

**Planning Commission Minutes  
June 16, 2016**

**Public Hearing**

**Case No. 16ZONE1012**

**Request:** Change in zoning from R-6 to OR-3 on 3.79 acres with Variances, Waivers, and a District Development Plan with Binding Elements

**Project Name:** Glenview Trust Office Building

**Location:** 6700 Overlook Drive

**Owner:** Fred M. Ferriell  
5365 Ouachita Drive  
Lake Worth, FL 33467

**Applicant:** Glenview Trust Company  
Scott Neff, Representative  
4969 U.S. Highway 42 Suite 2000  
Louisville, KY 40222

**Representative:** Kyle P. Galloway  
Duncan, Galloway, Egan & Greenwald  
9750 Ormsby Station Road Suite 210  
Louisville, KY 40223

Kevin Young/Ann Richard  
Land Design & Development, Inc.  
503 Washburn Avenue Suite 101  
Louisville, KY 40222

**Jurisdiction:** Louisville Metro

**Council District:** 16 – Kelly Downard

**Case Manager:** Julia Williams, RLA, 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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**An audio/visual recording of the Land Development and Transportation Committee meeting 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.**

**Agency Testimony:**

01:23:10 Julia Williams presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.)

**The following spoke in favor of the proposal:**

Kyle P. Galloway, Duncan, Galloway, Egan & Greenwald, 9750 Ormsby Station Road Suite 210, Louisville, KY 40223

Kevin Young, Land Design & Development, Inc., 503 Washburn Avenue Suite 101, Louisville, KY 40222

Tawana Edwards, 4969 U.S. Highway 42, Louisville, KY 40222

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

01:29:09 Kyle Galloway presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.)

01:29:51 Kevin Young reviewed some of the technical aspects of the site plan.

01:34:24 Mr. Galloway continued with his presentation and discussed the applicant's justification/s.

**The following spoke in opposition to the proposal:**

No one spoke.

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

No one spoke.

**Deliberation:**

01:39:35 Commissioners' deliberation.

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**Zoning**

00:41:00 On a motion by Commissioner Brown, seconded by Commissioner Lewis, the following resolution was adopted:

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

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

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

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

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**WHEREAS**, the Commission further finds that the proposal is within a mixed density corridor that has been created along US 42. The proposal is surrounded by mixed density residential. The proposal is for high intensity office zoning but is located along a major arterial and primary collector. It will have little impact on adjacent residential uses. The proposal will not create a new center but will be for new construction. OR-3 permits other high density residential and office uses. The proposal is compact and located in the vicinity to other similar and more intense uses making the proposal a cost effective investment. The proposal is part of a high density corridor that has been established along US 42. The zoning is complementary to other zoning in the area, which encourages a sense of place. The proposal is for the construction of office uses but also permits residential. The proposal is for a multi-story office; and

**WHEREAS**, the Commission further finds that, based on the evidence and testimony presented and the staff report 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 **RECOMMEND** to the Louisville Metro Council that the requested change in zoning from R-6 to OR-3 on property described in the attached legal description, be **APPROVED**.

**The vote was as follows:**

**YES: Commissioners Lewis, Brown, Turner, Jarboe, Howard, Smith.**

**NO: No one.**

**NOT PRESENT: Commissioners Blake, Kirchdorfer, Tomes, and Peterson.**

**ABSTAINING: No one.**

- **Variances:**
  - **Variance #1 from Table 5.3.2 to exceed the maximum 80' setback along all roadways.**
  - **Variance #2 from Table 5.3.2 to exceed the maximum 30' building height by 15'.**
- **Waiver from Chapter 5.9.2 to not provide a pedestrian connection from Overlook Drive to the building entrance.**
- **District Development plan – NOTE: The applicant will work with the Kentucky Transportation Cabinet on the pedestrian connection on the subject site for a ADA-compliant path that crosses US 42.**

01:42:09 On a motion by Commissioner Brown, seconded by Commissioner

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Turner, the following resolution was adopted:

**(Variance #1)**       **WHEREAS**, the Louisville Metro Planning Commission finds that the requested variance will not adversely affect the public health, safety or welfare since the building will be buffered where it is adjacent to residential; and

**WHEREAS**, the Commission further finds that the requested variance will not alter the essential character of the general vicinity since the proposal is along 3 roadways with one of those roadways being a parkway. There are also steep slopes and a floodplain affecting the setbacks along two roadways; and

**WHEREAS**, the Commission further finds that the requested variance will not cause a hazard or nuisance to the public since the building will be buffered where it is adjacent to residential; and

**WHEREAS**, the Commission further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations since there are some environmental constraints that prevent the setbacks being provided along all 3 roadways; and

**WHEREAS**, the Commission further finds that the requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone. There are some environmental constraints that prevent the setbacks being provided along all 3 roadways. The 3 frontages are a special circumstance; and

**WHEREAS**, the Commission further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant. There are some environmental constraints that prevent the setbacks being provided along all 3 roadways. Disruption to those constraints would be a hardship and would cause the applicant to have to build a bigger building than necessary; and

**WHEREAS**, the Commission further finds that the circumstances are the result of action of the applicant taken subsequent to the adoption of the zoning regulations from which relief is sought; and

**(Variance #2)**       **WHEREAS**, the Commission further finds that the requested variance will not adversely affect public health safety or welfare since the tallest portion of the building is located to away from the closest residential development; and

**WHEREAS**, the Commission further finds that the requested variance will not alter the essential character of the general vicinity since there are other taller

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structures located in the vicinity; and

**WHEREAS**, the Commission further finds that the requested variance will not cause a hazard or nuisance to the public since the tallest portion of the building is located away from the closest residential development; and

**WHEREAS**, the Commission further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations since the tallest portion of the building is located away from the closest residential development and there are other taller structures located in the vicinity; and

**WHEREAS**, the Commission further finds that the requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone since the tallest portion of the building is located away from the closest residential development; and

**WHEREAS**, the Commission further finds that the strict application of the provisions of the regulation would deprive the applicant of reasonable use of the land since there are other taller structures located in the vicinity; and

**WHEREAS**, the Commission further finds that the circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought; and

**(Waiver) WHEREAS**, the Commission further finds that the waiver will not adversely affect adjacent property owners since pedestrian connections have been provided from the nearest major intersection at Brownsboro and Seminary Drive. Sidewalks are provided along all roadways; and

**WHEREAS**, the Commission further finds that the waiver will not violate specific guidelines of Cornerstone 2020. Guideline 9, Policy 1 states that new development should provide, where appropriate, for the movement of pedestrians, bicyclists and transit users with walkways for access to public transportation stops. Pedestrians are provided for around the site and from the major intersection. The topography of the site would not make the pedestrian connections cost effective; 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 topography of the site would not make the pedestrian connections cost effective; and

**WHEREAS**, the Commission further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of

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the land or would create an unnecessary hardship on the applicant since the topography of the site would not make the pedestrian connections cost effective; and

**(District Development Plan)** **WHEREAS**, the Commission further finds that the conservation of natural resources on the property proposed for development, including: trees and other living vegetation, steep slopes, water courses, flood plains, soils, air quality, scenic views, and historic sites, is being met. Tree canopy requirements of the Land Development Code will be provided on the subject site. The intermittent stream, steep slopes, and 100 year flood plain will be mainly left undisturbed; 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 and the Kentucky Transportation Cabinet have approved the preliminary development plan; and

**WHEREAS**, the Commission further finds that there are no open space requirements with the current proposal. Open space is provided in the floodplain area and steep slopes on the site; 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 and parking lots will meet all required setbacks; and

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

**WHEREAS**, the Commission further finds that, based on the evidence and testimony presented and the staff report 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 requested Variance from Table 5.3.2 to exceed the maximum 80' setback along all roadways; the requested Variance from Table 5.3.2 to exceed the

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maximum 30' building height by 15'; the requested Waiver from Chapter 5.9.2 to not provide a pedestrian connection from Overlook Drive to the building entrance; and the District Development plan, **SUBJECT** to the following binding elements:

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. The development shall not exceed 40,000 square feet of gross floor area.
3. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
4. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
5. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit) is requested:
  - a. The development plan must receive full construction approval from Develop Louisville, Louisville Metro Public Works and the Metropolitan Sewer District.
  - b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
  - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
  - d. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
6. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.



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7. 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 property owner shall enter into a reciprocal cross-over access easement with the property located along the northern boundary of the subject property, but only in the event such adjoining property owner redevelops its property for non-residential use and, in conjunction with such re-development, is required by the Planning Commission to enter into a reciprocal cross-over access easement with the property owner. A copy of the signed easement agreement shall be provided to Planning Commission staff upon request.
9. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the June 16, 2016 Planning Commission meeting.

**The vote was as follows:**

**YES: Commissioners Lewis, Brown, Turner, Jarboe, Howard, Smith.**

**NO: No one.**

**NOT PRESENT: Commissioners Blake, Kirchdorfer, Tomes, and Peterson.**

**ABSTAINING: No one.**