

PLANNING COMMISSION MINUTES
March 19, 2015

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 below¹:

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 below¹:

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 below¹:

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 below¹:

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 below¹:

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

**MINUTES OF THE SPECIAL MEETING
OF THE
LOUISVILLE METRO PLANNING COMMISSION
February 25, 2015**

A special meeting of the Louisville Metro Planning Commission was held on Thursday, February 25, 2015 at 6:00 p.m. at the Old Jail Building, located at 514 W. Liberty Street, Louisville, Kentucky.

Commission members present:

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

Commission members absent:

Carrie Butler
Robert Peterson

Staff Members present:

Emily Liu, Director, Planning and Design Services
Joseph Reverman, Planning Supervisor
Joe Haberman, Planning & Design Manager
Jessica Wethington, Public Information Specialist
Brian Davis, Planning & Design Supervisor
Jonathan Baker, Legal Counsel
Julia Williams, Planner II
Chris Cestaro, Management Assistant (minutes)

Others:

The following matters were considered:

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Request: District Development Plan with Waivers and Variances

Project Name: Willow Grande

Location: 1418 and 1426 Willow Avenue; also TB 77A Lot 58

Owner: Kevin Cogan
Willow Grande, LLC
9505 Williamsburg Plaza Suite 200
Louisville, KY 40222

Applicant: Brian Evans
Willow Grande, LLC
9505 Williamsburg Plaza Suite 200
Louisville, KY 40222

Representative: Tim Martin
Frost Brown Todd, LLC
400 West Market Street Suite 3200
Louisville, KY 40202

Jurisdiction: Louisville Metro
Council District: 8 – Tom Owen

Case Manager: **Julia Williams, AICP, Planner II**

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

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

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Agency Testimony:

00:08:31 Julia Williams presented the case and showed a Power Point presentation (for full presentation, see video recording and staff report.) She added that, even though this is a District Development Plan, any recommendation (approve or deny) must be forwarded to the Louisville Metro Council for final approval.

00:14:03 Ms. Williams explained why Variance request #5 (see staff report) is now no longer needed and is no longer being requested.

The following spoke in favor of the proposal:

Timothy Martin, Frost Brown Todd, LLC, 400 West Market Street Suite 3200, Louisville, KY 40202

Sheryl Snyder, Frost Brown Todd, LLC, 400 West Market Street Suite 3200, Louisville, KY 40202

Glenn Price Jr., Frost Brown Todd, LLC, 400 West Market Street Suite 3200, Louisville, KY 40202

Kevin Cogan, Jefferson Development Group, 9505 Williamsburg Plaza Suite 200, Louisville, KY 40222

Merrill Moter, 550 South 4th St., Louisville, KY 40202

Gant Hill, 2122 Edgehill Road, Louisville, KY 40205

Peter Thurman, 1855 Douglass Boulevard, Louisville, KY 40205

Mike Ward, 1905 Deer Park Avenue, Louisville, KY 40205

Wayne Jenkins, 1416 Willow Avenue 9-A, Louisville, KY 40204

Ben Botkins, 1377 Bardstown Road, Louisville, KY 40204

Dan Borsch, 1284 Everett Avenue, Louisville, KY 40204

Scott Howe, 1633 Windsor Place, Louisville, KY 40204

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Summary of testimony of those in favor:

00:22:30 Timothy Martin presented the applicant's case and showed a Power Point presentation.

00:24:21 Mr. Martin reviewed the applicant's booklet, which was sent to the Commissioners in advance of today's hearing.

01:07:30 Mr. Martin read some letters of support into the record.

01:11:22 Peter Thurman said he felt the proposal is compatible with the neighborhood and is conducive to neighborhood growth.

01:16:25 Mike Ward spoke in support and showed a binder of letters of support from neighborhood residents.

01:19:06 Wayne Jenkins spoke in support.

01:19:58 Ben Botkins, a Highlands business owner, spoke in support.

01:23:06 Dan Borsch spoke in support. He said he is in favor of this project particularly because of the location, and the compatibility of the design. He said he has no concerns about setting a precedent.

01:26:39 Scott Howe spoke in support.

01:28:43 Gant Hill spoke in support and said there is demand for this project.

01:30:08 In response to questions from Commissioner Proffitt, Merrill Moter and Mr. Martin discussed the 7-foot height difference between the alley and the proposed entrance to the garage. They also discussed the proposed building height reduction and how that was achieved.

01:33:00 In response to a question from Commission Proffitt, Mr. Martin discussed the 7-foot wall along the alley. Mr. Martin said that wall completely encloses the rear yard of the property.

01:33:55 Commissioner Proffitt asked Mr. Martin if the applicant would be willing to make 4, 5, 6, 10, and 11 binding elements. Mr. Martin said yes.

01:34:27 Commissioner Proffitt and Mr. Martin discussed the landscape plan. Commissioner Proffitt asked if the applicant would be willing to add a binding

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element stating that changes discussed at today's hearing would be included in an approved landscape plan. Mr. Martin said yes.

01:36:16 The Commission went into recess before hearing those in opposition to the proposal.

The following spoke in opposition to the proposal:

Bill Seiller, Seiller Waterman, 462 South 4th Street, Louisville, KY 40202

Tim Holz, 1044 Everett Avenue, Louisville, KY 40204

John P. Fendig, 1274 Bassett Avenue, Louisville, KY 40204

Peggie Elgin, 1050 Everett Avenue, Louisville, KY 40204

Paul and Rhonda Petra, 1439 Willow Avenue, Louisville, KY 40204

Janet and Richard Rosenbaum, 309 East Market Street #501, Louisville, KY 40202

Ann Zimmerman, 1400 Willow, Louisville, KY 40204

Suzanne M. Warner, 1265 Bassett Avenue, Louisville, KY 40204

John Downard, 2526 Glenmary, Louisville, KY 40204

Ann Bickel, 2212 Dearing Court, Louisville, KY 40204

Lauri Esposito, 1416 Cherokee Road, Louisville, KY 40204

Jeanne James and Dennis Hesthoven, 2025 Baringer Avenue, Louisville, KY 40204

Mary Ann McDonald, 2063 Eastern Parkway, Louisville, KY 40204

Deanna O'Daniel, 2211 Dearing Court, Louisville, KY 40204

Margaret C. Adams, 2107 Edgeland Avenue, Louisville, KY 40204

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Jeannette Westbrook, 1827 Edenside Avenue, Louisville, KY 40204

Pete Kirven, 1277 Willow Avenue, Louisville, KY 40204

Maie Klaphaak, 1215 Cherokee Road, Louisville, KY 40204

Callie McCrocklin, 2101 Cherokee Parkway, Louisville, KY 40204

Todd Scott, 1314 Cherokee Road, Louisville, KY 40204

Summary of testimony of those in opposition:

01:36:34 Bill Seiller, attorney for the Cherokee Triangle Association, presented the opposition's case.

01:37:49 Mr. Seiller discussed the binder of letters of support which was re-submitted by the applicant at today's hearing, and why he thought those letters should be stricken from the record.

01:44:05 Tim Holz, president of the Cherokee Triangle Association, spoke in opposition and specifically discussed how the proposal relates to the Cherokee Triangle Neighborhood Plan.

01:54:41 John Fendig specifically spoke about the height variance request.

02:01:01 Peggy Elgin said the size and height of the proposed structure was out of character with the neighborhood. She said the proposal does not follow the Cherokee Neighborhood plan.

02:06:40 Paul and Rhonda Petra spoke in opposition. Ms. Petra read a letter of opposition from a neighbor into the record.

02:12:37 Mr. Seiller resumed the podium for his concluding remarks.

02:14:29 Janet and Richard Rosenbaum were called but were not present.

02:14:54 Ann Zimmerman's concerns were the size, scale, and traffic.

02:15:58 Suzanne Warner said the cost of the proposed condominiums do not encourage economic diversity of the neighborhood.

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- 02:17:54 John Donner was called but declined to speak.
- 02:18:07 Anne Bickel discussed the importance of preservation.
- 02:20:55 Lauri Esposito spoke in opposition (price point of condominiums are too high; traffic, parking.) She was greatly concerned about the number of waivers being requested.
- 02:25:50 Jeanne James and Dennis Hesthoven spoke in opposition.
- 02:27:43 Mary Ann McDonald expressed concerns about blasting and infrastructure issues.
- 02:29:23 Deanna O'Daniel was called but was not present.
- 02:29:36 Margaret Adams spoke in opposition.
- 02:31:06 Jeannette Westbrook spoke in opposition.
- 02:36:33 Pete Kirven spoke in opposition.
- 02:41:40 Maie Klaphaak spoke in opposition.
- 02:46:05 Callie McCrocklin spoke in opposition.
- 02:49:16 Todd Scott spoke in opposition. He expressed concerns about whether the new project would have the same craftsmanship and quality of the existing structures in the area.
- 02:50:51 Commissioner Tomes asked Mr. Seiller if any progress had been made with a "compromise" between the applicant and the opposition. Mr. Seiller discussed the negotiations that had taken place with the applicant, particularly regarding the building height.
- 02:58:30 Commissioner Jarboe asked Mr. Seiller what number of stories the opposition wanted and if the Floor Area Ratio would work with reduced stories.
- 03:02:25 Commissioner Proffitt and Mr. Seiller discussed the letters of support submitted by the applicant.

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03:05:30 Mr. Seiller discussed the requested variances and waivers.

03:06:27 Commissioner Tomes and Mr. Seiller discussed the makeup of the surrounding area (single-family homes vs. apartments, etc.)

03:10:56 Commissioner Brown asked about the Certificate of Appropriateness.

03:12:41 Commissioner Turner asked Mr. Holtz if this development might actually increase property values in the area.

03:16:56 Commissioner Kirchdorfer and Mr. Holtz discussed how the preservation district and the Land Development Code may have affected property values in the neighborhood.

Rebuttal:

03:21:54 Sheryl Snyder, Mr. Martin's legal partner, took the podium for rebuttal.

03:35:38 Mr. Seiller and Mr. Snyder discussed the market for condominium units in the neighborhood.

03:42:12 Kevin Cogan, the developer, answered questions from the Commissioners.

The Meeting was recessed for approximately 10 minutes before the Commissioners' deliberation.

Deliberation:

03:47:19 Commissioners' deliberation.

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

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04:37:27 On a motion by Commissioner Tomes, seconded by Commissioner White, the following resolution was adopted:

RESOLVED, the Louisville Metro Planning Commission does hereby **CONTINUE** this case to the March 19, 2015 Planning Commission public hearing to allow the applicant and opposition time to submit the additional justification statements. Each side will have 15 minutes to present their justifications at the March 19, 2015 Planning Commission public hearing.

The vote was as follows:

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

NO: No one.

NOT PRESENT: Commissioners Butler and Peterson.

ABSTAINING: No one.

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STANDING COMMITTEE REPORTS

Land Development and Transportation Committee

No report given.

Legal Review Committee

No report given.

Planning Committee

No report given.

Policy and Procedures Committee

No report given.

Site Inspection Committee

No report given.

ADJOURNMENT

The meeting adjourned at approximately 11:35 p.m.

Chairman

Division Director