, and rate of flow onto neighboring properties and into neighboring streams and ponds. This requirement shall be monitored and enforced by the Metropolitan Sewer District.

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12. A four-board horse fence shall be constructed along the Tucker Station Road frontage of the property.
13. All exterior lighting, whether exterior or attached, including accent lighting, shall be fully shielded, shall utilize flat or hidden lenses, and shall be pointed directly to the ground. Pole lighting for the parking areas shall be limited to 12 feet in height from ground level.
14. No deliveries, garbage collection, exterior site work or construction, or parking lot cleaning (except for snow and ice) shall occur between the hours of 9pm and 7 am.

The vote was as follows:

YES: Brown, Lindsey, Lewis, Ferguson, Smith, and Carlson

NOT PRESENT: Peterson, Jarboe, Howard, and Tomes

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PUBLIC HEARING

CASE NUMBER 17ZONE1040

Request:	R-6 to OR-1
Project Name:	Massage for Healing
Location:	842 Mulberry Street
Owner:	Kimberly Curran
Applicant:	Kimberly Curran
Representative:	Kimberly Curran
Jurisdiction:	Louisville Metro
Council District:	4 – Barbara Sexton Smith
Case Manager:	Laura Mattingly, 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:

03:01:30 Laura Mattingly discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Kimberly Curran, 842 Mulberry Street, Louisville, KY 40217

Summary of testimony of those in favor:

03:06:46 Applicant Kimberly Curran stated that she would like to add signage to her building to attract business and look more professional in the neighborhood. She responded to questions from the Commissioners.

The following spoke in opposition to this request:

No one spoke.

Deliberation:

03:08:19 The Commissioners concur that the proposal is justified.

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-4 to C-1

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CASE NUMBER 17ZONE1040

03:09:28 On a motion by Commissioner Brown, seconded by Commissioner Lindsey, the following resolution, based on the Cornerstone 2020 Checklist and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Community Form guideline because the proposal does not affect the existing street pattern. This proposal includes no new construction and is utilizing an existing building, therefore is not impacting any open space. The proposal is for the continued utilization of an existing building for commercial and residential purposes, and

WHEREAS, the Commission further finds that the proposal meets the Centers guideline because the proposal will not create a new center but it involves the continued utilization of an existing building for commercial and residential purposes. This is a small commercial service business located in an established urban neighborhood with a stable population. The proposal is efficient and cost effective because it is utilizing an existing building. This proposal is not a center but does provide a service which will serve the neighborhood. This proposal proposes residential and commercial. The proposal does not include any additional curb cuts. Utilities for the site are existing and will be unchanged by the proposal. The site has sidewalks and transit located in close proximity, and

WHEREAS, the Commission further finds that the proposal meets the Compatibility guideline because this is historically a single family home and therefore is a non-residential expansion into a residential area but the impacts of the business are minimal. This business has been operating as a home-occupation for some time and there has not appeared to be adverse impacts on existing residences. APCD has no issues with the proposal. The existing roadway network is more than sufficient to support the minimal traffic impacts created by this proposal. There will be no additional lighting with this proposal. The proposal is located on a corner lot in a residential neighborhood with local streets. There are commercially zoned properties within a block when traveling northeast or southwest from the property. The S Shelby Street corridor has many commercial properties and is located just west of the property. The structure will be unchanged by the proposal so all building design, setbacks and height will remain compatible with the neighborhood. The proposal will not be able to provide the required 15' landscape buffer area along the western property line shared with a single family residential use but the waiver appears to be justified due to existing conditions and the low impact of the use. The building is existing with no new construction proposed. There is no parking or loading areas proposed on site. The proposed signage is compatible with the Traditional Neighborhood Form and the design is in character with the surrounding neighborhood, and

WHEREAS, the Commission further finds that the proposal meets the Open Space guideline because the provision of open space for this proposal is not required by the LDC and is not appropriate for this site. As there is no new construction, any natural features of the site are being left intact, and

WHEREAS, the Commission further finds that the proposal meets the Natural Areas and Scenic and Historic Resources guideline because the proposal is for the preservation of an existing

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structure. As there is no new construction, any natural features of the site are being left intact. Soils are not an issue for the site, and

WHEREAS, the Commission further finds that the proposal meets the Economic Growth and Sustainability guideline because this site is within an established neighborhood with existing vehicular, pedestrian and transit infrastructure. This proposal is a mixed use and is located near other commercial uses, primarily located along S. Shelby Street, and

WHEREAS, the Commission further finds that the proposal meets the Circulation guideline because this proposal does not constitute right of way dedication and traffic impacts will be minimal and do not appear to trigger any public improvements. There is an existing sidewalk network and nearby transit stops. This proposal does not constitute additional transportation facilities, as it is a small site. Dedication of right-of-way is not required for this site. It appears that there is adequate street parking. Cross access is not appropriate in this situation, and

WHEREAS, the Commission further finds that the proposal meets the Transportation Facility Design guideline because a stub street is not necessary because the site is within an existing developed neighborhood. Access to the development is through public rights of way. The existing roadways provide the appropriate linkages to other development, and

WHEREAS, the Commission further finds that the proposal meets the Bicycle, Pedestrian and Transit guideline because sidewalks are provided for transit users and pedestrians. Existing sidewalks are located along the street frontage and the structure is set close to the road, and

WHEREAS, the Commission further finds that the proposal meets the Flooding and Stormwater guideline because MSD has reviewed this proposal and has approved the plan, and

WHEREAS, the Commission further finds that the proposal meets the Air Quality guideline because APCD has no issues with the proposal, and

WHEREAS, the Commission further finds that the proposal meets the Landscape Character guideline because natural corridors are not evident in or around the proposal, and

WHEREAS, the Commission further finds that the proposal meets the Infrastructure guideline because existing utilities serve the site. Water is available to the site. The health department has no issues with the proposal; now, therefore be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the change in Zoning from R-6 to OR-1 on property described in the attached legal description be **APPROVED**.

The vote was as follows:

YES: Brown, Lindsey, Lewis, Ferguson, Smith, and Carlson

NOT PRESENT: Peterson, Jarboe, Howard, and Tomes

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Waiver

03:09:55 On a motion by Commissioner Brown, seconded by Commissioner Lindsey, the following resolution, based on the Standard of Review and Staff Analysis 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 buildings are existing and there is an existing privacy fence in place for screening. Additionally, the use will continue to function as a home occupation which is low intensity and should have very little impact on the neighboring single family use, and

WHEREAS, the Commission further finds that the waiver will not violate guideline 3, Compatibility, of Cornerstone 2020, which calls for the protection of roadway corridors and public areas from visual intrusions, for mitigation of parking areas so as not to negatively impact nearby residents and pedestrians, and for parking areas adjacent to streets to be screened and buffered. The waiver will not violate guideline 13, Landscape Character, which calls for the protection of roadways through standards for buffers, landscape treatment, lighting and signs. These guidelines are not violated as the applicant has already provided adequate screening along the western property line and there will be no physical changes to the site to further screen from the adjacent property or the roadway, 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 conditions are existing and no other relief is being requested, and

WHEREAS, the Commission further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land and would create an unnecessary hardship on the applicant as providing the full 15' LBA would require the demolition of the existing single family structure and accessory structure; now, therefore be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the waiver of 10.2.4 to eliminate the required 15' property perimeter landscape buffer area along western property line.

The vote was as follows:

YES: Brown, Lindsey, Lewis, Ferguson, Smith, and Carlson

NOT PRESENT: Peterson, Jarboe, Howard, and Tomes

Detailed District Development Plan

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03:10:18 On a motion by Commissioner Brown, seconded by Commissioner Lindsey, the following resolution, based on the Standard of Review and Staff Analysis and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that LOJIC has not identified any natural resources on site and the applicant will be making no changes to the site to affect tree canopy, soils or any other natural resource, and

WHEREAS, the Commission further finds that provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community have been provided through the existing street network and sidewalks, and

WHEREAS, the Commission further finds that this development does not require open space, as it does not meet the threshold for open space or outdoor amenity requirements, and

WHEREAS, the Commission further finds that the Metropolitan Sewer District has approved the preliminary development plan and will ensure the provisions 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 and land uses are compatible with the existing and future development of the area, as the character of the existing structure will remain relatively the same, and

WHEREAS, the Commission further finds that this development generally conforms to the Comprehensive Plan and Land Development Code with only one waiver requested due to existing conditions; now, therefore be it

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.
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.

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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 Develop Louisville, Louisville Metro Public Works and the Metropolitan Sewer District.
5. Prior to any site disturbance permit being issued and prior to any clearing, grading or issuance of a site disturbance permit, a site inspection shall be conducted by PDS staff to ensure proper placement of required tree protection fencing in accordance with the approved Tree Preservation Plan.
6. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
7. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
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.

The vote was as follows:

YES: Brown, Lindsey, Lewis, Ferguson, Smith, and Carlson

NOT PRESENT: Peterson, Jarboe, Howard, and Tomes

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STANDING COMMITTEE REPORTS

Land Development & Transportation Committee

No report given.

Site Inspection Committee

No report given.

Planning Committee

No report given.

Development Review Committee

No report given.

Policy & Procedures Committee


No report given.

CHAIRPERSON/DIRECTOR'S REPORT

No report given

ADJOURNMENT

The meeting adjourned at approximately 4:45 p.m.



Chairman



Division Director