

**Planning Commission Minutes
December 5, 2013**

New Cases

Case No. 17246

Project Name: Family Dollar
Location: 2537-2551 West Market Street and
111-125 South 26th Street

Owner/Applicant: Steve Miller
Miller Investments, Inc.
2610 West Market Street
Louisville, KY 40212

Representative: Steve Davis, PE
Prism Engineering & Design Group, LLC
720 Rolling Creek Drive Suite 207
New Albany, IN 47150

Project Area/Size: Total Project Area: 0.665 acres
Area to be rezoned: 0.25 acres

Existing Zoning District: OR-2 Office/Residential
Jurisdiction: Louisville Metro
Council District: 5 – Cheri Bryant Hamilton
Case Manager: **Joseph Reverman, AICP, Planning
Supervisor**

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

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

Request:

Change in zoning from OR-2 Office/Residential to C-1 Commercial to permit a Retail Discount Store on property located at 2537-2551 West Market Street, and 111-125 South 26th Street (Tax Block 003K, Lots 0004, 0005, and 0189) containing 0.165 acres and being in Louisville Metro. A Revised Detailed District Development Plan with Waivers for building design and signage are also being requested.

**Planning Commission Minutes
December 5, 2013**

New Cases

Case No. 17246

Agency Testimony:

01:17:27 Joseph Reverman presented the case and also showed a Power Point presentation (see staff report for detailed presentation.)

01:23:27 Commissioner Scheer asked about the shotgun houses adjacent to the site, particularly if the third house was occupied (Mr. Reverman had stated that two of the houses were to be demolished.) He asked if the owner the third house had been contacted. Mr. Reverman said the property owner had been contacted via mail, and that staff has not heard any comments/etc. from that property owner.

01:23:52 In response to a question from Commissioner Turner, Mr. Reverman pointed out the two houses proposed for demolition, and also the third house that is not part of the proposal.

01:24:25 Mr. Reverman and Commissioner Kirchdorfer discussed the screening and buffering between that property and the subject site. Mr. Reverman said there is a small LBA and an eight-foot solid screen being proposed, which does meet LDC requirements.

The following spoke in favor of this request:

Jason L. Hall, Prism Engineering, 2300 Plantside Drive Suite B, Louisville, KY 40299

Steve Miller, 7100 Parklook Court, Louisville, KY 40214

Summary of testimony of those in favor:

01:25:21 Jason Hall, an applicant's representative, showed a Power Point presentation which also included maps and photos of the site and the surrounding area. He mentioned that Portland Now had opposed the original plan; however, since this new plan preserves the Cavalier Building, they have now expressed their support.

01:29:05 Mr. Hall said that, since the photos in his presentation were taken, the white shotgun house in his photos has been demolished. The demolition permit for the remaining house has been acquired.

01:31:22 Mr. Hall discussed the waiver requests. The first waiver, which requests less than 75% animating features along the front of the building, he said came about because the applicant tried to design something that was compatible

**Planning Commission Minutes
December 5, 2013**

New Cases

Case No. 17246

with the existing Cavalier Building. He discussed the specifics of the design in more detail. He then discussed the second waiver, which requests less than 50% windows. He concluded by stating that there is about 40% windows/entry areas instead of the required 50% (closer to 49% if the Cavalier Building is taken into account.)

01:34:26 Regarding the signage waiver, Mr. Hall said the applicant is proposing a six-foot high, monument style sign, which would be allowed if the building was located more than 15 feet from the ROW; this building is less than 15 from the ROW. He said this would improve the visibility to drivers without being too obtrusive.

01:38:38 Commissioner Kirchdorfer asked how the existing Cavalier Building would be used. Mr. Hall said the Cavalier Building would be adjacent to, but not part of, the new Family Dollar store. It would be zoned for Commercial use/s.

01:38:58 In response to a question from Commissioner Turner, Mr. Hall said the rear parking lot would be curbed, with the fence set closer to the property line.

01:39:28 Commissioner Scheer asked if any effort had been made to purchase the third shotgun house, to make that property part of this development plan. Steve Miller, an applicant's representative, said that property owner has not expressed any opposition to this plan. The building that is next to that home is all commercial.

01:41:01 Commissioner Turner expressed concern about the business. He said he has had "numerous complaints" about a Family Dollar store at 24th and Broadway and asked who would manage the store. Mr. Miller said he would be maintaining the building, but the Family Dollar company would manage operations.

01:44:26 Commissioner Blake asked about a typographical error on page 6 of the staff report (item "c"). Mr. Reverman said that should read, "...is the minimum".

The following spoke in opposition to this request:

No one spoke.

The following spoke neither for nor against the request:

No one spoke.

**Planning Commission Minutes
December 5, 2013**

New Cases

Case No. 17246

Discussion:

01:45:28 Commissioner White said the C-1 zoning seems appropriate, given the properties surrounding this site. Commissioner Scheer said he appreciated the applicant's efforts to preserve the historic nature of the area. He agreed that the zoning, and the new development plan, seem appropriate.

01:46:43 In response to a question from Commissioner Blake, Mr. Reverman confirmed that there is a letter of support from Portland Now on file.

01:47:16 Commissioner Brown said he saw no issues with the zoning or the development plan. Commissioner Turner said he feels that this is an appropriate use and supported the sign waivers. He said he felt "more at ease" knowing that Mr. Miller would be maintaining the building. Commissioner Kirchdorfer said he feels the zoning change is appropriate and the waiver requests are justified. Commissioner Blake said he thinks that the new design, including the preservation of the Cavalier Building, is positive. He said the approval of Portland Now is also very positive.

An audio/visual recording of the Planning Commission hearing related to this case is available in the Planning & Design Services offices. Please contact the Customer Service staff to view the recording or to obtain a copy. The recording of this hearing will be found on the CD of the December 5, 2013 public hearing proceedings.

Zoning

On a motion by Commissioner White, the following resolution was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the intent of **Guideline 1- Community Form**. The six parcels involved in the planned development area are located at the western end of a Traditional Marketplace Corridor Form District (TMCFD) being approximately one block wide and centered on W. Market St. from 18th to 26th, and primarily bounded by Pirtle Alley on the north and Congress St. on the south. In accordance with the Portland Neighborhood Plan (February 28th, 2008), the intersection of W. Market St. and S. 26th St. was identified as a gateway to the neighborhood. It is recommended though, that any streetscape improvements to be performed in the street rights-of-way be provided in conjunction with a separate Metro Public

**Planning Commission Minutes
December 5, 2013**

New Cases

Case No. 17246

Works project that produces a consistent theme for the desired enhancement;
and

WHEREAS, the Commission further finds that this TMCFD abuts a Traditional Neighborhood Form District along a portion of the north edge of the planned development therefore, the development area is at the edge of a Form District and subject to Form District Transition Zone requirements. The Form District boundary line is presumed to be the centerline of Pirtle Alley which has a 20' minimum right-of-way; and

WHEREAS, the Commission further finds that, although the north edge (i.e. Pirtle Alley south right-of-way line) of the six parcels that comprise the development area do not create a consistent right-of-way width for Pirtle Alley, Louisville Metro Public Works have verified that a consistent width for Pirtle Alley right-of-way is not to be provided during the lot Consolidation process, and that a license agreement will have to be entered into if the property user plans to use the excess right-of-way area for typical daily or weekly services, such as delivery (loading/unloading) and trash collection (dumpsters); and

WHEREAS, the Commission further finds that the TMCFD is characterized by older, pedestrian-scale development along major roadways adjacent to traditional neighborhoods. The corridors typically contain a wide variety of land uses (retail, restaurants, office, institutional and residential) that range from low to medium intensity; and

WHEREAS, the Commission further finds that the proposal meets the intent of **Guideline 2- Centers**. A Family Dollar retail store is a permitted Use in the C-1 Commercial zoning district and is an appropriate/functional use at this location, as it offers a wide variety of staple goods used by all age groups of the general public. The TMCFD in which it is located, is a key travel corridor for the existing adjacent residential and other commercial lots, connecting directly with the downtown workplace. Being located at the edge of a neighborhood district, the Family Dollar facility encourages vitality of the area, bringing investment into the neighborhood and this improves the overall quality of place; and

WHEREAS, the Commission further finds that the proposal meets the intent of **Guideline 3- Compatibility**. The TMCFD is typically identified with the buildings often being narrow, closely spaced or attached, and built out to or near the street with display windows and wide sidewalks in front, and having parking provided on the street or in parking lots located at the rear of the lots. The planned development area is comprised of an existing commercial use building on the westernmost parcel (on the corner) which is built out to the sidewalk on both

**Planning Commission Minutes
December 5, 2013**

New Cases

Case No. 17246

abutting streets, four vacant parcels, and an existing vacant residential-use structure on the easternmost parcel; and

WHEREAS, the Commission further finds that the Family Dollar project requires removing all existing structures, and placement of the proposed building away from the street rights-of-way. Although this deviates from the TMCDF's typical development condition, the new building and site improvements will give a fresh, clean look to these primarily unused commercial tracts. Family Dollar's main intent is to provide building and on-site parking areas in a location that insures a safer and convenient condition for its customers than what would be provided if constructed per Louisville Development Code (LDC) regulations, which do not address these critical factors. Additionally, an 8' high screen fence is to be installed along the common property line with the OR-2 zoned (residential use) lot located adjacent to and east of the project, in order to shield on-site activities that will occur between the building and the street; and

WHEREAS, the Commission further finds that, in conjunction with the Rezoning of the three easternmost parcels as previously mentioned, a Variance from the LDC is required in order to set the building back from the street rights-of-way, as well as Waivers relative to: front door location; exterior façade treatment; parking area location; and a 3' high wall between parking areas and the street rights-of-way. Allowing these requests will not adversely affect adjacent owners, or the public health, safety and welfare, and will allow a reasonable use of the property. Although Family Dollar's proposed layout may not be in line with the TMCDF typical development condition, there are existing corner lot commercial developments in the immediate vicinity of the planned development area, that have similar conditions to Family Dollar's proposed layout; and

WHEREAS, the Commission further finds that the exterior treatment of the front of the building (W. Market St.) is split faced concrete masonry unit construction and windows to ceiling height, with metal wall panels extended to form a parapet above. The metal wall panels are extended higher in the area of the main building (attached) signage and horizontal accent bands provided along the entire building face for additional visual diversity. Exterior treatment of the side and rear walls is metal panel construction with service doors located in the S. 26th St. wall (west wall) and the Pirtle Alley wall (north wall). A Waiver is requested for the façade treatment of the building walls facing W. Market St. and S. 26th St. and is based on providing safety and security for Family Dollar employees and customers inside the building, as well as accommodating the required floor layout. The roof system is metal panel having a ridge line at the center of the front and rear wall lines. Building signage, freestanding signage

**Planning Commission Minutes
December 5, 2013**

New Cases

Case No. 17246

and site lighting will be provided in accordance with applicable LDC regulations;
and

WHEREAS, the Commission further finds that the proposal meets the intent of **Guideline 4- Open Space**. An open space area dedicated for community use is not to be provided due to insufficient area to do so, as well as to avoid encouraging congregation of non-customers on the property. The proposed on-site vehicular use areas (drive aisles and parking spaces) located between the building and the street rights-of-way, are required to have perimeter landscaping buffer areas; these landscaped areas will occur adjacent to the sidewalks along the street rights-of-way. The proposed building and parking locations, coupled with the installation of landscaping features along the perimeter of the property and at other areas on site, will provide a more overall open feel for the property though; and

WHEREAS, the Commission further finds that the proposal meets the intent of **Guideline 5- Natural Area and Scenic and Historic Resources**. It has been recommended by the Historic Preservation staff that the two existing structures located in the planned development area be protected/preserved. These structures do not appear on the National Register of Historic Places, the Kentucky Historic Resources Inventory, the Louisville KY Register of Historic Places, or specifically identified as such in the Portland Neighborhood Plan, nor are the properties involved with the project in a defined Preservation District. These structures are to be removed for the planned development. No development problems are anticipated in regards to soil type or steep slopes; and

WHEREAS, the Commission further finds that the proposal meets the intent of **Guideline 6- Economic Growth and Sustainability**. Family Dollar's new building and site improvements will give a fresh, clean look to the planned development area, while sufficiently shielding the adjacent OR-2 zoned (residential use) lot from commercial activities. Being a permitted Use in the C-1 Commercial zoning district it is an appropriate/functional use at this location, as it offers a wide variety of staple goods used by all age groups of the general public encouraging vitality of the area, bringing investment into the neighborhood and thereby improving the overall quality of place; and

WHEREAS, the Commission further finds that the proposal meets the intent of **Guideline 7 & 8- Circulation & Transportation Facility Design**. The planned development area is situated at the end of the TMCFD with a TARC bus stop located along the W. Market St. curb line in front of the building, and is at a very convenient location for people to visit throughout the day. Route 15 operates past

**Planning Commission Minutes
December 5, 2013**

New Cases

Case No. 17246

the site every 15 minutes from 6:30 am to 11:30 pm. Direct, ADA compliant connections from the street sidewalks to the front door of the building will be provided for pedestrian and bicycle oriented customers. On-street (along S. 26th St. curb line) and on-site parking spaces will be provided for vehicular traffic. Access to the 2-way drive aisles serving the on-site parking areas will be from drive entrances located on W. Market St. and S. 26th St.; both of which have 2-way traffic flow; and

WHEREAS, the Commission further finds that an existing site entrance (ie curb cut) along W. Market St. is to be modified and to be ADA compliant. The existing connection to Pirtle Alley is to be modified in conjunction with modifying the existing entrance located along S. 26th St., to produce a wider entrance area adjacent to Pirtle Alley's existing pavement. The improvements adjacent to Pirtle Alley are required in order to accommodate delivery truck turning radius requirements; and

WHEREAS, the Commission further finds that the size of the proposed Family Dollar facility (8,320 sf) with approximately 25 parking spaces, is not a big traffic generator and has irregular peak hour occurrence so it does not impact peak hour traffic movement on the adjacent minor arterial street significantly; and

WHEREAS, the Commission further finds that product delivery to the facility occurs every 2-3 days and loading/unloading operations, as well as weekly dumpster service, will take place in the excess right-of-way area of Pirtle Alley alongside the north end of the building. This is a good location for these activities as they will be out of sight of the general public and will not create vehicular flow problems for traffic movement on-site or in Pirtle Alley; and

WHEREAS, the Commission further finds that the proposal meets the intent of **Guideline 9- Bicycle, Pedestrian and Transit**. The planned development area is located in the TMCDFD, containing a wide variety of land uses (retail, restaurants, office, institutional and residential) and located along major roadways adjacent to traditional neighborhoods. Family Dollar offers a wide range of goods and is frequented by all age groups. Both W. Market St. and S. 26th St. are key travel corridors for the existing adjacent residential, bringing all modes of transportation through the commercial lots in the TMCDFD; and

WHEREAS, the Commission further finds that, as mentioned, the proposed development is situated at the western end of the TMCDFD and consequently located at the edge of a neighborhood district. An existing TARC bus stop is located along the W. Market St. curb line in front of the building, and direct, (ADA compliant) connections from the street sidewalks to the front door of the building

**Planning Commission Minutes
December 5, 2013**

New Cases

Case No. 17246

will be provided for pedestrian traffic. Bicycle racks will be provided at the sidewalk at the front of the building, to accommodate bicycle oriented customers; and

WHEREAS, the Commission further finds that the proposal meets the intent of **Guideline 10- Flooding and Stormwater**. A portion of the planned development area is subject to flooding due to back up of the existing combined sanitary and storm drainage sewer system during the 100 year storm event. Building finished floor will be set an elevation at least 1'-0" above the base flood elevation as established by Metropolitan Sewer District (MSD); certification of constructed floor elevation will be provided. MSD has indicated that even though four of the six parcels involved with the planned development area are vacant tracts, post developed run-off from the proposed improvements will be limited to existing fully developed rates. Storm water run-off will enter the existing MSD combined sewer system in accordance with their regulations and connection requirements; and

WHEREAS, the Commission further finds that the proposal meets the intent of **Guideline 12- Air Quality**. It is not expected that the Family Dollar facility and/or the supporting parking area will have any adverse impacts on the air quality. Mitigation measures for dust control will be provided during construction though, to prevent fugitive particulate emissions from reaching roads and neighboring properties; and

WHEREAS, the Commission further finds that the proposal meets the intent of **Guideline 14- Infrastructure**. There are no improvements required for the public roadways for the Family Dollar project. Modification of existing site entrances, as indicated prior, is required. Any sidewalk/streetscape enhancement to existing features located in the street rights-of-way that may be requested by the Portland Neighborhood or other agency, is recommended to be performed by a separate project. There is an adequate water supply at the planned development area, for both domestic use and fire protection purposes. The existing combined sanitary and storm drainage sewer system located in the street rights-of-way adjacent to the property, as well as the Morris Forman Water Quality Treatment Center, have sufficient capacity for handling Family Dollar's sanitary sewer discharge; and

WHEREAS, the Commission further finds that, based on the evidence and testimony presented, the staff report, and the applicant's justification and findings of fact that all of the applicable Guidelines of Cornerstone 2020 and the Comprehensive Plan are being met; now, therefore
be it

**Planning Commission Minutes
December 5, 2013**

New Cases

Case No. 17246

RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the legislative council of Louisville Metro Government that the change in zoning from OR-2 Office/Residential to C-1 Commercial, on property described in the attached legal description, be **APPROVED**.

The vote was as follows:

YES: Commissioners Blake, White, Turner, Scheer, Kirchdorfer, and Brown.

NO: No one.

NOT PRESENT: Commissioners Hughes, Proffitt, Tomes, and Jarboe.

ABSTAINING: No one.

Waiver of section 5.6.1.A. and 5.6.1.C.

On a motion by Commissioner White, the following resolution was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the requested waiver will not adversely affect adjacent property owners since the proposed building will use similar design elements as the existing individual local landmarked building on the corner, known as the Cavalier Building; and

WHEREAS, the Commission further finds that the waiver will not violate specific guidelines of Cornerstone 2020. Guideline 3, policy 1 and 2 calls for the compatibility of all new development and redevelopment with the scale and site design of nearby existing development and with the pattern of development within the form district. The type of building materials may be considered as a mitigation measure and may also be considered in circumstances specified in the Land Development Code. When assessing compatibility, it is appropriate to consider the choice of building materials in the following circumstances: (1) projects involving residential infill (2) projects involving non-residential uses; and (3) when specified in the Land Development Code. The proposal is for a non-residential use. The Land Development Code provides building design standards for non-residential and mixed use buildings. The purpose of the regulation is to provide visual interest and a human scale that are representative of the form district through the use of windows, columns, pilasters, piers, variation of material, entrances, storefront windows, and other animating features along no less than 75% of the façade and at least 50% clear windows and doors. The proposed building design will not violate specific guidelines of Cornerstone 2020 since the proposed building will use similar design elements as the existing

**Planning Commission Minutes
December 5, 2013**

New Cases

Case No. 17246

individual local landmarked building on the corner, known as the Cavalier Building; and

WHEREAS, the Commission further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since the proposed building will use similar design elements as the existing individual local landmarked building on the corner, known as the Cavalier Building; and

WHEREAS, the Commission further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant since the proposed building will use similar design elements as the existing individual local landmarked building on the corner, known as the Cavalier Building, which will be compatible with existing development in the area; and

WHEREAS, the Commission further finds that, based on the evidence and testimony presented today, the staff report and the applicant's justification that all of the applicable Guidelines of Cornerstone 2020 and the Comprehensive Plan are being met; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **GRANT** a Waiver of Section 5.6.1.A. and 5.6.1.C. to allow the building facade facing West. Market Street to have less than 75% animating features and less than 50% clear glazing, windows and/or doors as shown on the approved building rendering.

The vote was as follows:

YES: Commissioners Blake, White, Turner, Scheer, Kirchdorfer, and Brown.

NO: No one.

NOT PRESENT: Commissioners Hughes, Proffitt, Tomes, and Jarboe.

ABSTAINING: No one.

Waiver of Section 8.3.3.B.6

On a motion by Commissioner White, the following resolution was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the waiver will not adversely affect adjacent property owners since the sign will not obstruct site lines for pedestrians or motorists; and

**Planning Commission Minutes
December 5, 2013**

New Cases

Case No. 17246

WHEREAS, the Commission further finds that the waiver will not violate specific guidelines of Cornerstone 2020. Guideline 3, Policy 28 states that signs should be compatible with the form district pattern and contribute to the visual quality of their surroundings. Promote signs of a size and height adequate for effective communication and conducive to motor vehicle safety. Encourage signs that are integrated with or attached to structures wherever feasible; limit freestanding signs to monument style signs unless such design would unreasonably compromise sign effectiveness. Give careful attention to signs in historic districts, parkways, scenic corridors, design review districts and other areas of special concern. For freestanding signs in multi-lot developments, minimize the number of signs by including signage for each establishment on the same support structure and encourage consistent design (size, style, and materials). The Land Development Code (LDC) limits freestanding signs for the subject site to 48 square feet and 6 feet in height. The LDC also states that no lot frontage shall have a freestanding sign unless the building on that lot is setback at least 15 feet from the street right-of-way line. The waiver will not violate specific guidelines of Cornerstone 2020 since the proposed sign will not obstruct site lines for pedestrians or motorists, and it will be compatible with existing development in the area; and

WHEREAS, the Commission further finds that the extent of waiver of the regulation is the minimum necessary to afford relief to the applicant since the proposed sign will not obstruct site lines for pedestrians or motorists, and will be compatible with existing development in the area; and

WHEREAS, the Commission further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant since the sign will not obstruct site lines for pedestrians or motorists, and will be compatible with existing development in the area; and

WHEREAS, the Commission further finds that, based on the evidence and testimony presented today, the staff report and the applicant's justification that all of the applicable Guidelines of Cornerstone 2020 and the Comprehensive Plan are being met; now, therefore
be it

RESOLVED, the Louisville Metro Planning Commission does hereby **GRANT** a Waiver of Section 8.3.3.B.6. to allow placement of a freestanding sign along the frontage of W Market St and S 26th St with the building located less than 15 feet from the ROW.

**Planning Commission Minutes
December 5, 2013**

New Cases

Case No. 17246

The vote was as follows:

YES: Commissioners Blake, White, Turner, Scheer, Kirchdorfer, and Brown.

NO: No one.

NOT PRESENT: Commissioners Hughes, Proffitt, Tomes, and Jarboe.

ABSTAINING: No one.

Detailed District Development Plan

On a motion by Commissioner White, the following resolution was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that there do not appear to be any environmental constraints on the subject site. The proposal includes the preservation and reuse of an individual local landmark building. Tree canopy requirements of the Land Development Code will be provided on the subject site; and

WHEREAS, the Commission further finds that provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community has been provided, and Metro Public Works has approved the preliminary development plan; and

WHEREAS, the Commission further finds that there are no open space requirements with the current proposal. Future multi-family developments proposed on the subject site will be required to meet Land Development Code requirements; and

WHEREAS, the Commission further finds that the Metropolitan Sewer District has approved the preliminary development plan and will ensure the provisions of adequate drainage facilities on the subject site in order to prevent drainage problems from occurring on the subject site or within the community; and

WHEREAS, the Commission further finds that the overall site design and land uses are compatible with the existing and future development of the area. Appropriate landscape buffering and screening will be provided to screen adjacent properties and roadways. Buildings are located close to the street and provide easy access by pedestrians, and the parking lot is located to the side and rear of the principal structure with access provided from the rear alley; and

**Planning Commission Minutes
December 5, 2013**

New Cases

Case No. 17246

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

WHEREAS, the Commission further finds that, based on the evidence and testimony presented, the staff report and the applicant's justification that all of the applicable Guidelines of Cornerstone 2020 and the Comprehensive Plan are being met; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the Detailed District Development Plan for Case No. 17246, **SUBJECT** to the following Binding Elements:

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

**Planning Commission Minutes
December 5, 2013**

New Cases

Case No. 17246

Division of Planning and Design Services; transmittal of the approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.

5. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.

6. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.

7. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the December 5, 2013 Planning Commission meeting.

8. Any historic resources that are approved for demolition shall be documented by the developer by preparing an Individual Historic Resource Survey Form which includes photographs. The documentation must occur prior to the issuance of a demolition permit or ground disturbance at the site. The documentation shall be submitted to Urban Design/Historic Preservation Staff upon completion.

The vote was as follows:

YES: Commissioners Blake, White, Turner, Scheer, Kirchdorfer, and Brown.

NO: No one.

NOT PRESENT: Commissioners Hughes, Proffitt, Tomes, and Jarboe.

ABSTAINING: No one.