

PLANNING COMMISSION MINUTES
November 20, 2014

PUBLIC HEARING

CASE NO. 14ZONE1029

Request: Change in Zoning from R-7 to C-1; Variance and Land Development Code Waivers

Project Name: Dollar General
Location: 1201 Dixie Hwy

Owner: The Harold and Sue Smith Living Trust Hoagland Real Estate, LLC

Applicant: Susan Cox Development, LLC

Representative: Wyatt, Tarrant & Combs

Jurisdiction: Louisville Metro

Council District: 6 – David James

Staff Case Manager: Christopher Brown, Planner II

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

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

Agency Testimony:

03:44:30 Chris Brown discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Cliff Ashburner, Wyatt, Tarrant & Combs; 500 W Jefferson St., Suite 2800; Louisville, KY 40202

Summary of testimony of those in favor:

03:59:50 Cliff Ashburner discussed the proposal including the building renderings and how they worked with staff of Planning & Design, TARC and Metro Public Works to revise the proposal. Mr. Ashburner also mentioned that the alley closure associated

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with this proposal is scheduled to be heard by the Development Review Committee of the Planning Commission on December 3, 2014, and the Planning Commission on December 4, 2014.

The following spoke in opposition to this request:

No one

Summary of testimony of those in opposition:

No one

The following spoke neither for nor against the request:

No one

Rebuttal

None

Deliberation

04:18:25 The Planning Commission generally expressed that they did not have any issues with the requests.

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

Zoning Change from R-7 to C-1

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

WHEREAS, the Louisville Metro Planning Commission finds that SC Development, LLC is applying for a change in zoning for two parcels of property currently zoned R-7 along Oak Street, just to the East of Dixie Highway. The overall development site includes commercially zoned (C-1) property at the southeast corner of Oak Street and Dixie Highway. The overall development also includes the proposed closure of an unnamed alley that runs north/south between the currently-zoned commercial section of the

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overall development and the property proposed to be rezoned. The applicant will maintain a public access between Oak Street and the alley to the south of the subject property and will use some of the R-7 property for a landscaped buffer. Due to the compact nature of the site, the applicant is seeking a landscape waiver along the southern property line. The applicant is also seeking two design waivers: (a) to allow the corner entrance to be at the southwest corner of the building as opposed to the northwest corner and (b) to reduce the amount of clear doors and windows required.

WHEREAS, the Louisville Metro Planning Commission further finds the proposal complies with Guideline 1, Form Districts. The subject property is in the Traditional Marketplace Corridor and the Traditional Neighborhood Form Districts. Both of these form districts suggest the maintenance of alleys, rear or side parking, buildings oriented and pulled up to the street and commercial uses that serve the surrounding neighborhood. The proposed development is for a 9,000 square foot Dollar General store. Dollar General stores carry a variety of products used on a regular basis, clearly a neighborhood serving use. The proposed development plan includes a building on the right of way line of Oak Street and Dixie Highway, with side parking and a relocated and improved public access in place of the proposed closed alley. For these reasons, the proposed development complies with Guideline 1.

WHEREAS, the Louisville Metro Planning Commission further finds the proposal complies with Guideline 2, Centers. The proposed development complies with the intent of Guideline 2 and its Policies. The subject property is in an activity center, with abundant commercial property nearby. The property proposed to be rezoned is just to the east of the existing alley but has been partially vacant for many, many years. The eastern portion of the subject property will be used for access and buffering, not new building. The proposed development is compact in nature, is at the intersection of two collector or greater streets and blends the requirements of the Land Development Code and the development pattern in the area. The proposed Dollar General store will serve the needs of nearby residents and will add a retail choice to the California neighborhood that doesn't currently exist.

WHEREAS, the Louisville Metro Planning Commission further finds the proposal complies with Guideline 3, Compatibility. The proposed development complies with the intent of Guideline 3 and its Policies. The proposed building will be similar in size to other neighborhood shops in the area, and will be oriented toward the street. The proposed development should not have any adverse impact on surrounding residential properties, including those related to noise, light or traffic. The applicant's proposed building will use building materials that can be found in surrounding properties, including block, brick and accent materials. The proposed development will provide a 15' buffer to the east including an 8' tall fence. The landscape buffer to the south adjacent to the

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church will be 5' wide but trees will be provided in this area as well as in the interior landscape areas directly adjacent to it.

WHEREAS, the Louisville Metro Planning Commission further finds the proposal complies with Guideline 4, Open Space. The proposed development complies with the intent of Guideline 4 and its Policies. The subject property is mostly vacant and contains one home that will be removed as part of the proposed development. The property contains few trees and no useful open space. When developed, the property will contain a landscape buffer almost as wide as many residential lots adjacent to the residence to the east and will contain tree canopy that exceeds the requirement by one-third.

WHEREAS, the Louisville Metro Planning Commission further finds the proposal complies with Guideline 5, Natural Areas and Scenic and Historic Resources. The proposed development complies with the intent of Guideline 5 and its Policies. There are not any natural areas or historic or scenic resources on the subject property. But the redevelopment of properties in the urban core of the city helps to preserve the broader neighborhood by providing a service not currently available in the immediate area.

WHEREAS, the Louisville Metro Planning Commission further finds the proposal complies with Guideline 6, Economic Growth and Sustainability. The proposed development complies with the intent of Guideline 6 and its Policies. The proposed development will redevelop three vacant lots in the California neighborhood, will provide trees where there are none and will provide an area for a TARC stop to be located along Dixie Highway. The proposed Dollar General store is generally in line with both the Traditional Marketplace and Traditional Neighborhood form district guidelines for site and building design in that it is a single story building pulled up to the right of way at the corner.

WHEREAS, the Louisville Metro Planning Commission further finds the proposal complies with Guideline 7, Circulation and Guideline 9, Bicycle, Pedestrian and Transit. The proposed development complies with the intent of both of these Guidelines and their respective Policies. The subject property is at the corner of two busy roads, West Oak Street and Dixie Highway. West Oak Street is one-way westbound, while Dixie Highway carries traffic north and south. Dixie Highway is also a busy transit corridor. The proposed development will provide a small right of way dedication for a new TARC stop near the corner. The proposed development will also provide a 24' wide public access easement just to the east of the current 15' alley location, providing better access for those using the alley system in the area. The proposed development will also provide sidewalks to allow for pedestrian access to the site from surrounding

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properties. The parking lot has been designed to allow for safe truck maneuvering and unloading, as well.

WHEREAS, the Louisville Metro Planning Commission further finds the proposal complies with Guideline 10, Flooding and Stormwater and Guideline 11, Water Quality. The proposed development complies with the intent of both of these Guidelines and their respective Policies. The subject property is in an older part of the city that is almost completely developed. The subject property will use green infrastructure in the form of pervious pavement for some of its parking to handle surface water and allow it to infiltrate the ground on-site, instead of using the combined sewer system. The infiltration should also help with water quality.

WHEREAS, the Louisville Metro Planning Commission further finds the proposal complies with Guideline 12, Air Quality. The proposed development complies with the intent of Guideline 12 and its Policies. The subject property is in an urban setting, where transit is heavily used. The proposed development contains a right of way dedication for a new TARC stop (where TARC will supply a shelter) and improvements to sidewalks along Oak Street and Dixie Highway to encourage pedestrians to visit the planned store. The proposed development is also planned with tree canopy that exceeds the requirement of the Land Development Code by one-third, addressing both heat island and air quality concerns.

WHEREAS, the Louisville Metro Planning Commission further finds the proposal complies with Guideline 13, Landscape Character. The proposed development complies with the intent of Guideline 13 and its Policies. The proposed development will include approximately 27% tree canopy, as opposed to 20% required. And the landscape buffer area to the east will be significant compared to the current condition.

WHEREAS, the Louisville Metro Planning Commission further finds the proposal complies with all other applicable Guidelines and Policies of the Comprehensive Plan.

Therefore, be it **RESOLVED**, that the Louisville Metro Planning Commission does hereby recommend to the legislative body of Louisville Metro Government that the requested Change in zoning from R-7, Multi-Family Residential, to C-1, Commercial, on property described in the attached legal description be **APPROVED**.

The vote was as follows:

YES: Commissioners Blake, Proffitt, Kirchdorfer, Turner and Jarboe

NO: No one.

NOT PRESENT AND NOT VOTING: Commissioners Tomes, Peterson, Brown, Butler and White

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ABSTAINING: No one.

Variance #1: Variance from Chapter 5.5.A.2 of the Land Development Code to allow the building to exceed the 0' setback along West Oak Street at the intersection

WHEREAS, the Louisville Metro Planning Commission finds the applicant, SC Development, LLC, ("SC") is proposing to develop the property at the Southeast corner of Dixie Highway and Oak Street with a Dollar General store. The proposed development plan shows the building pulled up to the corner with its entrance, however, on the Southwest corner of the building. Because the entrance is not at the intersection itself and because the intersection creates an obtuse angle on the subject property, SC is seeking a variance to allow the proposed building to be more than 0' from the Dixie Highway right of way.

WHEREAS, the Louisville Metro Planning Commission further finds the variance will not adversely affect the public health, safety or welfare. The variance will allow for the construction of a rectangular building on a site that is not itself rectangular. SC is also proposing a TARC easement within the small triangle created by the division of the right of way line and the West face of the proposed building.

WHEREAS, the Louisville Metro Planning Commission further finds the variance will not alter the essential character of the general vicinity. Near the subject property, there are sites where buildings follow the right of way line, sites where buildings are set back behind parking areas and residential sites with yards along the street. In spite of the mixed designs in the area, the proposed development plan meets the intent of the Traditional Marketplace Form District.

WHEREAS, the Louisville Metro Planning Commission further finds the variance will not cause a hazard or nuisance to the public. The small triangle created by the variance will allow for a better entrance, a TARC stop and a wider sidewalk area, creating an amenity for the public, not a hazard or nuisance.

WHEREAS, the Louisville Metro Planning Commission further finds the variance will not allow an unreasonable circumvention of the requirements of the zoning district regulations. The setback requirements in this form district are designed to create an walkable, urban streetscape. Here, SC has done so but done it in a way that will allow for the development of a rectangular building while also providing an active street-facing design that meets the intent of the regulations.

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WHEREAS, the Louisville Metro Planning Commission further finds The variance arises from the obtuse angle of the intersection of Dixie Highway and Oak Street. The intersections non-perpendicular shape does, however, provide the opportunity for a TARC stop that will augment the TARC network in the area.

WHEREAS, the Louisville Metro Planning Commission further finds the strict application of the provisions of the regulation would require the applicant to build to the right of way line, creating an oddly shaped building and eliminating the TARC easement the applicant is providing.

WHEREAS, the Louisville Metro Planning Commission further finds the circumstances of the variance are the result of the shape of the site at the location of the building entrance where the parking area and right of way meet. SC believes the proposed design will allow for very good access for all of its customers, many of whom come by car.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the **Variance** from Chapter 5.5.A.2 of the Land Development Code to allow the building to exceed the 0' setback along West Oak Street at the intersection.

The vote was as follows:

YES: Commissioners Blake, Proffitt, Kirchdorfer, Turner and Jarboe

NO: No one.

NOT PRESENT AND NOT VOTING: Commissioners Tomes, Peterson, Brown, Butler and White

ABSTAINING: No one.

Waiver #1: Waiver from Chapter 5.5.1.A.1.b of the Land Development Code to not provide an entrance along both street frontages or corner entrance at ROW intersection

WHEREAS, the Louisville Metro Planning Commission finds the requested waiver of Section 5.5.A.1.b will not adversely affect adjacent property owners. While the intent of Section 5.5.A.1.b is to provide greater accessibility to pedestrians and mass transit commuters, the location of the proposed development will be accessed far more frequently by vehicular transportation. As a result, the applicant desires for the primary entrance to be oriented toward the parking lot rather than at the corner of two busy roads, West Oak Street and Dixie Highway. Furthermore, the applicant believes this location is much safer for its customer base. While a waiver is necessary, locating the entrance on the southwest corner of the building as opposed to the northwest corner

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should not negatively impact any of the adjacent property owners and, if anything, will help promote the safety of those who reside or work in the neighborhood. As a result, the requested waiver will not adversely affect the adjacent property owners.

WHEREAS, the Louisville Metro Planning Commission further finds as more fully set forth in the justification statement submitted with the proposed change in zoning, the requested waivers comply with the Cornerstone 2020 Comprehensive Plan. The proposed use is consistent with the Traditional Marketplace Corridor and the Traditional Neighborhood Form Districts in that it is a single story building pulled up to the right of way at the corner of Dixie Highway and Oak Street and will offer a commercial use that serves the surrounding neighborhood. In addition, the subject property is in an activity center, with abundant commercial property nearby. The proposed development will provide a small right of way dedication for a new TARC stop near the corner. Further, the proposed development will provide a 24 foot public access easement just to the east of the current 15 foot alley location, providing better access for those using the alley system in the area. Finally, the proposed development will also provide sidewalks to allow for pedestrian access to the site from surrounding properties and the parking lot has been designed to allow for safe truck maneuvering and unloading, as well. For all of the foregoing reasons, the requested waivers will not violate the Cornerstone 2020 Comprehensive Plan.

WHEREAS, the Louisville Metro Planning Commission further finds the requested waivers are the minimum necessary to afford relief to the applicant because the proposal is for the development of a Dollar General store on a mostly vacant parcel of property. The proposed development will greatly benefit the neighborhood not only by redeveloping a long-standing undeveloped parcel of property, but also by providing a retail business that carries a variety of products that are used on a regular basis by those who reside in the neighborhood. Finally, in order to develop the site as proposed in a cost efficient manner, while also providing sufficient parking, appropriate access, and greater mobility for vehicular maneuvering, the requested design waivers are required.

WHEREAS, the Louisville Metro Planning Commission further finds absent the requested waivers, the applicant would be deprived of the reasonable use of the land. The applicant is committed to developing a retail store that carries a variety of products that are used on a regular basis by those who reside in the neighborhood. However, in order to develop this store in a cost effective manner and do so while also providing sufficient parking, appropriate access, and greater mobility for vehicular maneuvering, the requested design waivers are required. Therefore, the strict application of the provisions of each regulation would prevent the applicant from developing the property as proposed.

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RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the **Waiver** from Chapter 5.5.1.A.1.b of the Land Development Code to not provide an entrance along both street frontages or corner entrance at ROW intersection.

The vote was as follows:

YES: Commissioners Blake, Proffitt, Kirchdorfer, Turner and Jarboe

NO: No one.

NOT PRESENT AND NOT VOTING: Commissioners Tomes, Peterson, Brown, Butler and White

ABSTAINING: No one.

Waiver #3: Waiver from Chapter 5.6.1.A.1 of the Land Development Code to provide less than the required 75% animating features

WHEREAS, the Louisville Metro Planning Commission finds the requested waiver of Section 5.6.1.C will not adversely affect the adjacent property owners. Although a reduction in the percentage of wall surfaces at street level that consist of clear glass and doors to below 50% is requested, the applicant's proposed building will use building materials that can be found in surrounding properties, including block, brick and accent materials. Furthermore, when developed, the property will be similar in size to other neighborhood shops in the area, and will be oriented toward the street. Therefore, the requested waiver will not adversely affect the adjacent property owners.

WHEREAS, the Louisville Metro Planning Commission further finds as more fully set forth in the justification statement submitted with the proposed change in zoning, the requested waivers comply with the Cornerstone 2020 Comprehensive Plan. The proposed use is consistent with the Traditional Marketplace Corridor and the Traditional Neighborhood Form Districts in that it is a single story building pulled up to the right of way at the corner of Dixie Highway and Oak Street and will offer a commercial use that serves the surrounding neighborhood. In addition, the subject property is in an activity center, with abundant commercial property nearby. The proposed development will provide a small right of way dedication for a new TARC stop near the corner. Further, the proposed development will provide a 24 foot public access easement just to the east of the current 15 foot alley location, providing better access for those using the alley system in the area. Finally, the proposed development will also provide sidewalks to allow for pedestrian access to the site from surrounding properties and the parking lot has been designed to allow for safe truck maneuvering and unloading, as well. For all of the foregoing reasons, the requested waivers will not violate the Cornerstone 2020 Comprehensive Plan.

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WHEREAS, the Louisville Metro Planning Commission further finds the requested waivers are the minimum necessary to afford relief to the applicant because the proposal is for the development of a Dollar General store on a mostly vacant parcel of property. The proposed development will greatly benefit the neighborhood not only by redeveloping a long-standing undeveloped parcel of property, but also by providing a retail business that carries a variety of products that are used on a regular basis by those who reside in the neighborhood. Finally, in order to develop the site as proposed in a cost efficient manner, while also providing sufficient parking, appropriate access, and greater mobility for vehicular maneuvering, the requested design waivers are required.

WHEREAS, the Louisville Metro Planning Commission further finds absent the requested waivers, the applicant would be deprived of the reasonable use of the land. The applicant is committed to developing a retail store that carries a variety of products that are used on a regular basis by those who reside in the neighborhood. However, in order to develop this store in a cost effective manner and do so while also providing sufficient parking, appropriate access, and greater mobility for vehicular maneuvering, the requested design waivers are required. Therefore, the strict application of the provisions of each regulation would prevent the applicant from developing the property as proposed.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the **Waiver** from Chapter 5.6.1.A.1 of the Land Development Code to provide less than the required 75% animating features.

The vote was as follows:

YES: Commissioners Blake, Proffitt, Kirchdorfer, Turner and Jarboe

NO: No one.

NOT PRESENT AND NOT VOTING: Commissioners Tomes, Peterson, Brown, Butler and White

ABSTAINING: No one.

Waiver #4: Waiver from Chapter 5.6.1.C.1 of the Land Development Code to not provide the required 50% clear glazing along both Dixie Highway and West Oak Street

WHEREAS, the Louisville Metro Planning Commission finds that the requested waiver of Section 5.6.1.C will not adversely affect the adjacent property owners. Although a reduction in the percentage of wall surfaces at street level that consist of clear glass and

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doors to below 50% is requested, the applicant's proposed building will use building materials that can be found in surrounding properties, including block, brick and accent materials. Furthermore, when developed, the property will be similar in size to other neighborhood shops in the area, and will be oriented toward the street; and

WHEREAS, the Commission further finds that the intent of Section 5.5.A.1.b is to provide greater accessibility to pedestrians and mass transit commuters, the location of the proposed development will be accessed far more frequently by vehicular transportation. As a result, the applicant desires for the primary entrance to be oriented toward the parking lot rather than at the corner of two busy roads, West Oak Street and Dixie Highway. Furthermore, the applicant believes this location is much safer for its customer base. While a waiver is necessary, locating the entrance on the southwest corner of the building as opposed to the northwest corner should not negatively impact any of the adjacent property owners and, if anything, will help promote the safety of those who reside or work in the neighborhood. As a result, the requested waiver will not adversely affect the adjacent property owners; and

WHEREAS, the Commission further finds that, as more fully set forth in the justification statement submitted with the proposed change in zoning, the requested waivers comply with the Cornerstone 2020 Comprehensive Plan. The proposed use is consistent with the Traditional Marketplace Corridor and the Traditional Neighborhood Form Districts in that it is a single story building pulled up to the right of way at the corner of Dixie Highway and Oak Street and will offer a commercial use that serves the surrounding neighborhood. In addition, the subject property is in an activity center, with abundant commercial property nearby. The proposed development will provide a small right of way dedication for a new TARC stop near the corner. Further, the proposed development will provide a 24 foot public access easement just to the east of the current 15 foot alley location, providing better access for those using the alley system in the area. Finally, the proposed development will also provide sidewalks to allow for pedestrian access to the site from surrounding properties and the parking lot has been designed to allow for safe truck maneuvering and unloading, as well; and

WHEREAS, the Commission further finds that the requested waivers are the minimum necessary to afford relief to the applicant because the proposal is for the development of a Dollar General store on a mostly vacant parcel of property. The proposed development will greatly benefit the neighborhood not only by redeveloping a long-standing undeveloped parcel of property, but also by providing a retail business that carries a variety of products that are used on a regular basis by those who reside in the neighborhood. Finally, in order to develop the site as proposed in a cost efficient manner, while also providing sufficient parking, appropriate access, and greater mobility for vehicular maneuvering, the requested design waivers are required; and

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WHEREAS, the Commission further finds that, absent the requested waivers, the applicant would be deprived of the reasonable use of the land. The applicant is committed to developing a retail store that carries a variety of products that are used on a regular basis by those who reside in the neighborhood. However, in order to develop this store in a cost effective manner and do so while also providing sufficient parking, appropriate access, and greater mobility for vehicular maneuvering, the requested design waivers are required. Therefore, the strict application of the provisions of each regulation would prevent the applicant from developing the property as proposed; and

WHEREAS, The Louisville Metro Planning 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; therefore be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the **Waiver** from Chapter 5.6.1.C.1 of the Land Development Code to not provide the required 50% clear glazing along both Dixie Highway and West Oak Street.

The vote was as follows:

YES: Commissioners Blake, Proffitt, Kirchdorfer, Turner and Jarboe

NO: No one.

NOT PRESENT AND NOT VOTING: Commissioners Tomes, Peterson, Brown, Butler and White

ABSTAINING: No one.

Waiver #5: Landscape Waiver from Chapter 10.2.4 of the Land Development Code to reduce the required 10 ft LBA along the south property perimeter to 4.6 ft

WHEREAS, the Louisville Metro Planning Commission finds that the waiver will not adversely affect adjacent property owners since appropriate screening and planting materials will be provided along the property perimeter; and

WHEREAS, the Commission further finds that Guideline 3, policy 9 of Cornerstone 2020 calls for the protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigate when appropriate. Guideline 3, policies 21 and 22 calls for appropriate transitions between uses that are substantially different in scale and intensity or density, and to mitigate the impact caused when incompatible developments occur adjacent to one another through the use of landscaped buffer yards, vegetative berms and setback requirements to address issues

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such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances. Guideline 3, policy 24 states that parking, loading and delivery areas located adjacent to residential areas should be designed to minimize the impacts from noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered. Guideline 13, policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. Guideline 13, Policy 6 calls for screening and buffering to mitigate adjacent incompatible uses. The intent of landscape buffer areas is to create suitable transitions where varying forms of development adjoin, to minimize the negative impacts resulting from adjoining incompatible land uses, to decrease storm water runoff volumes and velocities associated with impervious surfaces, and to filter air borne and water borne pollutants. The waiver will not violate specific guidelines of Cornerstone 2020 since appropriate screening and planting materials will be provided along the property perimeter; 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 to allow adequate parking to be provided while shifting the building to provide additional ROW along West Oak Street. Appropriate screening and planting materials will be provided to meet the intent of the buffering; and

WHEREAS, the Commission further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant since the landscape buffer would reduce the parking to be provided on the site below the minimum required; and

WHEREAS, The Louisville Metro Planning 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; therefore be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the **Landscape Waiver** from Chapter 10.2.4 of the Land Development Code to reduce the required 10 ft LBA along the south property perimeter to 4.6 ft.

The vote was as follows:

YES: Commissioners Blake, Proffitt, Kirchdorfer, Turner and Jarboe

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NO: No one.

NOT PRESENT AND NOT VOTING: Commissioners Tomes, Peterson, Brown, Butler and White

ABSTAINING: No one.

Waiver #6: Landscape Waiver from Chapter 10.2.12 of the Land Development Code to allow required interior landscaping areas to exceed the 120' maximum distance regulation

WHEREAS, the Louisville Metro Planning Commission finds that the requested waiver for distance between ILAs within the parking area of the subject property will not adversely affect the adjacent property owners. Although a greater distance is provided adjacent to the proposed building, the distance requirement is met along the south property line and both ILAs are within 120' of the perimeter landscape area along the south property line; and

WHEREAS, the Commission further finds that Guideline 13, policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. Guideline 13, Policy 5 calls for standards to ensure the creation and/or preservation of tree canopy as a valuable community resource. The purpose of interior landscape areas is to break up large impervious areas and allow for a greater distribution of tree canopy coverage. The required amount of interior landscaping is being provided within the site; and

WHEREAS, the Commission further finds that the requested waivers are the minimum necessary to afford relief to the applicant because the proposal is for the development of a Dollar General store on a mostly vacant parcel of property, one that currently contains no existing interior landscaping or buffers. As a result, the applicant will provide the required number of ILAs, which will only serve to benefit the surrounding neighborhood. Furthermore, the proposed development incorporates a tree canopy in excess of the requirements set forth in the LDC. Finally, in order to develop the site as proposed while providing sufficient parking, appropriate access, and greater mobility for vehicular maneuvering, the requested landscape waivers are necessary. ; and

WHEREAS, the Commission further finds that absent the waivers the applicant would be deprived of the reasonable use of the land. The applicant is committed to developing a retail store that carries a variety of products that are used on a regular basis by those who reside in the neighborhood. However, in order to develop this store in a cost-effective manner and do so while also providing sufficient parking, appropriate access, and greater mobility for vehicular maneuvering, the requested landscape waiver

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is required. Therefore, the strict application of the provisions of the regulation would prevent the applicant from developing the property as proposed; and

WHEREAS, The Louisville Metro Planning 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; therefore be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the **Landscape Waiver** from Chapter 10.2.12 of the Land Development Code to allow required interior landscaping areas to exceed the 120' maximum distance regulation

The vote was as follows:

YES: Commissioners Blake, Proffitt, Kirchdorfer, Turner and Jarboe

NO: No one.

NOT PRESENT AND NOT VOTING: Commissioners Tomes, Peterson, Brown, Butler and White

ABSTAINING: No one.

Development Plan and Binding Elements

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

WHEREAS, the Louisville Metro Planning Commission finds that there does not appear to be any environmental constraints or historic resources on the subject site. 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 and the Kentucky Transportation Cabinet have approved the preliminary development plan; and

WHEREAS, the Commission further finds that open space requirements for the proposed development will be provided per the Land Development Code; and

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

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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 will be provided to screen adjacent properties. Buildings and parking lots will meet appropriate setbacks. The screen wall for the parking area is being provided along the roadway; 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 with the exception of the requested waivers and variance which meet their standard of review; and

WHEREAS, The Louisville Metro Planning 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; therefore be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the Detailed District Development Plan **ON CONDITION** that the screen wall be added to the development plan along Dixie Hwy since that waiver was withdrawn by the applicant, and **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 9,200 square feet of gross floor area.
3. No 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

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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 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 obtaining any permits. 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. An alley closure approval for the interior unnamed alley shall be approved prior to requesting a building permit.
 - e. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.

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

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.

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8. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the November 20th, 2014 Planning Commission meeting.

The vote was as follows:

YES: Commissioners Blake, Proffitt, Kirchdorfer, Turner and Jarboe

NO: No one.

NOT PRESENT AND NOT VOTING: Commissioners Tomes, Peterson, Brown, Butler and White

ABSTAINING: No one.