

**MINUTES OF THE MEETING  
OF THE  
LOUISVILLE METRO PLANNING COMMISSION  
March 19, 2015**

A meeting of the Louisville Metro Planning Commission was held on March 19, 2015 at 1:00 p.m. at the Old Jail Building, located at 514 W. Liberty Street, Louisville, Kentucky.

**Commission members present:**

Donnie Blake, Chair  
David Proffitt  
Jeff Brown  
Vince Jarboe  
Robert Kirchdorfer  
Clifford Turner  
David Tomes

**Commission members absent:**

Carrie Butler  
Robert Peterson  
Chip White

**Staff Members present:**

Emily Liu, Planning Director  
Joseph Reverman, Planning Supervisor  
John G. Carroll, Legal Counsel  
Jonathan Baker, Legal Counsel  
David Wagner, Planner II  
Julia Williams, Planner II  
Christopher Brown, Planner II  
Tammy Markert, Transportation Planning  
Pamela M. Brashear, Management Assistant

**NOTE: COMMISSIONER PROFFITT LEFT AT APPROXIMATELY 3:00**

The following matters were considered:

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**APPROVAL OF MINUTES**

**FEBRUARY 19, 2015 PLANNING COMMISSION REGULAR MEETING MINUTES**

On a motion by Commissioner Proffitt, seconded by Commissioner Brown, the following resolution was adopted.

**RESOLVED**, that the Planning Commission does hereby **APPROVE** the minutes of its meeting conducted on February 19, 2015.

**The vote was as follows:**

**YES: Commissioners Brown, Jarboe, Kirchdorfer and Proffitt**

**NO: No one**

**NOT PRESENT FOR THIS CASE: Commissioners Butler, Peterson and White**

**ABSTAINING: Commissioners Blake, Tomes and Turner**

**FEBRUARY 25, 2015 PLANNING COMMISSION NIGHT HEARING MEETING MINUTES**

On a motion by Commissioner Proffitt, seconded by Commissioner Brown, the following resolution was adopted.

**RESOLVED**, that the Planning Commission does hereby **APPROVE** the minutes of its meeting conducted on February 25, 2015 with the following **CORRECTION**: the Resolution on page 9 – the public hearing would be to allow the applicant and the opposition time to submit additional justification statements.

**The vote was as follows:**

**YES: Commissioners Blake, Brown, Jarboe, Kirchdorfer, Proffitt, Tomes and Turner**

**NO: No one**

**NOT PRESENT FOR THIS CASE: Commissioners Butler, Peterson and White**

**ABSTAINING: No one**

**PLANNING COMMISSION MINUTES**  
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**CONSENT AGENDA**

**CASE NO. 15STREETS1000**

Request: Street name change from Tatton Drive to Piton Way  
Project Name: Tatton Drive Name Change  
Location: North side of Tatton Drive at the intersection with Ellerslie Drive

Owner: Louisville Metro  
Applicant: Ball Homes Inc.

Representative: Mindel Scott and Assoc.; Bardenwerper Talbott and Roberts PLLC  
5151 Jefferson Boulevard  
Louisville, Ky. 40219

Jurisdiction: Louisville Metro  
Council District: 19 – Julie Denton  
**Case Manager: Julia Williams, 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.)

**Discussion**

00:06:57 No discussion.

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

On a motion by Commissioner Tomes, seconded by Commissioner Proffitt, the following resolution was adopted.

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** the consent agenda items.

**The vote was as follows:**

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**CONSENT AGENDA**

**CASE NO. 15STREETS1000**

**YES: Commissioners Blake, Brown, Jarboe, Kirchdorfer, Proffitt, Tomes and Turner**

**NO: No one**

**NOT PRESENT FOR THIS CASE: Commissioners Butler, Peterson and White**

**ABSTAINING: No one**

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**CONSENT AGENDA**

**CASE NO. 15STREETS1002**

Request: Closure of the remaining portion of Glenwood Circle at its intersection with Export Drive

Project Name: Glenwood Circle Street Closure  
Location: 8725 Glenwood Circle  
Louisville, Ky. 40219

Owner: Louisville Metro

Applicant: Tony Cincinelli  
Air Commerce, LLC  
18W140 Butterfield Road, Suite 750  
Oakbrook, IL. 60181

Representative: Kelli Jones  
Sabak, Wilson & Lingo, Inc.  
608 South Third Street  
Louisville, Ky. 40202

Jurisdiction: Louisville Metro  
Council District: 13 – Vicki Aubrey Welch  
**Case Manager: David B. Wagner – 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.)

**Discussion**

00:06:57 No discussion.

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

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**CONSENT AGENDA**

**CASE NO. 15STREETS1002**

On a motion by Commissioner Tomes, seconded by Commissioner Proffitt, the following resolution was adopted.

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** the consent agenda items.

**The vote was as follows:**

**YES: Commissioners Blake, Brown, Jarboe, Kirchdorfer, Proffitt, Tomes and Turner**

**NO: No one**

**NOT PRESENT FOR THIS CASE: Commissioners Butler, Peterson and White**

**ABSTAINING: No one**

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**CONSENT AGENDA**

**CASE NO. 15STREETS1004**

Request: Street Name Change of Rock Bluff Drive to River Rock Drive  
Project Name: Rock Bluff Drive Street Name Change  
Location: 5512 Rock Bluff Drive and 11001 Pebble Creek Drive  
Owner: Louisville Metro

Applicant: Robert Thieneman, Jr.  
Rock Springs Farms, LLC  
12488 LaGrange Road  
Louisville, Ky. 40245

Representative: Sabak, Wilson & Lingo, Inc.  
Kelli Jones  
608 South Third Street  
Louisville, Ky. 40202

Jurisdiction: Louisville Metro  
Council District: 16 – Kelly Downard  
**Case Manager: David B. Wagner – 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.)

**Discussion**

00:06:57 No discussion.

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

On a motion by Commissioner Tomes, seconded by Commissioner Proffitt, the following resolution was adopted.

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** the consent agenda items.

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**CONSENT AGENDA**

**CASE NO. 15STREETS1004**

**The vote was as follows:**

**YES: Commissioners Blake, Brown, Jarboe, Kirchdorfer, Proffitt, Tomes and Turner**

**NO: No one**

**NOT PRESENT FOR THIS CASE: Commissioners Butler, Peterson and White**

**ABSTAINING: No one**



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**PUBLIC HEARING**

**CASE NO. 17822**

Case No: 17822  
Project Name: Willow Grande  
Location: 1418 Willow Avenue  
Louisville, Ky. 40204

Owner(s): Willow Grande LLC  
Applicant: Willow Grande LLC

Representative(s): Frost Brown Todd LLC  
400 West Market Street, Suite 3200  
Louisville, Ky. 40202

Project Area/Size: 0.88 Acres  
Existing Zoning District: R-7  
Existing Form District: Traditional Neighborhood  
Jurisdiction: Louisville Metro  
Council District: 8- Tom Owen  
**Case Manager: Julia Williams, Planner II**

This case was continued from the February 25, 2015 Public Hearing.

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:**

00:09:03 Mrs. Williams discussed the case summary, standard of review and staff analysis from the staff report.

**The following spoke in favor of this request:**

Timothy W. Martin, 400 West Market Street, Suite 3200, Louisville, Ky. 40202

**Summary of testimony of those in favor:**

00:10:25 Mr. Martin said the project is much needed for the urban development of our city. The applicant is not breaking any rules asking for variances and waivers. They are a normal part of the process for zoning. Also, binding elements 9 through 13 have been added and are acceptable.

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**The following spoke in opposition to this request:**

Bill Seiller, 1416 Willow Avenue, Louisville, Ky. 40204

**Summary of testimony of those in opposition:**

00:19:45 Mr. Seiller listed his concerns as follows: Height – the impact it will have on the neighborhood; the applicant should have the burden of proof; the committee has the duty to protect the neighborhoods – no high rise has been approved in over 30 years; and lastly, the Metro Council did not approve the height, they sent it back to the commission to negotiate and compromise.

**Rebuttal**

00:41:39 Mr. Martin said they are not violating any rules by asking for variances and waivers. This case is not being heard in a court of law; therefore, there is no burden of proof. Also, there have been several meetings dealing with the Planning Commission, the agencies, ARC, etc.

**Deliberation**

00:48:34 The commissioners have concluded that this project is appropriate. Commissioner Jarboe however, said he cannot support Variance #3 – the other tall buildings in the area are not the character of the neighborhood, the 100's of 2 and 3-story homes are.

**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.**

**Variance #1**

1:22:35 On a motion by Commissioner Brown, seconded by Commissioner Tomes, the following resolution was adopted.

**WHEREAS**, As the Landmarks Commission approval makes evident, the proposed building has a closer relationship with the adjacent high rise multi-family structures (i.e., the Dartmouth and the Willow Terrace) than it does with the single-family homes at 1430 Willow Avenue and 2023 Eastern Parkway. Additionally, access provided directly from Baringer Avenue instead of via the rear alley provides for safe access because the width of the entrance (22 feet) is greater than the width of the alley (15 feet). Alley access would create conflicts of movement, given the

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difficulty of 2-way traffic flow within the narrow alley. These conflicts would impact traffic on Baringer Avenue, which could be subject to traffic back-ups and it could cause a hazard for pedestrians on the abutting Baringer Avenue sidewalk. Therefore, the 70-foot front setback advances and does not adversely affect the public health, safety or welfare; and

**WHEREAS**, The variance will not alter the essential character of the general vicinity because the front setback is consistent with that of the Dartmouth and the Willow Terrace, both of which front on Willow Avenue and are located across Baringer Avenue from the subject site; and

**WHEREAS**, The setback variance does not cause a hazard or nuisance to the public. In fact, the proposed access directly from Baringer Avenue will be 22 feet wide as compared to the alley, which is only 15 feet wide. Alley access would be problematic due to the difficulty of adequate 2-way vehicular movement within the alley which could lead to vehicular back-ups on Baringer Avenue affecting traffic and pedestrians walking on the Baringer Avenue sidewalk. The variance will avoid those situations, and thereby will not cause a hazard or nuisance to the public; and

**WHEREAS**, The variance will not allow an unreasonable circumvention of the requirements of the zoning regulations because the setback was established by the Landmarks Commission to be consistent with that of the adjacent high rise buildings, the Dartmouth and the Willow Terrace. Therefore, the variance will not allow an unreasonable circumvention of the requirements of the zoning regulation; and

**WHEREAS**, The lot on which the Willow Grande is proposed is an irregularly-shaped lot and is a corner lot at the southwest corner of Willow Avenue and Baringer Avenue. This lot is larger and is shaped differently than typical single family lots in the vicinity. The only lots comparable to the subject site are the lots on which the Dartmouth and Willow Terrace are located. In addition, the Landmarks Commission mandated that the building be set back 70 feet, which is a unique approval for this lot. Therefore, the variance arises from special circumstances not applying to land in the general vicinity; and

**WHEREAS**, the Louisville Metro Planning Commission finds, 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. The Landmarks Commission mandated that the building be set back 70 feet to be consistent with the setback of the

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Dartmouth and the Willow Terrace. Alley access is impractical and possibly unsafe due to its 15-foot width. The resultant rear yard is insufficient to provide a private area for residents or for temporary visitor parking; and

**WHEREAS**, the Louisville Metro Planning Commission further finds the circumstances are not the result of actions taken by the applicant. The circumstances are the result of the size and shape of the lot and the prior action of the Landmarks Commission, which mandated that the building be set back 70 feet.

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** Variance #1, a variance from Land Development Code (LDC) 5.4.1.B.3.a to permit the front setback to be 70 feet instead of being between 33 feet and 37 feet, which are the two nearest structures at 1430 Willow Avenue and 2023 Eastern Parkway based on the applicant's justification and the discussions heard today.

**The vote was as follows:**

**YES: Commissioners Blake, Brown, Kirchdorfer, Proffitt, Tomes and Turner**

**NO: Commissioner Jarboe**

**NOT PRESENT AND NOT VOTING: Commissioners Butler, Peterson and White**

**ABSTAINING: No one**

**Variance #2**

On a motion by Commissioner Brown, seconded by Commissioner Tomes, the following resolution was adopted.

**WHEREAS**, As the Landmarks Commission approval makes evident, the proposed building has a closer relationship with the adjacent high rise multi-family structures (i.e., the Dartmouth and the Willow Terrace) than it does with the single-family homes at 1430 Willow Avenue and 2023 Eastern Parkway. Additionally, access provided directly from Baringer Avenue instead of via the rear alley provides for safe access because the width of the entrance (22 feet) is greater than the width of the alley (15 feet). Alley access would create conflicts of movement, given the difficulty of 2-way traffic flow within the narrow alley. These conflicts would impact traffic on Baringer Avenue, which could be subject to traffic back-ups and it could cause a hazard for pedestrians on the abutting Baringer Avenue sidewalk. The three (3) proposed parking spaces are to be decorative, colored concrete and they are for temporary visitor use, as opposed to long-term use. In addition, these parking

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spaces have been designed in a well-landscaped setting. Therefore, the variance will not adversely affect the public health, safety or welfare; and

**WHEREAS**, The variance will not alter the essential character of the general vicinity because 1400 Willow also has parking in the required yard in a promenade entry similar to what is proposed. Additionally, only three (3) temporary visitor parking spaces are proposed. Therefore, the variance will not alter the essential character of the general vicinity; and

**WHEREAS**, The variance will not cause a hazard or nuisance to the public because only three (3) temporary visitor parking spaces are proposed, as opposed to parking spaces that would be frequently used. Because access to these parking spaces occurs via a safe, 22 foot wide entrance, the variance allowing parking in the required front yard will not cause a hazard or nuisance to the public; and

**WHEREAS**, The variance will not allow an unreasonable circumvention of the requirements of the zoning regulations because only three (3) temporary visitor parking spaces are proposed, which is a minimal number of spaces in a well-landscaped setting similar to front parking at 1400 Willow nearby; and

**WHEREAS**, The lot on which the Willow Grande is proposed is an irregularly-shaped lot and is a corner lot at the southeast corner of Willow Avenue and Baringer Avenue. This lot is larger and is shaped differently than typical single family lots in the vicinity. The only lots comparable to the subject site are the lots on which the Dartmouth and Willow Terrace are located. In addition, the Landmarks Commission mandated that the building be set back 70 feet, which is a unique approval for this lot. In addition, the private yard area is insufficiently sized for the necessary temporary parking spaces. Therefore, the variance arises from special circumstances not applying to land in the general vicinity; and

**WHEREAS**, the Louisville Metro Planning Commission finds, 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 because the applicant would be unable to provide for adequate temporary visitor parking since there is insufficient space in the private yard area for these parking spaces. The Landmarks Commission mandated that the building be set back 70 feet to be consistent with the setback of the Dartmouth and the Willow Terrace. Alley access to these parking spaces would be impractical and possibly unsafe due to its 15-foot width. The resultant rear yard is insufficient to provide a private area for residents or for temporary visitor parking; and

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**WHEREAS**, the Louisville Metro Planning Commission further finds the circumstances are not the result of actions taken by the applicant. The circumstances are the result of the size and shape of the lot and the prior action of the Landmarks Commission, which mandated that the building be set back 70 feet.

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** Variance #2, a variance from Land Development Code (LDC) 5.4.1.B.3.a, to permit the encroachment of parking within the required front yard setback based on the enhanced landscaping that will be provided on the plan for sub-committee approval, the applicant's justification and the discussions today.

**The vote was as follows:**

**YES: Commissioners Blake, Brown, Jarboe, Kirchdorfer, Proffitt, Tomes and Turner**

**NO: No one**

**NOT PRESENT AND NOT VOTING: Commissioners Butler, Peterson and White**

**ABSTAINING: No one**

**Variance #3**

On a motion by Commissioner Brown, seconded by Commissioner Tomes, the following resolution was adopted.

**WHEREAS**, The height variance will not adversely affect the public health, safety or welfare because adequate air and sunlight will remain viable for all adjacent properties, and because views of the Cherokee Park view shed from adjacent residential properties will not be compromised as a result of the building's increased height; and

**WHEREAS**, The variance will not alter the essential character of the general vicinity because the building height, at 201.67 feet, is generally consistent with the building heights of adjacent high rise multi-family buildings, all of which -- like the Willow Grande -- have frontage on Willow Avenue and are located on the west side of Willow Avenue: the Dartmouth (130 feet tall), the Willow Terrace (95 feet tall), and 1400 Willow (217 feet tall); and

**WHEREAS**, The height variance will not impact the viewshed to Cherokee Park from the vantage point of any adjacent residential uses. Vehicle trip generation rates from the proposed 24 residential units will not change from the existing rate, which is

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minimal. There will be no impacts to the public as a result of the variance, and therefore the variance will not cause a hazard or nuisance to the public; and

**WHEREAS**, The variance will not allow an unreasonable circumvention of the requirements of the zoning regulations because the proposed Willow Grande building relates more appropriately the Dartmouth, the Willow Terrace and 1400 Willow than to other multi-family and single-family structures on Willow Avenue because all of these multi-family high rise buildings are situated on the south side of Willow Avenue, each property abuts the next, similar to the Willow Grande proposal. Therefore, the variance will not allow an unreasonable circumvention of the requirements of the zoning regulation; and

**WHEREAS**, The variance arises from special circumstances which generally do not apply to land in the general vicinity because the proposed height of the Willow Grande, at 201.67 feet, is generally consistent with the building heights of adjacent high rise multi-family buildings, all of which – like the Willow Grande -- have frontage on Willow Avenue and are located on the west side of Willow Avenue: the Dartmouth (130 feet tall), the Willow Terrace (95 feet tall), and 1400 Willow (217 feet tall). Other than these buildings, there are no other high rise residential buildings in the general vicinity. Because the proposed Willow Grande building bears greater architectural similarity to these other high rise multi-family buildings, the variance arises from special circumstances not generally applying to land in the general vicinity; and

**WHEREAS**, the Louisville Metro Planning Commission finds, 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 because the applicant would be unable to construct a building, the height of which has been determined by the Louisville Landmarks Commission to be appropriate; and

**WHEREAS**, the Louisville Metro Planning Commission further finds the circumstances are not the result of actions taken by the applicant. The circumstances are the result the prior action of the Louisville Landmarks Commission, which approved the building height at 201.67 feet.

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** Variance #3, 5.4.1.C.6.a to permit a building height of 201.67 feet instead of the required 37 feet based on the overall design of the building that was approved by Landmarks, the applicant's justification and the discussion today.

**The vote was as follows:**

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**YES: Commissioners Blake, Brown, Kirchdorfer, Proffitt, Tomes and Turner**

**NO: Commissioner Jarboe**

**NOT PRESENT AND NOT VOTING: Commissioners Butler, Peterson and White**

**ABSTAINING: No one**

**Variance #4**

On a motion by Commissioner Brown, seconded by Commissioner Proffitt, the following resolution was adopted.

**WHEREAS**, The variance will not adversely affect the public health, safety or welfare because it does not obstruct access, or obstruct the public sidewalk, and there is adequate distance between the proposed Willow Grande building and the adjacent single family home fronting on Baringer Avenue nearest the Willow Grande because it is located across the rear alley; and

**WHEREAS**, The variance will not alter the essential character of the general vicinity because it does not obstruct access, or obstruct the public sidewalk, and there is adequate distance between the Willow Grande building and the adjacent single family home fronting on Baringer Avenue nearest the Willow Grande. That home and similar others will be unaffected by the reduced setback and the variance will not alter the essential character of the general vicinity; and

**WHEREAS**, The variance will not cause a hazard or nuisance to the public because neither pedestrian movement nor vehicular movement will be adversely impacted, and the development will be more than minimally landscaped in a visually acceptable setting, thereby avoiding hazards or nuisances to the public; and

**WHEREAS**, The variance will not allow an unreasonable circumvention of the requirements of the zoning regulations because the variance is only 10 feet of a 25 foot setback and the area will be substantially landscaped. Therefore, the variance will not allow an unreasonable circumvention of the requirements of the zoning regulations; and

**WHEREAS**, The variance arises from special circumstances which generally do not apply to land in the general vicinity because the historic home at 1426 Willow Avenue is a contributing structure to the Cherokee Triangle Historic Protection District, and in order to save that house in situ it is necessary to move the Willow Grande building partially into the setback area; and



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**WHEREAS**, the Louisville Metro Planning Commission finds, 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 because the applicant would be unable to construct the Willow Grande building and save the historic home at 1426 Willow Avenue; and

**WHEREAS**, the Louisville Metro Planning Commission further finds the circumstances are not the result of actions taken by the applicant. The circumstances are the result the prior action of the Landmarks Commission, which approved the location of the building as shown on the development plan.

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** Variance #4, variance from Land Development Code (LDC) 5.4.1.C.6.b to permit a 15 foot street side yard instead of the required 25 foot street side yard based on the applicant's justification and the testimony heard today.

**The vote was as follows:**

**YES: Commissioners Blake, Brown, Jarboe, Kirchdorfer, Proffitt, Tomes and Turner**

**NO: No one**

**NOT PRESENT AND NOT VOTING: Commissioners Butler, Peterson and White**

**ABSTAINING: No one**

**Variance #5**

On a motion by Commissioner Brown, seconded by Commissioner Tomes, the following resolution was adopted.

**WHEREAS**, The variance will not adversely affect the public health, safety or welfare because the private yard area will only be accessible by the residents and their guests. In addition, the development has immediate proximity to Cherokee Park, a large urban park; and

**WHEREAS**, The variance will not alter the essential character of the general vicinity because the area will be substantially invisible off-site. The variance would permit the Willow Grande building to be set back to a depth consistent with the adjacent Dartmouth, Willow Grande and 1400 Willow high rise multi-family buildings. As such, the variance will not alter the essential character of the general vicinity; and

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**WHEREAS**, The variance will not cause a hazard or nuisance to the public because the proposed private yard area will provide for the needs of the residents and their guests, especially considering ease of access to Cherokee Park, which is within immediate proximity to the subject site. Otherwise, the reduced size of the private yard area causes no concerns regarding hazards or nuisances; and

**WHEREAS**, The variance will not allow an unreasonable circumvention of the requirements of the zoning regulation because it only affects residents within the building, as opposed to the general public, and because Cherokee Park is immediately available as a resource; and

**WHEREAS**, The variance arises from special circumstances which generally do not apply to land in the general vicinity because the Landmarks Commission mandated the increased front setback of the building to be consistent with nearby high rise multi-family buildings. This is a special circumstance applying only to the subject property; and

**WHEREAS**, the Louisville Metro Planning Commission finds, 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 because the applicant would be unable to construct the Willow Grande building as approved by the Landmarks Commission; and

**WHEREAS**, the Louisville Metro Planning Commission further finds the circumstances are not the result of actions taken by the applicant. The circumstances are the result the prior action of the Landmarks Commission, which approved the location of the building as shown on the development plan.

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** Variance #5, a variance from Land Development Code (LDC) 5.4.1.D.2 to permit a 10% private yard instead of the required 30% based on the applicant's justification, the proximity to Cherokee Park and the discussions today.

**The vote was as follows:**

**YES: Commissioners Blake, Brown, Jarboe, Kirchdorfer, Proffitt, Tomes and Turner**

**NO: No one**

**NOT PRESENT AND NOT VOTING: Commissioners Butler, Peterson and White**

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**ABSTAINING: No one**

**Waiver #1**

1:25:50 On a motion by Commissioner Brown, seconded by Commissioner Tomes, the following resolution was adopted.

**WHEREAS**, The proposed encroachments into the 15-foot Landscape Buffer Area ("LBA") will not affect adjacent property owners because the existing historic house at 1426 Willow Avenue encroaches and should remain as a contributing structure in the Cherokee Triangle Historic Preservation District, and because the pool/patio area will be surrounded by a seven (7') – foot brick wall and landscaping. The planting material requirements of LDC Chapter 10 will be provided as required. The wall and plantings will provide an effective buffer for the "private yard zone (area)" of the property and will buffer off-site views into the private yard area; and

**WHEREAS, Compatibility Guideline 3.** The waiver conforms to Compatibility Guideline 3 and all applicable Policies adopted thereunder, including Policies 1, 2, 9, 21 and 22, and Land Use Goals C3 (Land Use) and C4 (Site Design) and Objective C4.6 (Buffers and Compatibility). The minimum planting and screening requirements will be provided as required by LDC Chapter 10, Part 2 and LDC §10.2.4. The encroaching historic building, a contributing historic structure located at 1426 Willow Avenue, is existing. Moreover, the pool/patio is an insignificant encroachment because the screening and planting requirements can be fully met generally along the rear and side property line, thereby providing an adequate buffer around this private yard zone (area). The wall and landscaping will minimize visibility into the area, thereby protecting abutting and adjacent neighbors from any visual nuisance.

**Open Space Guideline 4.** The waiver conforms to Open Space Guideline 4 and all applicable Policies adopted thereunder, including Policies 1, 3, 4 and 5. The private yard area will be adequately buffered by the seven (7') – foot wall and landscaping along the perimeter of this area, and will provide adequate outdoor recreation opportunities to meet the needs of the residents of the building.

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**Landscape Character Guideline 13.** The waiver conforms to Landscape Character Guideline 13 and all applicable Policies adopted thereunder, including Policies 1 and 4 because all required planting materials otherwise required will be provided in the reduced setback area. All landscape materials required by the Land Development Code are identified landscape types and native plant species typically found in Jefferson County, and are appropriate for the urbanized Cherokee Triangle neighborhood; and

**WHEREAS,** All landscaping materials required by LDC Chapter 10, Part 2 and LDC §10.2.4 will be planted and maintained. Provision of the brick wall and the landscaping materials ensures that the extent of the waiver is the minimum necessary to afford relief to the applicant; and

**WHEREAS,** The existing structure at 1426 Willow Avenue, a 2-1/2 story house constructed circa 1923, in the historic line of homes original to the historic, residential blackface, is a contributing structure in the Cherokee Triangle National Register District and will be preserved. Because this structure adds to the historical integrity that makes the District significant, removing the historic structure to provide the buffer would deprive the applicant of the reasonable use of the land and would constitute an unnecessary hardship on the applicant.

Moreover, moving the pool/patio out of the 15-foot LBA would deprive the applicant of the reasonable use of the land and would create an unnecessary hardship on the applicant because the pool/patio is located in the private yard zone (area) in the rear corner of the site, thereby maximizing the remaining rear patio area for use by residents; and

**WHEREAS,** the Louisville Metro Planning Commission finds the waiver conforms to the intent of the Land Development Code to promote the appearance and stability of residential properties, and to reduce or eliminate adverse visual impacts, to improve the appearance of property abutting public rights-of-way, to protect the character and value of surrounding properties by reducing views into the private yard zone (area) of the site, by creating a suitable transition from the site to adjacent properties, and by minimizing negative impacts that might otherwise exist; and

**WHEREAS,** the Louisville Metro Planning Commission further finds the grant of the waiver would result in the continued existence and use of the historic residence

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located at 1426 Willow Avenue. Without the grant of the waiver, the regulations would require the removal of the house because it encroaches into the twenty-five (25') foot LBA. Therefore, compliance with LDC §10.2.4 to provide a 25-foot LBA is not appropriate.

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** Waiver #1, to waive Land Development Code 10.2.4, to permit the encroachment into the 15-foot Landscape Buffer Area of an existing historic structure at 1426 Willow Avenue based on the applicant's justification and the discussion today.

**The vote was as follows:**

**YES: Commissioners Blake, Brown, Jarboe, Kirchdorfer, Proffitt, Tomes and Turner**

**NO: No one**

**NOT PRESENT AND NOT VOTING: Commissioners Butler, Peterson and White**

**ABSTAINING: No one**

**Waiver #2**

On a motion by Commissioner Brown, seconded by Commissioner Tomes, the following resolution was adopted.

**WHEREAS**, The front loaded garage will be inconspicuous because it has been designed to "disappear" in that it will architecturally approximate the large first floor window on the opposite side of the front building facade. Additionally, other high-rise residential buildings in the vicinity, specifically the Dartmouth and 1400 Willow, have vehicular access directly from the street; and

**WHEREAS**, The waiver conforms to the Comprehensive Plan for the reasons stated below:

**Compatibility Guideline 3.** The waiver conforms to Compatibility Guideline 3 and all applicable Policies adopted thereunder, including Policies 1, 2, 3, 6, 9, 21, 23, 24 and 25. The garage takes its access from Baringer Avenue, just as the Dartmouth. The design of the garage entry is properly recessed four (4) feet from the front of the building and has been designed to approximate the large window on the opposite side of the front building facade. The front loaded garage will not disturb normal vehicular-pedestrian interactions and safety along Baringer Avenue and the abutting sidewalk

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because traffic generation from the development (traffic generated by twenty-four (24) residential units) is anticipated to be approximately the same traffic generation (traffic generated by the Bordeaux Apartments, which has twenty-two (22) residential units). The design of the garage and its entry ensure an appropriate transition from nearby less intense uses. The design of the garage entry minimizes the impacts of parking and does not negatively impact nearby residents or pedestrians.

**Circulation Guideline 7.** The waiver conforms to Circulation Guideline 7 and all applicable Policies adopted thereunder, including Policy 15. The alley, at only 15 feet in width, is very narrow for 2-way traffic. This condition would lead to slow movement conditions on the alley and traffic back-ups on Baringer Avenue. Moreover, the gradient differential between the alley and the rear of the building would compromise access into the underground garage. The proposed access shown on the development plan, at twenty-two (22') feet wide, will ensure that the access is safe, as indicated by the March 20, 2013 approval of the Department of Public Works.

**Transportation Facility Design Guideline 8.** The waiver conforms to Transportation Facility Design Guideline 8 and all applicable Policies adopted thereunder, including Policies 7, 9, 10 and 11. The front loaded parking garage is compatible with surrounding development because its design is aesthetically appropriate and creates no visual or other nuisance. The March 20, 2013 Department of Public Works approval of the development plan indicates that the internal circulation pattern of the garage and the garage entry is safe and efficient for pedestrians and motorists; and

**WHEREAS**, Alley access (i.e., access via the rear of the building) would not provide adequate maneuvering room to the parking garage if it were located at the rear of the building due to (i) the narrow width (15-feet) of the alley, and (ii) the grade change between the alley and the rear of the building which compromises or renders impossible safe and adequate vehicular movement as described above; and

**WHEREAS**, the Louisville Metro Planning Commission finds, the applicant has incorporated a garage design that approximates a large first floor window similar to the large window on the opposite side of the front building facade. This design exceeds the minimums of the district because LDC §5.4.1.C.3 has no design standards, and because animating features on the front building facade and at the garage entry exceed the requirements of LDC §5.4.1.C.3 because the front loaded

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garage has appropriate animating features (i.e., a 4-foot relief differential), and because the front loaded garage conforms to LDC §5.6.3 because of its high quality design and architectural interest; and

Moreover, 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 because the Landmarks Commission mandated the increased building setback from Willow Avenue, and because alley access to the rear of the building is impractical as discussed above. The waiver conforms to the intent of the Land Development Code to provide a high quality design of this individual site and to promote the redevelopment of the neighborhood in a manner compatible with the Traditional Neighborhood Form District and surrounding properties. In addition, this is a corner site adjacent to other tall residential multi-family buildings, and as such, is not typical of the structures depicted in drawings and diagrams shown in LDC §§5.2.2 and 5.4.1; and

**WHEREAS**, the Louisville Metro Planning Commission further finds the grant of the waiver would result in alley access where there is a significant grade change between the alley and the rear of the building, making access difficult or impossible. Because the front loaded garage entry has been design to resemble the large first floor window on the opposite side of the front building facade and is set in four (4) feet from the building facade, compliance with regulation is not appropriate and the waiver is more in keeping with the comprehensive Plan and the overall intent of the Land Development Code.

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** Waiver #2, to waive Land Development Code 5.4.1.C.3, to permit a front loaded garage based on Landmarks approval of the proposed building design, the applicant's justification and the discussion today.

**The vote was as follows:**

**YES: Commissioners Blake, Brown, Jarboe, Kirchdorfer, Proffitt, Tomes and Turner**

**NO: No one**

**NOT PRESENT AND NOT VOTING: Commissioners Butler, Peterson and White**

**ABSTAINING: No one**

**Waiver #3**

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On a motion by Commissioner Brown, seconded by Commissioner Tomes, the following resolution was adopted.

**WHEREAS**, The waiver will not adversely affect adjacent property owners because the alley is narrow, as described above, rendering two-way traffic on the alley difficult, possibly leading to backup situations on Baringer Avenue. The Department of Public Works approved the development plan on March 20, 2013. This approval indicates, among other things, that the proposed access as shown on the development plan is safe and efficient for use by pedestrians and motorists. Moreover, the traffic trip generation rate for twenty-four (24) residential units is so minimal that pedestrian movement on the abutting Baringer Avenue sidewalk will remain safe; and

**WHEREAS**, The waiver conforms to the Comprehensive Plan for the reasons stated below<sup>1</sup>:

**Compatibility Guideline 3.** The waiver conforms to Compatibility Guideline 3 and all applicable Policies adopted thereunder, including Policies 1, 3, 6, 9, 21, 23 and 25. Access from Baringer Avenue at the front of the site has been designed so that the driveway, its three (3) temporary visitor parking spaces, curved pedestrian walkway and substantial landscaping will be aesthetically pleasing and compatible with the neighborhood. The proposed access will be similar to 1400 Willow, which is also located on the west side of Willow Avenue. Additionally, the proposed garage entry is designed to be substantially similar to the large first floor window on the opposite side of the front facade of the building, so that it will "disappear" from view.

**Circulation Guideline 7.** The waiver conforms to Circulation Guideline 7 and all applicable Policies adopted thereunder, including Policy 15. The March 20, 2013 Department of Public Works approval of the development plan indicates that the proposed internal circulation pattern of the garage and the garage entry -which do not utilize the alley for access – are nevertheless safe and efficient for pedestrians on foot, and vehicular traffic both on-site and along Baringer and Willow Avenues. Moreover, not utilizing the narrow, 15-foot wide alley, will prevent congestion which may occur due to the difficulty of 2-way traffic movement in the alley, which could lead to traffic back- ups on Baringer Avenue.



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**Transportation Facility Design Guideline 8.** The waiver conforms to Transportation Facility Design Guideline 8 and all applicable Policies adopted thereunder, including Policies 7, 9, 10 and 11. Avoiding use of the narrow alley for access will prevent traffic congestion nuisances, and the proposed access has been designed to be visually pleasing as shown on the development plan and as detailed above, and to avoid the traffic conflict that is likely to occur if the narrow alley were used for access to the garage. Because of the narrowness of the alley, the proposed access directly from Baringer Avenue provides more safety to pedestrians and motorists than alley access would.

**Bicycle, Pedestrian and Transit Guideline 9.** The waiver conforms to Bicycle, Pedestrian and Transit Guideline 9 and all applicable Policies adopted thereunder, including Policy 1. Pedestrian movement on the abutting Baringer Avenue sidewalk will be safer with the access directly from Baringer Avenue as shown on the development plan than if access were taken from the alley because the narrowness of the alley would likely cause congestion at that location, causing a conflict between pedestrian movement and vehicle movement.

**WHEREAS**, Alley access (i.e., access via the rear of the building) would likely lead to vehicular congestion on Baringer Avenue due to traffic back-ups awaiting 2-way movement on the narrow alley. The grade change between the alley and the rear of the building would compromise or render impossible safe and adequate vehicular movement, as described above. Access to the site from Baringer Avenue is preferable to access from the alley or from Willow Avenue (a more intensely used street) because it provides more safety to motorists and pedestrians. Therefore, the proposed waiver is the minimum necessary to afford relief to the applicant; and

**WHEREAS**, the Louisville Metro Planning Commission finds, The applicant has incorporated a garage design that approximates a large first floor window similar to the large window on the opposite side of the front building facade. This design exceeds the minimums of the district because LDC §5.4.1.C.3 has no design standards, and because animating features on the front building facade and at the garage entry exceed the requirements of LDC §5.4.1.C.3 because the front loaded garage has appropriate animating features (i.e., a 4-foot relief differential from the front building facade), and because the front loaded garage conforms to LDC §5.6.3 because of its high quality design and architectural interest.

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Moreover, 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 because the Landmarks Commission mandated the increased building setback from Willow Avenue, and because alley access to the rear of the building is impractical and potentially unsafe as discussed above; and

**WHEREAS**, the Louisville Metro Planning Commission finds the waiver conforms to the intent of the Land Development Code to facilitate safe and adequate traffic and pedestrian movement and to avoid conflicts between vehicular and pedestrian movement which would likely be caused if access were situated via the narrow alley due to the difficulty of 2-way vehicular movement within the alley leading to traffic back-ups on Baringer Avenue. Additionally, the proposed location of the access will preserve the character of the neighborhood since that access location is consistent with access to the garage at the Dartmouth, immediately across Baringer Avenue from the site. Lastly, the proposed waiver conforms to the intent of the Land Development Code to limit or eliminate congestion on the public streets because alley access would compromise traffic safety due to its narrowness, likely causing vehicles on Baringer Avenue to back up on the street; and

**WHEREAS**, the Louisville Metro Planning Commission further finds strict compliance with the regulation would result in alley access where the alley is narrow, providing only limited 2-way access leading to potential congestion problems on Baringer Avenue, and would result in an access where there is a substantial grade change between the alley and the rear of the building, making access difficult or impossible. Because the front loaded garage entry has been design to resemble the large first floor window on the opposite side of the front building facade and is set in four (4) feet from the building facade, compliance with regulation is not appropriate and the waiver is more in keeping with the Comprehensive Plan and the overall intent of the Land Development Code, as discussed in Item Nos. 2 and 5 above.

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** Waiver #3, to waive Land Development Code 5.8.1.A.1 not to use the public alley to the rear of the site for access to the site based on the intensity of the use and it is a slightly less intense use than the existing structure, the applicant's justification and discussion today.

**The vote was as follows:**

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**YES: Commissioners Blake, Brown, Jarboe, Kirchdorfer, Proffitt, Tomes and Turner**

**NO: No one**

**NOT PRESENT AND NOT VOTING: Commissioners Butler, Peterson and White**

**ABSTAINING: No one**

**Waiver #4**

On a motion by Commissioner Brown, seconded by Commissioner Tomes, the following resolution was adopted.

**WHEREAS**, The waiver will not adversely affect adjacent property owners. The proposed access, drop-off and three (3) temporary visitor parking spaces having a decorative, colored concrete surface are designed with appropriate and aesthetically pleasing landscaping together with a curved pedestrian walkway leading to the Baringer Avenue/Willow Avenue sidewalk. Additionally, traffic circulation at 1400 Willow is also in front of the building. Additionally, alley access is not preferred because the alley is narrow, as described above, rendering two-way traffic on the alley difficult, possibly leading to backup situations on Baringer Avenue. The Department of Public Works approved the development plan showing traffic circulation in front of the building on March 20, 2013. This approval indicates, among other things, that the proposed access as shown on the development plan is safe and efficient for use by pedestrians and motorists. Moreover, the traffic trip generation rate for the proposed twenty-four (24) residential units is so minimal that pedestrian movement on the abutting Baringer Avenue sidewalk will remain safe; and

**WHEREAS**, The waiver conforms to the Comprehensive Plan for the reasons stated below<sup>1</sup>:

**Centers Guideline 2.** Centers Guideline 2 and Policies adopted thereunder are not applicable to this waiver because Centers Guideline 2 addresses mixed land uses and activity centers. The proposed development is not a "center" as defined by the Comprehensive Plan and the development does not propose a mix of land uses. On this corner lot, having traffic circulation in front of the building will provide greater safety to motorists and pedestrians walking along the abutting Baringer Avenue sidewalk than alley access would provide, for the reasons stated above. Moreover, the Department of Public Works approved the development plan on March 20, 2013. This approval

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indicates, among other things, that the proposed access with traffic circulation in front of the building is safe and appropriate for pedestrians and motorists.

**Compatibility Guideline 3.** The waiver conforms to Compatibility Guideline 3 and all applicable Policies adopted thereunder, including Policies 1, 3, 6, 9, 21, 23 and 25. The high quality design of the traffic circulation area, together with its decorative pavement, extensive landscaping and curved sidewalk ensure that the proposed traffic circulation area is appropriate for and compatible with the neighborhood. Adverse visual impacts will be prevented by the proposed design. Additionally, the garage entry, which is part of the traffic circulation area, will be set back four (4') feet from the front building facade thereby providing a visual relief feature and an attractive, welcoming street-level appearance.

**Open Space Guideline 4.** The waiver conforms to Open Space Guideline 4 and all applicable Policies adopted thereunder including Policies 1, 4 and 6. The safety of pedestrians on the Baringer Avenue sidewalk will be protected by virtue of traffic circulation in front of the building. Traffic trip generation from the proposed twenty-four (24) residential units is minimal and will have no impact on safe pedestrian movement on the sidewalk. Moreover, the extensive landscaping proposed for this area is aesthetically pleasing. The proposed location of traffic circulation in front of the building is similar to 1400 Willow which also has traffic circulation in front of the building

**Circulation Guideline 7.** The waiver conforms to Circulation Guideline 7 and all applicable Policies adopted thereunder, including Policy 15. The March 20, 2013 Department of Public Works approval of the development plan indicates that the proposed internal circulation pattern of the garage and the garage entry – which do not utilize the alley for access – are nevertheless safe and efficient for pedestrians on foot, and vehicular traffic both on-site and along Baringer and Willow Avenues. Moreover, not utilizing the narrow, 15-foot wide alley, will prevent congestion which may occur due to the difficulty of 2-way traffic movement in the alley, which could lead to traffic back-ups on Baringer Avenue.

**Transportation Facility Design Guideline 8.** The waiver conforms to Transportation Facility Design Guideline 8 and all applicable Policies adopted thereunder, including Policies 7, 9, 10 and 11. Avoiding use of the narrow alley for access will prevent traffic congestion nuisances, and the proposed access has been designed to be visually pleasing as shown on the development plan and as detailed

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above, and to avoid the traffic conflict that is likely to occur if the narrow alley were used for access to the garage. Because of the narrowness of the alley, the proposed access directly from Baringer Avenue provides more safety to pedestrians and motorists than alley access would.

**Bicycle, Pedestrian and Transit Guideline 9.** The waiver conforms to Bicycle, Pedestrian and Transit Guideline 9 and all applicable Policies adopted thereunder, including Policy 1. Pedestrian movement on the abutting Baringer Avenue sidewalk will be safer with the access directly from Baringer Avenue with traffic circulation in front of the building as shown on the development plan than if traffic circulation and access were taken from the alley; the narrowness of the alley would likely cause congestion at that location, causing a conflict between pedestrian movement and vehicle movement; and

**WHEREAS**, Alley access (i.e., access via the rear of the building) is the only potentially viable alternative to traffic circulation in front of the building; however, alley access would likely lead to vehicular congestion on Baringer Avenue due to traffic back-ups awaiting 2-way traffic movement by vehicles within the narrow alley. The grade change between the alley and the rear of the building would compromise or render impossible safe and adequate vehicular movement, as described above. Access to the site from Baringer Avenue with traffic circulation in front of the building is preferable to access from the alley or from Willow Avenue (a more intensely used street) because it provides more safety to motorists and pedestrians. Therefore, the proposed waiver is the minimum necessary to afford relief to the applicant; and

**WHEREAS**, The applicant has incorporated a garage design that approximates a large first floor window similar to the large window on the opposite side of the front building facade. This design exceeds the minimums of the district because LDC §5.4.1.C.3 has no design standards, and because animating features on the front building facade and at the garage entry exceed the requirements of LDC §5.4.1.C.3 because the front loaded garage has appropriate animating features (i.e., a 4-foot relief differential from the front building facade), and because the front loaded garage conforms to LDC §5.6.3 because of its high quality design and architectural interest. Moreover, the proposed access, drop-off and three (3) visitor parking spaces are proposed in a well-landscaped and aesthetically pleasing setting with a curved pedestrian walkway leading to the Baringer Avenue/Willow Avenue sidewalk. These design measures exceed the requirements of the district for appropriate landscaping,

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which together with the high quality design of the garage entry, will compensate for the waived requirements.

Moreover, 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 because the Landmarks Commission mandated the increased building setback from Willow Avenue, and because alley access to the rear of the building is impractical and potentially unsafe as discussed above; and

**WHEREAS**, the Louisville Metro Planning Commission finds the waiver conforms to the intent of the Land Development Code to facilitate safe and adequate traffic and pedestrian movement and to avoid conflicts between vehicular and pedestrian movement which would likely be caused if access were situated via the narrow alley due to the difficulty of 2-way vehicular movement within the alley leading to traffic back-ups on Baringer Avenue. Additionally, the proposed location of the access will preserve the character of the neighborhood since that access location is consistent with access to the garage at the Dartmouth, immediately across Baringer Avenue from the site. Lastly, the proposed waiver conforms to the intent of the Land Development Code to limit or eliminate congestion on the public streets because alley access would compromise traffic safety due to its narrowness, likely causing vehicles on Baringer Avenue to back up on the street; and

**WHEREAS**, the Louisville Metro Planning Commission further finds strict compliance with the regulation would result in alley access where the alley is narrow, providing only limited 2-way access leading to potential congestion problems on Baringer Avenue, and would result in an access where there is a substantial grade change between the alley and the rear of the building, making access difficult or impossible. Because the front loaded garage entry has been design to resemble the large first floor window on the opposite side of the front building facade and is set in four (4) feet from the building facade, compliance with regulation is not appropriate and the waiver is more in keeping with the Comprehensive Plan and the overall intent of the Land Development Code, as discussed in Item Nos. 2 and 5 above.

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** Waiver #4, to waive Land Development Code 5.9.2.C.4 to permit traffic circulation in front of the building based on the enhanced landscaping to be approved by the sub-committee for the site, the applicant's justification and the discussion today.

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**The vote was as follows:**

**YES: Commissioners Blake, Brown, Jarboe, Kirchdorfer, Proffitt, Tomes and Turner**

**NO: No one**

**NOT PRESENT AND NOT VOTING: Commissioners Butler, Peterson and White**

**ABSTAINING: No one**

**Waiver #5**

On a motion by Commissioner Brown, seconded by Commissioner Tomes, the following resolution was adopted.

**WHEREAS**, The waiver will not adversely affect adjacent property owners. The proposed three (3) temporary visitor parking spaces having a decorative, colored concrete surface are designed with appropriate and aesthetically pleasing landscaping together with a curved pedestrian walkway leading to the Baringer Avenue/Willow Avenue sidewalk. Additionally, 1400 Willow the subject site, also has parking in the public realm. Additionally, if access were to occur from alley there would be little or no space available on-site for needed temporary visitor parking. Access from the alley is not preferred because the alley is narrow, as described above, rendering two-way traffic on the alley difficult, possibly leading to backup situations on Baringer Avenue. The Department of Public Works approved the development plan showing parking in the public realm on March 20, 2013. This approval indicates, among other things, that the proposed access as shown on the development plan (including parking in the public realm) is safe and efficient for use by pedestrians and motorists. Moreover, the traffic trip generation rate for the proposed twenty-four (24) residential units is minimal and pedestrian movement on the abutting Baringer Avenue sidewalk will remain safe; and

**WHEREAS**, The waiver conforms to the Comprehensive Plan for the reasons stated below<sup>1</sup>:

**Centers Guideline 2.** Centers Guideline 2 and Policies adopted thereunder are not applicable to this waiver because Centers Guideline 2 addresses mixed land uses and activity centers. The proposed development is not a "center" as defined by the Comprehensive Plan and the development does not propose a mix of land uses. On this corner lot, having parking in the public realm will provide greater safety to motorists and pedestrians walking along the abutting Baringer Avenue sidewalk than alley access would provide, for the reasons stated above. Moreover, the Department of Public

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Works approved the development plan on March 20, 2013. This approval indicates, among other things, that the proposed access, including parking in the public realm, is safe and appropriate for pedestrians and motorists.

**Compatibility Guideline 3.** The waiver conforms to Compatibility Guideline 3 and all applicable Policies adopted thereunder, including Policies 1, 3, 6, 9, 21, 23 and 25. The high quality design of the three (3) temporary visitor parking spaces, which will have decorative pavement, extensive landscaping and a curved sidewalk will ensure that the proposed parking in the public realm is appropriate for and compatible with the neighborhood. Adverse visual impacts will be prevented by the proposed design. Additionally, the garage entry, which is part of the traffic circulation area, will be set back four (4') feet from the front building facade thereby providing a visual relief feature and an attractive, welcoming street-level appearance.

**Open Space Guideline 4.** The waiver conforms to Open Space Guideline 4 and all applicable Policies adopted thereunder including Policies 1, 4 and 6. The safety of pedestrians on the Baringer Avenue sidewalk will be protected by virtue of traffic circulation in front of the building, including three (3) parking spaces in the public realm. Traffic trip generation from the proposed twenty-four (24) residential units is minimal and will have no impact on safe pedestrian movement on the sidewalk. Moreover, the extensive landscaping proposed for this area is aesthetically pleasing and mitigates the impact that parking in the public realm might otherwise have. Parking in the public realm of this site is substantially similar to 1400 Willow from the subject site, which also has traffic circulation in front of the building

**Circulation Guideline 7.** The waiver conforms to Circulation Guideline 7 and all applicable Policies adopted thereunder, including Policy 15. The March 20, 2013 Department of Public Works approval of the development plan indicates that the proposed internal circulation pattern, which includes the proposed parking spaces, is safe and efficient for pedestrians on foot and vehicular traffic both on-site and along Baringer and Willow Avenues. Moreover, not utilizing the narrow, 15-foot wide alley, will prevent congestion which would likely occur due to the difficulty of 2-way traffic movement in the alley. Congestion in the alley would likely lead to traffic back-ups on Baringer Avenue, which could endanger pedestrians on the abutting Baringer Avenue sidewalk.

**Transportation Facility Design Guideline 8.** The waiver conforms to Transportation Facility Design Guideline 8 and all applicable Policies adopted



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thereunder, including Policies 7, 9, 10 and 11. Avoiding use of the narrow alley for access will prevent traffic congestion nuisances, and the proposed three (3) temporary visitor parking spaces in the public realm have been designed to be visually pleasing as shown on the development plan and as detailed above. Because the Landmarks Commission mandated that the building be moved toward the rear of the site, it would be difficult to provide necessary visitor parking. Because of the narrowness of the alley, the proposed access directly from Baringer Avenue provides more safety to pedestrians and motorists than alley access would.

**Bicycle, Pedestrian and Transit Guideline 9.** The waiver conforms to Bicycle, Pedestrian and Transit Guideline 9 and all applicable Policies adopted thereunder, including Policy 1. Pedestrian movement on the abutting Baringer Avenue sidewalk will be safer with the access directly from Baringer Avenue with traffic circulation and parking spaces in the public realm area as shown on the development plan than if traffic circulation and access were taken from the alley; the narrowness of the alley would likely cause congestion at that location, causing a conflict between pedestrian movement and vehicle movement; and

**WHEREAS**, Alley access (i.e., access via the rear of the building), which is the only other potentially viable alternative, would not be of sufficient size to provide for necessary visitor parking spaces. The proposed location of three (3) temporary visitor parking spaces in the public realm will be situated in a well-landscaped and aesthetically pleasing setting with a curved pedestrian walkway leading to the Baringer Avenue/Willow Avenue sidewalk, and parking in the public realm will be similar to that of 1400 Willow the subject site. Therefore, the proposed waiver is the minimum necessary to afford relief to the applicant; and

**WHEREAS**, The applicant has incorporated a front garage entry design that approximates a large first floor window similar to the large window on the opposite side of the front building facade. This design exceeds the minimums of the district because LDC §5.4.1.C.3 has no design standards, and because animating features on the front building facade and at the garage entry exceed the requirements of LDC §5.4.1.C.3 because the front loaded garage has appropriate animating features (i.e., a 4-foot relief differential from the front building facade), and because the front loaded garage conforms to LDC §5.6.3 because of its high quality design and architectural interest. Moreover, the proposed access, drop-off and three (3) visitor parking spaces are proposed in a well-landscaped and aesthetically pleasing setting with a curved

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pedestrian walkway leading to the Baringer Avenue/Willow Avenue sidewalk. The parking spaces will be surfaced with decorative, colored concrete and will be landscaped. These design measures exceed the requirements of the district for appropriate landscaping, which together with the high quality design of the parking spaces and garage entry, will compensate for the waived requirements.

Moreover, 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 because the Landmarks Commission mandated the increased building setback from Willow Avenue, and because alley access to the rear of the building is impractical and potentially unsafe as discussed above. In addition, the area at the rear of the building is not of sufficient size to locate the necessary visitor parking spaces; and

**WHEREAS**, The waiver conforms to the intent of the Land Development Code to facilitate safe and adequate traffic and pedestrian movement and to avoid conflicts between vehicular and pedestrian movement which would likely be caused if parking were situated at the rear of the site. Additionally, the proposed location of the parking spaces in the public realm will preserve the character of the neighborhood since that access location is consistent with parking in the public realm of 1400 Willow. Lastly, the proposed waiver conforms to the intent of the Land Development Code to limit or eliminate congestion on the public streets because alley access would compromise traffic safety due to its narrowness, likely causing vehicles on Baringer Avenue to back up on the street; and

**WHEREAS**, the Louisville Metro Planning Commission finds, strict compliance with the regulation would result in having fewer or no temporary visitor parking spaces. These parking spaces are necessary for guests of residents; however, the rear lot area is of insufficient size to allow for three (3) parking spaces and adequate maneuvering room. Moreover, the alley is narrow, providing only limited 2-way access leading to potential congestion problems on Baringer Avenue, and would result in an access where there is a substantial grade change between the alley and the rear of the building, making access difficult or impossible. Because the proposed parking spaces in the public realm will be well-landscaped, and paved with decorative, colored concrete, any undesirable features of the proposed three (3) parking spaces has been mitigated, making compliance with regulation inappropriate; the waiver is more in keeping with the Comprehensive Plan and the overall intent of the Land Development Code, as discussed in Item Nos. 2 and 4 above; and

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**WHEREAS**, the Louisville Metro Planning Commission further finds the strict application of the provision of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant.

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** Waiver #5, to waive Land Development Code 5.4.1.B.1.e to permit parking in the public realm based on the enhanced landscaping, the applicant's justification and the discussion today.

**The vote was as follows:**

**YES: Commissioners Blake, Brown, Jarboe, Kirchdorfer, Proffitt, Tomes and Turner**

**NO: No one**

**NOT PRESENT AND NOT VOTING: Commissioners Butler, Peterson and White**

**ABSTAINING: No one**

**Waiver #6**

On a motion by Commissioner Brown, seconded by Commissioner Proffitt, the following resolution was adopted.

**WHEREAS**, The waiver will not adversely affect adjacent property owners because the alley is narrow, as described above, rendering two-way traffic on the alley difficult, possibly leading to backup situations on Baringer Avenue. The Department of Public Works approved the development plan on March 20, 2013. This approval indicates, among other things, that the proposed access as shown on the development plan is safe and efficient for use by pedestrians and motorists. The traffic trip generation rate for twenty- four (24) residential units is so minimal that pedestrian movement on the abutting Baringer Avenue sidewalk will remain safe. The front area of the site has been designed so that the driveway, its three (3) temporary visitor parking spaces, curved pedestrian walkway and substantial landscaping have been proposed in an aesthetically pleasing manner, compatible with the neighborhood. This design is similar to 1400 Willow. Additionally, the proposed garage entry is designed to be substantially similar to the large first floor window on the opposite site of the front facade of the building, so that it will "disappear" from view; and

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**WHEREAS**, The waiver conforms to the Comprehensive Plan for the reasons stated below <sup>1</sup>:

**Compatibility Guideline 3.** The waiver conforms to Compatibility Guideline 3 and all applicable Policies adopted thereunder, including Policies 1, 3, 6, 9, 21, 23 and 25. Access from Baringer Avenue at the front of the site has been designed so that the driveway, its three (3) temporary visitor parking spaces, curved pedestrian walkway and substantial landscaping have been designed to be aesthetically pleasing and compatible with the neighborhood. This will be similar to 1400 Willow. Additionally, the proposed garage entry is designed to be substantially similar to the large first floor window on the opposite site of the front facade of the building, so that it will "disappear" from view.

**Circulation Guideline 7.** The waiver conforms to Circulation Guideline 7 and all applicable Policies adopted thereunder, including Policy 15. The March 20, 2013 Department of Public Works approval of the development plan indicates that the proposed internal circulation pattern of the garage and the garage entry – which do not utilize the alley for access – are nevertheless safe and efficient for pedestrians on foot, and vehicular traffic both on-site and along Baringer and Willow Avenues. Moreover, not utilizing the narrow, 15-foot wide alley, will prevent congestion which may occur due to the difficulty of 2-way traffic movement in the alley, which could lead to traffic back-ups on Baringer Avenue; and

**Transportation Facility Design Guideline 8.** The waiver conforms to Transportation Facility Design Guideline 8 and all applicable Policies adopted thereunder, including Policies 7, 9, 10 and 11. Avoiding use of the narrow alley for access will prevent traffic congestion nuisances, and the proposed access has been designed to be visually pleasing as shown on the development plan and as detailed above, and to avoid the traffic conflict that is likely to occur if the narrow alley were used for access to the garage. Because of the narrowness of the alley, the proposed access directly from Baringer Avenue provides more safety to pedestrians and motorists than alley access would.

**Bicycle, Pedestrian and Transit Guideline 9.** The waiver conforms to Bicycle, Pedestrian and Transit Guideline 9 and all applicable Policies adopted thereunder, including Policy 1. Pedestrian movement on the abutting Baringer Avenue sidewalk will be safer with the access directly from Baringer Avenue as shown on the development

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plan than if access were taken from the alley because the narrowness of the alley would likely cause congestion at that location, causing a conflict between pedestrian movement and vehicle movement.

**WHEREAS**, Alley access (i.e., access via the rear of the building) would likely lead to vehicular congestion on Baringer Avenue due to traffic back-ups awaiting 2-way movement on the narrow alley. The grade change between the alley and the rear of the building would compromise or render impossible safe and adequate vehicular movement, as described above. Access to the site from Baringer Avenue is preferable to access from the alley or from Willow Avenue (a more intensely used street) because it provides more safety to motorists and pedestrians. Therefore, the proposed waiver is the minimum necessary to afford relief to the applicant; and

**WHEREAS**, The applicant has incorporated a garage design that approximates a large first floor window similar to the large window on the opposite side of the front building facade. This design exceeds the minimums of the district because LDC §5.4.1.C.3 has no design standards, and because animating features on the front building facade and at the garage entry exceed the requirements of LDC §5.4.1.C.3 because the front loaded garage has appropriate animating features (i.e., a 4-foot relief differential from the front building facade), and because the front loaded garage conforms to LDC §5.6.3 because of its high quality design and architectural interest.

Moreover, 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 because the Landmarks Commission mandated the increased building setback from Willow Avenue, and because alley access to the rear of the building is impractical and potentially unsafe as discussed above; and

**WHEREAS**, The waiver conforms to the intent of the Land Development Code to facilitate safe and adequate traffic and pedestrian movement and to avoid conflicts between vehicular and pedestrian movement which would likely be caused if access were situated via the narrow alley due to the difficulty of 2-way vehicular movement within the alley leading to traffic back-ups on Baringer Avenue. Additionally, the proposed location of the access will preserve the character of the neighborhood since that access location is consistent with access to the garage at the Dartmouth, immediately across Baringer Avenue from the site. Lastly, the proposed waiver conforms to the intent of the Land Development Code to limit or eliminate congestion

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on the public streets because alley access would compromise traffic safety due to its narrowness, likely causing vehicles on Baringer Avenue to back up on the street; and

**WHEREAS**, the Louisville Metro Planning Commission finds, strict compliance with the regulation would result in alley access where the alley is narrow, providing only limited 2-way access leading to potential congestion problems on Baringer Avenue, and would result in an access where there is a substantial grade change between the alley and the rear of the building, making access difficult or impossible. Because the front loaded garage entry has been design to resemble the large first floor window on the opposite side of the front building facade and is set in four (4) feet from the building facade, compliance with regulation is not appropriate and the waiver is more in keeping with the Comprehensive Plan and the overall intent of the Land Development Code, as discussed in Item Nos. 2 and 5 above.

**WHEREAS**, the Louisville Metro Planning Commission further finds the strict application of the provision of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant.

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** Waiver #6, to waive Land Development Code 5.4.1.E.3 not to provide access to parking from the rear alley and not to provide parking in the accessory structure/use area based on the applicant's justification and the discussions today.

**The vote was as follows:**

**YES: Commissioners Blake, Brown, Jarboe, Kirchdorfer, Proffitt, Tomes and Turner**

**NO: No one**

**NOT PRESENT AND NOT VOTING: Commissioners Butler, Peterson and White**

**ABSTAINING: No one**

**Waiver #7**

On a motion by Commissioner Brown, seconded by Commissioner Proffitt, the following resolution was adopted.

**WHEREAS**, The waiver will not adversely affect adjacent property owners. The proposed three (3) temporary visitor parking spaces having a decorative, colored concrete surface are designed with appropriate and aesthetically pleasing landscaping

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together with a curved pedestrian walkway leading to the Baringer Avenue/Willow Avenue sidewalk. Additionally, 1400 Willow also has parking in the public realm. Additionally, if access were to occur from alley there would be little or no space available on-site for needed temporary visitor parking. Access from the alley is not preferred because the alley is narrow, as described above, rendering two-way traffic on the alley difficult, possibly leading to backup situations on Baringer Avenue. The Department of Public Works approved the development plan showing parking in the public realm on March 20, 2013. This approval indicates, among other things, that the proposed access as shown on the development plan (including parking in the public realm) is safe and efficient for use by pedestrians and motorists. Moreover, the traffic trip generation rate for the proposed twenty-four (24) residential units is minimal and pedestrian movement on the abutting Baringer Avenue sidewalk will remain safe; and

**WHEREAS**, The waiver conforms to the Comprehensive Plan for the reasons stated below<sup>1</sup>:

**Centers Guideline 2.** Centers Guideline 2 and Policies adopted thereunder are not applicable to this waiver because Centers Guideline 2 addresses mixed land uses and activity centers. The proposed development is not a "center" as defined by the Comprehensive Plan and the development does not propose a mix of land uses. On this corner lot, having parking between the front facade of the building and the primary street will provide greater safety to motorists and pedestrians walking along the abutting Baringer Avenue sidewalk than alley access would provide, for the reasons stated above. Moreover, the Department of Public Works approved the development plan on March 20, 2013. This approval indicates, among other things, that the proposed access, including parking between the front facade of the building and the primary street, is safe and appropriate for pedestrians and motorists.

**Compatibility Guideline 3.** The waiver conforms to Compatibility Guideline 3 and all applicable Policies adopted thereunder, including Policies 1, 3, 6, 9, 21, 23 and 25. The high quality design of the three (3) temporary visitor parking spaces, which will have decorative pavement, extensive landscaping and a curved sidewalk will ensure that the proposed parking between the front facade of the building and the public street is appropriate for, and compatible with, the neighborhood. Adverse visual impacts will be prevented by the proposed design and landscaping. Additionally, the garage entry, which is part of the traffic circulation area, will be set back four (4')

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feet from the front building facade thereby providing a visual relief feature and an attractive, welcoming street-level appearance.

**Open Space Guideline 4.** The waiver conforms to Open Space Guideline 4 and all applicable Policies adopted thereunder including Policies 1, 4 and 6. The safety of pedestrians on the Baringer Avenue sidewalk will be protected by virtue of traffic circulation in front of the building, including three (3) parking spaces between the front facade of the building and the primary street. Traffic trip generation from the proposed twenty-four (24) residential units is minimal and will have no impact on safe pedestrian movement on the sidewalk. Moreover, the extensive landscaping proposed for this area is aesthetically pleasing and mitigates the impact that parking where proposed might otherwise have. On this corner site, parking between the front building facade and the primary street is substantially similar to 1400 Willow from the subject site, which also has parking between the front facade of the building and the primary street.

**Circulation Guideline 7.** The waiver conforms to Circulation Guideline 7 and all applicable Policies adopted thereunder, including Policy 15. The March 20, 2013 Department of Public Works approval of the development plan indicates that the proposed internal circulation pattern, which includes the proposed parking spaces, is safe and efficient for pedestrians on foot and vehicular traffic both on-site and along Baringer and Willow Avenues. Moreover, avoiding access via the narrow, 15-foot wide alley, will prevent congestion which would likely occur due to the difficulty of 2-way traffic movement in the alley. Congestion in the alley would likely lead to traffic back-ups on Baringer Avenue, which could endanger pedestrians on the abutting Baringer Avenue sidewalk and vehicles on Baringer Avenue.

**Transportation Facility Design Guideline 8.** The waiver conforms to Transportation Facility Design Guideline 8 and all applicable Policies adopted thereunder, including Policies 7, 9, 10 and 11. Avoiding use of the narrow alley for access will prevent traffic congestion nuisances, and the proposed three (3) temporary visitor parking spaces in the public realm have been designed to be visually pleasing as shown on the development plan and as detailed above. Because the Landmarks Commission mandated that the building be moved toward the rear of the site, it would be difficult to provide necessary visitor parking in the accessory structure/use area. Because of the narrowness of the alley, the proposed access directly from Baringer Avenue provides more safety to pedestrians and motorists than alley access would.



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**Bicycle, Pedestrian and Transit Guideline 9.** The waiver conforms to Bicycle, Pedestrian and Transit Guideline 9 and all applicable Policies adopted thereunder, including Policy 1. Pedestrian movement on the abutting Baringer Avenue sidewalk will be safer with the access directly from Baringer Avenue with traffic circulation and parking spaces in the public realm area as shown on the development plan than if traffic circulation and access were taken from the alley; the narrowness of the alley would likely cause congestion at that location, causing a conflict between pedestrian movement and vehicle movement; and

**WHEREAS,** Due to the Landmarks Commission approval mandating the location of the building where shown on the development plan leaves insufficient room for the three (3) necessary temporary visitor parking spaces because the accessory structure/use area - which is the only other potentially viable alternative -- would not be of sufficient size to provide for necessary visitor parking spaces. The proposed location of three (3) temporary visitor parking spaces between the front building facade and the primary street will be situated in a well-landscaped and aesthetically pleasing setting with a curved pedestrian walkway leading to the Baringer Avenue/Willow Avenue sidewalk, and parking between the front facade of the building and the primary street will be similar to that of 1400 Willow the subject site. Therefore, the proposed waiver is the minimum necessary to afford relief to the applicant.

The applicant has incorporated a front garage entry design that approximates a large first floor window similar to the large window on the opposite side of the front building facade. This design exceeds the minimums of the district because LDC §5.4.1.C.3 has no design standards, and because animating features on the front building facade and at the garage entry exceed the requirements of LDC §5.4.1.C.3 because the front loaded garage has appropriate animating features (i.e., a 4-foot relief differential from the front building facade), and because the front loaded garage conforms to LDC §5.6.3 because of its high quality design and architectural interest. Moreover, the proposed access, drop-off and three (3) visitor parking spaces are proposed in a well-landscaped and aesthetically pleasing setting with a curved pedestrian walkway leading to the Baringer Avenue/Willow Avenue sidewalk. The parking spaces will be surfaced with decorative, colored concrete and will be well-landscaped. These design measures exceed the minimum requirements of the district for appropriate landscaping, which together with the high quality design of the parking spaces and garage entry, will compensate for the waived requirements.

Moreover, 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 because the Landmarks Commission mandated the increased building

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setback from Willow Avenue, and because alley access to the rear of the building is impractical and potentially unsafe as discussed above. In addition, the area at the rear of the building is not of sufficient size to locate the necessary visitor parking spaces; and

**WHEREAS**, The waiver conforms to the intent of the Land Development Code to facilitate safe and adequate traffic and pedestrian movement and to avoid conflicts between vehicular and pedestrian movement which would likely be caused if parking were situated at the rear of the site. Additionally, the proposed location of the parking spaces between the front building facade and the primary street will preserve the character of the neighborhood since that access location is consistent with 1400 Willow which has parking situated between the front of the structure and the primary street. Lastly, the proposed waiver conforms to the intent of the Land Development Code to limit or eliminate congestion on the public streets because alley access would compromise traffic safety due to its narrowness, likely causing vehicles on Baringer Avenue to back up on the street; and

**WHEREAS**, the Louisville Metro Planning Commission finds Strict compliance with the regulation would result in having fewer or no temporary visitor parking spaces. These parking spaces are necessary for guests of residents; however, the rear lot area is of insufficient size to allow for three (3) parking spaces and adequate maneuvering room. Moreover, the alley is narrow, providing only limited 2-way access leading to potential congestion problems on Baringer Avenue, and would result in an access where there is a substantial grade change between the alley and the rear of the building, making access difficult or impossible. Because the proposed parking spaces in the public realm will be well-landscaped, and paved with decorative, colored concrete, any undesirable features of the proposed three (3) parking spaces has been mitigated, making compliance with regulation inappropriate; the waiver is more in keeping with the Comprehensive Plan and the overall intent of the Land Development Code, as discussed in Item Nos. 2 and 4 above; and

**WHEREAS**, the Louisville Metro Planning Commission further finds the strict application of the provision of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant.

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** Waiver #7, to waive Land Development Code 5.4.1.G.3 to permit parking between the front facade of the structure and the primary street, with an attached garage

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having a door above the established grade of the abutting public right-of-way based on the enhanced landscaping, the applicant's justification and the discussion today.

**The vote was as follows:**

**YES: Commissioners Blake, Brown, Jarboe, Kirchdorfer, Proffitt, Tomes and Turner**

**NO: No one**

**NOT PRESENT AND NOT VOTING: Commissioners Butler, Peterson and White**

**ABSTAINING: No one**

**DDP**

On a motion by Commissioner Brown, seconded by Commissioner Proffitt, the following resolution was adopted.

**WHEREAS**, The site has some stands of existing trees. The applicant has agreed to work with the Cherokee Triangle Association and the Olmsted Conservancy to plant new trees on site. The site is not an historic site, except that the historic building at 1426 Willow Avenue will be saved. The site has no steep slopes, streams or water courses, flood plains, wet soils or unstable soils. In addition, no adverse air quality impacts will be caused by the proposal. Views from adjacent residences of Cherokee Park area will not be impacted by the proposed building location, nor would they be impacted by its height; and

**WHEREAS**, The Department of Public Works approved the development plan on March 20, 2013. That approval indicates, among other things, that the proposed access and parking areas will be safe and efficient for pedestrians and motorists. Vehicular access from Baringer Avenue provides more safety to motorists and pedestrians than if the access were via the alley to the rear of the subject site. The alley is narrow at 15 feet wide, causing difficulty for 2-way movement of vehicles. That difficulty of movement would lead to occasions of traffic back-ups on Baringer Avenue, compromising motorist and pedestrian safety since pedestrians may be walking in the abutting sidewalk along Baringer Avenue. The proposed access is 22-foot wide, which is an appropriate width; and

**WHEREAS**, The development has sufficient open space to meet the needs of the residents in the 24 multi-family units in the Willow Grande building because of the protected patio and pool area in the private yard area and because Cherokee Park is located in the immediate vicinity; and

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**WHEREAS**, The Metropolitan Sewer District approved the development plan on March 20, 2013. This approval indicates, among other things, that on-site drainage facilities are sufficient to prevent drainage problems arising from the development impacting the subject site or the community; and

**WHEREAS**, the Louisville Metro Planning Commission finds, the Louisville Landmarks Commission mandated the setback of the building from Willow Avenue to be consistent with the existing front yard setbacks of the adjacent Dartmouth and Willow Grande buildings. The proposed Willow Grande building bears a greater architectural relationship with these other high rise multi-family buildings than other multi-family and single-family buildings. In addition, just like the Willow Grande site, both the Dartmouth and the Willow Terrace front on Willow Avenue and are located on the west side of Willow Avenue; and

**WHEREAS**, the Louisville Metro Planning Commission further finds the proposal conforms to the Comprehensive Plan for the reasons previously set forth in the Zone Change Justification Statement most recently submitted to the Planning Commission at its February 25, 2015 public hearing.

The proposal conforms to the Land Development Code because all required variances and waivers are appropriate as set forth in the Justification Statements submitted for each variance and waiver. The development plan conforms to all other applicable Land Development Code provisions.

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **RECOMMEND**, to Metro Council, **APPROVAL** of the District Development Plan and the proposed binding elements on pages 20 and 21 of the staff report, with the following revisions: binding element no. 9 shall include – The applicant shall purchase a lifetime memberships in the Cherokee Triangle Association for the initial condominium unit owner at the time of sale; binding element no. 11 – add a separate sentence – Compliance with binding element shall be completed within one year of Certificate of Occupancy for the first unit; binding element no. 13 – strike it altogether and replace with the following: The applicant shall restore the brick alley that abuts the property in accordance with Public Works and Historic Preservation standards. Construction plans, bonds and encroachment permit are required for alley reconstruction prior to issuance of any building permits; add a binding element no. 14 – The applicant shall submit a landscape plan for the site that would include the enhanced landscaping to be approved by a sub-committee of the Planning Commission prior to issuance of any building permits for the site. The enhanced landscaping will be to fulfill the intent of the

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screening the front garage door, the parking area and vehicular maneuvering from both Willow and Baringer **SUBJECT** to the following binding elements:

**Proposed Binding Elements**

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. The development shall not exceed 97,874 square feet of gross floor area.
3. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
4. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested:
  - a. The development plan must receive full construction approval from 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 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; transmittal of the approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
  - 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.
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

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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. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
8. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the February 25, 2015 Planning Commission meeting and as approved by the Cherokee Triangle Architectural Review Committee.
9. The applicant shall purchase a lifetime memberships in the Cherokee Triangle Association for the initial condominium unit owner at the time of sale.
10. There will be a condominium association formed (composed of the unit owners) that will have responsibility for the maintenance of the building as well as the common areas. Note that it is typical for the lawns, grounds and maintenance of the condominiums buildings to be managed by the very owners that reside in the development and are generally maintained to a much higher degree and standard than apartment rentals.
11. The applicant will consult with the CTA Tree Committee, the Olmstead Conservancy and other appropriate parties to develop a tree planting program with the Cherokee Triangle and will commit to contributing 100 trees to the program. In addition, the applicant will contribute \$20,000 towards an endowment fund to be established for the maintenance, landscaping and improvements to Willow Park. Compliance with binding element shall be completed within one year of Certificate of Occupancy for the first unit;

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12. The development will provide two parking spaces per ownership unit within the building. In addition, several visitor and overnight spaces will be provided within the structure as well. The 3 proposed parking spaces in the front of the building will be adequately screened and landscaped to avoid any perceived visual impacts.
13. The applicant shall restore the brick alley that abuts the property in accordance with Public Works and Historic Preservation standards. Construction plans, bonds and encroachment permit are required for alley reconstruction prior to issuance of any building permits.
14. The applicant shall submit a landscape plan for the site that would include the enhanced landscaping to be approved by a sub-committee of the Planning Commission prior to issuance of any building permits for the site. The enhanced landscaping will be to fulfill the intent of the screening the front garage door, the parking area and vehicular maneuvering from both Willow and Baringer.

**The vote was as follows:**

**YES: Commissioners Blake, Brown, Kirchdorfer, Proffitt, Tomes and Turner**

**NO: Commissioner Jarboe**

**NOT PRESENT AND NOT VOTING: Commissioners Butler, Peterson and White**

**ABSTAINING: No one**

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**CASE NO. 14ZONE1041**

Request: Change in Zoning from R-5 to OR  
Project Name: HAQ Medical Office  
Location: 2125/2127 Bashford Manor Drive and 3506  
Bardstown Road

Owner: HAQS LLC  
Applicant: HAQS LLC

Representative: Milestone Design Group, Inc.  
108 Daventry Lane  
Louisville, Ky. 40223

Wyatt Tarrant and  
Combs  
500 West Jefferson Street, Suite 2800  
Louisville, Ky. 40202

Jurisdiction: Louisville Metro  
Council District: 10-Steve Magre  
**Case Manager: Julia Williams, AICP, Planner II**

**NOTE: COMMISSIONER PROFFITT LEFT AND DID NOT VOTE ON THIS CASE**

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:**

01:36:09 Ms. Williams discussed the case summary, standard of review and staff analysis from the staff report.

**The following spoke in favor of this request:**

Cliff Ashburner, Wyatt, Tarrant and Combs, 500 West Jefferson Street, Suite 2800, Louisville, Ky. 40202



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**Summary of testimony of those in favor:**

01:43:34 Mr. Ashburner said the only access for the site is off Bardstown Rd. The appearance of Bashford Manor will not change. The plan is in compliance with all applicable guidelines.

**Deliberation**

01:49:03 Planning Commission deliberation.

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

On a motion by Commissioner Jarboe, seconded by Commissioner Turner, the following resolution was adopted.

**REZONING**

**WHEREAS**, The Neighborhood Form is characterized by predominantly residential uses that vary from low to high density and that blend compatibly into the existing landscape and neighborhood areas. High-density uses will be limited in scope to minor or major arterials and to areas that have limited impact on the low to moderate density residential areas; and

**WHEREAS**, The Neighborhood Form will contain diverse housing types in order to provide housing choice for differing ages and incomes. New neighborhoods are encouraged to incorporate these different housing types within a neighborhood as long as the different types are designed to be compatible with nearby land uses. These types may include, but not be limited to large lot single family developments with cul-de-sacs, neo-traditional neighborhoods with short blocks or walkways in the middle of long blocks to connect with other streets, villages and zero lot line neighborhoods with open space, and high density multi-family condominium-style or rental housing; and

**WHEREAS**, The Neighborhood Form may contain open space and, at appropriate locations, civic uses and neighborhood centers with a mixture of uses such as offices, retail shops, restaurants and services. These neighborhood centers should be at a scale that is appropriate for nearby neighborhoods. The Neighborhood Form should provide for accessibility and connectivity between adjacent uses and neighborhoods by automobile, pedestrian, bicycles and transit; and

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**WHEREAS**, the Louisville Metro Planning Commission finds neighborhood streets may be either curvilinear, rectilinear or in a grid pattern and should be designed to invite human interaction. Streets are connected and easily accessible to each other, using design elements such as short blocks or bike/walkways in the middle of long blocks to connect with other streets. Examples of design elements that encourage this interaction include narrow street widths, street trees, sidewalks, shaded seating/gathering areas and bus stops. Placement of utilities should permit the planting of shade trees along both sides of the streets; and

**WHEREAS**, the Louisville Metro Planning Commission further finds the proposal meets the guidelines of the Comprehensive Plan and LDC. The proposal is located along a major arterial and a collector level roadway. It will have little impact on adjacent residential uses. The proposal will be a part of an existing center that has been established along the Bardstown Road corridor. The proposal is for both new construction and the reuse of an existing building for an office. The zoning is similar to other zoning in the area, which encourages a sense of place.

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to Louisville Metro, **APPROVAL** of the change in zoning from R-5 to OR for Case No. 14ZONE1041 based on the staff report, the applicant's statements on pages 2 and 3 of the staff report and testimony heard today.

**The vote was as follows:**

**YES: Commissioners Blake, Brown, Jarboe, Kirchdorfer, Tomes and Turner**

**NO: No one**

**NOT PRESENT AND NOT VOTING: Commissioners Butler, Peterson, Proffitt and White**

**ABSTAINING: No one**

**Variance**

On a motion by Commissioner Jarboe, seconded by Commissioner Turner, the following resolution was adopted.

**WHEREAS**, The variance will not affect the public because there are a mix of uses along the property line where the variance is being requested. One of the lots is zoned both OR-1 and R-5 which has an office use on it while the other has an existing residential structure. The landscape buffer will be provided to screen the proposed use; and

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**WHEREAS**, The variance will not alter the character of the area because the Bardstown Road corridor has inconsistent setbacks within the area; and

**WHEREAS**, The variance will not affect the public because the setbacks in the area are variable; and

**WHEREAS**, The requested variance is not unreasonable as there are variable setbacks located within the area; and

**WHEREAS**, the variance is a special circumstance as it only applies to land adjacent to residential. The adjacent residential zones belong to both an office with part residential zoning and a single family residence. Most of the lots located along Bardstown Road are not adjacent to residential along a side property line. Most are located at a rear property line; and

**WHEREAS**, the Louisville Metro Planning Commission finds the strict application would deprive the applicant of reasonable use of the land because most of the lot is adjacent to an office with only a small portion adjacent to residential. The request has been mitigated with the LBA and the applicant providing the required planting materials; and

**WHEREAS**, the Louisville Metro Planning Commission further finds the applicant was aware of the setback requirements during the submittal of the application.

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** the Variance from table 5.3.2 to permit the encroachment of the proposed building into the 30 foot setback where the site is adjacent to residential based on the staff report, testimony heard today, the applicant's statement and refer to pages 4 and 5 of the staff report.

**The vote was as follows:**

**YES: Commissioners Blake, Brown, Jarboe, Kirchdorfer, Tomes and Turner**

**NO: No one**

**NOT PRESENT AND NOT VOTING: Commissioners Butler, Peterson, Proffitt and White**

**ABSTAINING: No one**

**Waiver**

On a motion by Commissioner Jarboe, seconded by Commissioner Turner, the following resolution was adopted.

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**WHEREAS**, The proposed encroachments into the 15' LBA will not adversely affect adjacent property owners because the house that encroaches is existing and the screening requirements will still be met; and

**WHEREAS**, The waiver will not violate guidelines of Cornerstone 2020 as the planting and screening requirements will still be met; and

**WHEREAS**, the Louisville Metro Planning Commission finds permitting the encroachment of the existing structure allows the applicant to renovate and reuse the structure; and

**WHEREAS**, the Louisville Metro Planning Commission further finds the existing structure is being preserved and reused. Removing the structure to provide the buffer would be a hardship on the applicant.

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** the Waiver from 10.2.4 to permit the encroachment of an existing building into the 15 foot LBA along the west property line base on staff report (page 5) and the testimony from the applicant.

**The vote was as follows:**

**YES: Commissioners Blake, Brown, Jarboe, Kirchdorfer, Tomes and Turner**

**NO: No one**

**NOT PRESENT AND NOT VOTING: Commissioners Butler, Peterson, Proffitt and White**

**ABSTAINING: No one**

On a motion by Commissioner Jarboe, seconded by Commissioner Turner, the following resolution was adopted.

**WHEREAS**, Natural features are not evident on the site; and

**WHEREAS**, There is one vehicle entrance off of Bardstown Road and a sidewalk to address pedestrians and transit users; and

**WHEREAS**, The open space for the site is mainly along the fronts of the site within the LBA; and

**WHEREAS**, MSD has preliminarily approved the proposal; and

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**WHEREAS**, the Louisville Metro Planning Commission finds the site design is consistent with other uses along the Bardstown Road corridor. The existing residential building is being preserved to fit in with the existing residential along Bashford Manor Lane; and

**WHEREAS**, the Louisville Metro Planning Commission further finds the proposal meets the guidelines of the Comprehensive Plan and LDC.

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** the District Development Plan and the binding elements for Case No. 14ZONE1041 based on the staff report (pages 3 and 4) and the applicant's statement **SUBJECT** to the following Binding Elements:

**Proposed Binding Elements**

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. The development shall not exceed 5,340 square feet of gross floor area.
3. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
4. The existing access point is to be closed and access to the site be made from the new curb cuts as shown on the development plan.
5. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
6. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration 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.
  - 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; transmittal of the approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
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.
8. There shall be no outdoor music live, piped, radio or amplified) or outdoor entertainment or outdoor PA system (audible beyond the property line.
9. 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.
10. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the March 5, 2015 Planning Commission meeting.
11. The applicant will work with TARC, during the construction design phase of the proposal, on the location of a concrete pad on Bashford Manor Lane. The pad

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shall be constructed by the applicant. A Public Facilities Easement will be dedicated to include the portion of the concrete pad that will be within the parcel.

**The vote was as follows:**

**YES: Commissioners Blake, Brown, Jarboe, Kirchdorfer, Tomes and Turner**

**NO: No one**

**NOT PRESENT AND NOT VOTING: Commissioners Butler, Peterson, Proffitt and White**

**ABSTAINING: No one**

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**CASE NO. 14ZONE1056**

Request: Change in zoning from M-1 to EZ-1  
Project Name: The Edison Center  
Location: 1228 South 7<sup>th</sup> Street  
Owner: The Edison Center LLC  
Applicant: The Edison Center LLC  
Representative: Sabak Wilson and Lingo Inc.  
Jurisdiction: Louisville Metro  
Council District: 6-David James  
**Case Manager: Julia Williams, AICP, Planner II**

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

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

**Agency Testimony:**

01:33:29 Ms. Williams said this case was noticed but the sign was not posted. The case needs to be placed on the April 2, 2015 agenda. The sign has been posted for that date.

**Deliberation**

01:34:39 Planning Commission deliberation.

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

On a motion by Commissioner Proffitt, seconded by Commissioner Brown, the following resolution was adopted.

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **CONTINUE** Case No. 14ZONE1056 to the April 2, 2015 Planning Commission meeting based on staff's information provided to the commissioners.

**The vote was as follows:**

**YES: Commissioners Blake, Brown, Jarboe, Kirchdorfer, Tomes and Turner**



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**NO: No one**

**NOT PRESENT AND NOT VOTING: Commissioners Butler, Peterson, Proffitt and White**

**ABSTAINING: No one**

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**CASE NO. 14ZONE1050**

Request: Change in zoning from C-3 to EZ-1  
Project Name: Old Forester  
Location: 117-119 West Main Street  
Louisville, Ky. 40202

Owner: Main Street Revitalization, LLC  
710 West Main Street, Suite 300  
Louisville, Ky. 40202

Applicant: Brown-Forman Corporation  
Mike Beach  
850 Dixie Highway  
Louisville, Ky. 40210

Representative: EHI Consultants  
Rachel Phillips  
815 West Market Street  
Louisville, Ky. 40202

T. Bruce Simpson, Jr.  
Stoll Keenon Ogden, PLLC  
300 West Vine Street, Suite 2100  
Lexington, Ky. 40507

Jurisdiction: Louisville Metro  
Council District: 4- David Tandy  
**Case Manager: Christopher Brown, Planner II**

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

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

**Agency Testimony:**

01:53:59 Mr. Brown discussed the case summary, standard of review and staff analysis from the staff report.

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**The following spoke in favor of this request:**

Nick Nicholson, 300 West Vine Street, Suite 2100, Lexington, Ky. 40507  
Mike Beach, Brown-Forman Corporation, 850 Dixie Highway, Louisville, Ky. 40210

**Summary of testimony of those in favor:**

01:59:39 Mr. Nicholson said this case has already gone before the Waterfront Overlay Committee and was approved. "We are in complete agreement of the staff report and the recommended binding elements".

02:01:11 Mr. Beach said they intend to start construction this summer and hope to be operational at the end of 2016.

**Deliberation**

02:01:39 Planning Commission deliberation.

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

**Zoning Change from C-3 to EZ-1**

02:03:23 On a motion by Commissioner Tomes, seconded by Commissioner Turner, the following resolution was adopted.

**WHEREAS**, The site is located in the Downtown Form District. This form is characterized by its location near the center of the population it serves. The Downtown Form is comprised of predominantly office, commercial, civic, medical, high-density residential and cultural land uses. It has a grid pattern of streets designed to accommodate a large volume of vehicular traffic and public transportation. There are provisions for on-street and long-term parking of vehicles and for substantial pedestrian and non-vehicular movement within the district. Buildings are generally the greatest in volume and height in the metropolitan area, and there is public open space including plazas and squares. The Downtown Form should give identity to the whole community and should provide for a mixture of high density and intensity uses. Unlike the other community forms, the Downtown is already a geographically defined area that is described by Louisville Codified Ordinance and in the Louisville Downtown Development Plan. The Downtown Development Plan also recognizes that Downtown consists of seven sub-districts and describes those sub-districts. The Downtown

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Development Plan and its successors are to be used as official planning evidence guiding land use decisions in the Downtown; and

**WHEREAS**, The proposal to rezone the subject site from C-3, Commercial, to EZ-1, Enterprise Zone, will allow the two current vacant lots with existing historic facades to be built as mixed use distilleries. The Downtown form district encourages a mixture of high density and intensity uses. The proposed mixed commercial and distillery structure utilizes the existing facades to connect the new construction with the existing historic Whiskey Row along West Main Street; and

**WHEREAS**, The applicant has demonstrated that the proposed EZ-1 zoning district will comply with **Guideline 1, Community Form** since the proposal is for a mixed use zoning district that includes commercial and industrial uses in a similar pattern as development in the surrounding downtown. The proposal does not change the street pattern. On street parking is available along Washington Street to the rear of the buildings. The existing and future expansion of the sidewalks provides complete pedestrian connectivity with transit routes running along West Main Street; and

**WHEREAS**, The applicant has demonstrated that the proposed EZ-1 zoning district will comply with **Guideline 3, Compatibility** with The existing building facades will be incorporated into the new construction. Zero lot line setbacks will be followed with the proposal similar to the existing buildings in the area. The building height proposed will be compatible to the existing structures in the area; and

**WHEREAS**, The proposal complies with the natural areas guidelines of the Comprehensive Plan under **Guideline 5, Natural Areas and Scenic and Historic Resources** since the proposal is for the preservation of the existing facades and construction of new structures that will incorporate into the historic structures along West Main Street; and

**WHEREAS**, The proposal complies with the guidelines of the Comprehensive Plan under **Guideline 6, Economic Growth and Sustainability** since it is for the reinvestment and rehabilitation of an existing historic façade with new construction located in downtown. The proposal includes both commercial retail and industrial components within the mixed use structure in a population center; and

**WHEREAS**, the Louisville Metro Planning Commission finds, the proposal provides for appropriate multi-modal transportation facilities following the Comprehensive Plan under **Guidelines 7 and 8, Circulation and Transportation Facility Design** with full pedestrian connectivity, and access for bicycle and transit users to the site; and

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**WHEREAS**, the Louisville Metro Planning Commission further finds all other agency comments should be addressed to demonstrate compliance with the remaining Guidelines and Policies of Cornerstone 2020.

The Louisville Metro Planning Commission is charged with making a recommendation to the Louisville Metro Council regarding the appropriateness of this zoning map amendment. The Louisville Metro Council has zoning authority over the property in question.

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **RECOMMEND**, to Metro Council, **APPROVAL** of the zoning change from C-3 to EZ-1 based on the evidence and testimony heard today and the staff report.

**The vote was as follows:**

**YES: Commissioners Blake, Brown, Jarboe, Kirchdorfer, Tomes and Turner**

**NO: No one**

**NOT PRESENT AND NOT VOTING: Commissioners Butler, Peterson, Proffitt and White**

**ABSTAINING: No one**

On a motion by Commissioner Tomes, seconded by Commissioner Turner, the following resolution was adopted.

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** the Detailed District Development Plan and the binding elements on pages 12 and 13 of the staff report, for Case No. 14ZONE1050, based on the evidence and testimony heard today **SUBJECT** to the following binding elements:

**Proposed Binding Elements**

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. 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 Codes and Regulations Construction Permits and Transportation Planning Review and the Metropolitan Sewer District.
  - b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
  - d. The appropriate overlay permit shall be obtained to allow the development as shown on the approved district development plan.
  - e. 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.
  - f. A legal instrument shall be recorded consolidating the property into one lot. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of the approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
3. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
  4. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
  5. The façade elevations shall be in accordance with applicable form district standards and shall be approved by PDS staff prior to construction permit approval.

**The vote was as follows:**

**YES: Commissioners Blake, Brown, Jarboe, Kirchdorfer, Tomes and Turner**  
**NO: No one**

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**NOT PRESENT AND NOT VOTING: Commissioners Butler, Peterson, Proffitt and White**

**ABSTAINING: No one**

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**PUBLIC HEARING**

**CASE NO. 14ZONE1060**

Request: Change in zoning from R-4 to R-6 and Detailed District  
Development Plan  
Project Name: Springs at Bunsen Parkway  
Location: 9120 Blowing Tree Road

Owner: Margaret Thieneman and The Thieneman Family Limited  
Partnership  
3006 Corran Road  
Louisville, Ky. 40205

Applicant: Continental 325 Fund LLC  
Sara L. Johnson  
W134N8675 Executive Parkway  
Menomonee Falls, WI 53051

Representative: Bill Bardenwerper  
1000 North Hurstbourne Parkway  
Louisville, Ky. 40223

Jurisdiction: Louisville  
Council District: 18 – Marilyn Parker  
**Case Manager: Christopher Brown, Planner II**

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

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

**Agency Testimony:**

02:06:39 Mr. Brown discussed the case summary, standard of review and staff analysis from the staff report.

Mr. Brown said the staff report was completed days ago, but a new plan was received this morning. The staff report will not support the new plan.



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2:37:54 Mr. Brown remarked, "The binding element I passed out to you is not the most current. There was an email sent at 3:26 while sitting here at the public hearing and that has the current binding element language."

**The following spoke in favor of this request:**

Bill Bardenwerper, 1000 North Hurstbourne Parkway, Louisville, Ky. 40223  
Kent Gootee, Mindel, Scott and Associates, 5151 Jefferson Boulevard, Louisville, Ky. 40219

**Summary of testimony of those in favor:**

02:22:24 Mr. Bardenwerper represents Continental Properties. The house/nursery farm to be demolished will be documented and photographed.

2:30:00 Mr. Gootee said they will be relocating the entrance to make it shorter. There will be a binding element to dedicate the right-of-way and the applicant will maintain.

2:38:50 Mr. Bardenwerper stated the updated binding element as follows: The applicant shall dedicate the areas shown as 'reserved' on the Detailed District Development Plan the public right-of-way prior to construction plan approval and agree to maintain the dedicated property until the earlier of such time as Louisville Metro Public Works agrees in writing to accept maintenance of the dedicated property or construction commences on the plan connector road running between Taylorsville Rd. and Bunsen Pkwy.

**The following spoke in opposition to this request:**

Margaret Bode, 1804 Wesley Avenue, Louisville, Ky. 40220  
Martin Dunn, 9103 Blowing Tree Road, Louisville, Ky 40220

**Summary of testimony of those in opposition:**

02:42:00 Ms. Bode said she has lived there since 1959. "Keep the homes residential. I love our city and don't want to see anymore apartments."

2:43:16 Mr. Dunn has live there for 36 years. He said he's deeply concerned that there was a late night/early morning change to the plans. This is a process and everyone should be well informed.

Mr. Dunn does not want Blowing Tree to be a cut-through.

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**The following spoke neither for nor against the request:**

Sean Fore, 1808 Addington Avenue, Louisville, Ky. 40220  
James Lobb, Weber and Rose, 471 West Main Street, Suite 400, Louisville, Ky. 40202

**Summary of testimony of those neither for nor against:**

02:46:42 Mr. Fore said he is the mayor of the City of Hurstbourne Acres. There was a city meeting and a letter was composed to address some concerns. Mr. Fore read the letter into the record.

2:49:06 Mr. Lobb said the project keeps shifting (not criticism), but it's shifting to address residents' concerns. There is confusion over the expansion of Blowing Tree Rd.

**Rebuttal**

02:58:28 Mr. Bardenwerper said there are no big last minutes changes to the plan. The existing Blowing Tree connection will help in the future.

**Deliberation**

03:07:00 The commissioners are in agreement that the zoning change is appropriate; however, the plan details/revisions and binding elements need to be reviewed.

**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.**

3:9:54 On a motion by Commissioner Brown, seconded by Commissioner Jarboe, the following resolution was adopted.

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **CONTINUE** Case No. 14ZONE1060 to the April 2, 2015 Planning Commission public hearing to allow the applicant an opportunity to submit an updated development plan that addresses the right-of-way dedication for Blowing Tree and to submit proposed binding elements that addresses the City of Hurstbourne Acres and the future Bunsen and Blowing Tree dedications. It all needs to be submitted a week before the hearing, March 26, 2015.

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**The vote was as follows:**

**YES: Commissioners Blake, Brown, Jarboe, Kirchdorfer, Tomes and Turner**

**NO: No one**

**NOT PRESENT AND NOT VOTING: Commissioners Butler, Peterson, Proffitt and White**

**ABSTAINING: No one**

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**PUBLIC HEARING**

**CASE NO. 14AMEND1003**

Case Number: 14AMEND1003  
Project Name: LDC Round Two Text Amendments, transportation  
\*This case was continued from the November 6, 2014 Planning Commission

3:17:00 On a motion by Commissioner Jarboe, seconded by Commissioner Brown, the following resolution was adopted.

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **CONTINUE** this case to the April 2, 2015 Planning Commission public hearing meeting.

**The vote was as follows:**

**YES: Commissioners Blake, Brown, Jarboe, Kirchdorfer, Tomes and Turner**

**NO: No one**

**NOT PRESENT AND NOT VOTING: Commissioners Butler, Peterson, Proffitt and White**

**ABSTAINING: No one**

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**PUBLIC HEARING**

**CASE NO. 14AMEND1003**

Request: Item #3 – Continued from the February 5, 2015 Planning Commission hearing – LDC Round Two Text Amendments, Landscaping

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:**

03:12:50 Ms. Williams said the only issue from Chapter 10 is item number 3 – it deals with the methods of compliance for tree canopy. At the last meeting, Commissioner Proffitt asked that the language be clarified so people would know specifically the order of preference. It has been clarified in section 10.1.3 with the language found in the staff report. “I ask you to recommend moving this forward to Metro Council as is, a clarification of the order of preference for the alternatives to compliance”.

**Deliberation**

03:14:43 Planning Commission deliberation.

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

On a motion by Commissioner Kirchdorfer, seconded by Commissioner Turner, the following resolution was adopted.

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **RECOMMEND**, to Metro Council, **APPROVAL** of 14AMEND1003 as written and submitted here today.

**The vote was as follows:**

**YES: Commissioners Blake, Brown, Jarboe, Kirchdorfer, Tomes and Turner**

**NO: No one**

**PLANNING COMMISSION MINUTES**  
**March 19, 2015**

**PUBLIC HEARING**

**CASE NO. 14AMEND1003**

**NOT PRESENT AND NOT VOTING: Commissioners Butler, Peterson, Proffitt and White**

**ABSTAINING: No one**

**PLANNING COMMISSION MINUTES**  
**March 19, 2015**

**STANDING COMMITTEE REPORTS**

**Land Development and Transportation Committee**  
No report given.

**Site Inspection Committee**  
No report given.

**Planning Committee**  
No report given.

**Development Review Committee**  
No report given.

**Policy and Procedures Committee**  
No report given.

**CHAIRPERSON/DIRECTOR'S REPORT**

No report given.

**ADJOURNMENT**

The meeting adjourned at approximately 4:18 p.m.



Chair



Planning Director

