

**PLANNING COMMISSION MINUTES**  
**June 6, 2019**

**PUBLIC HEARING**

**CASE NO. 18ZONE1067**

Request:	Change in zoning from R-5 to C-1 and C-2 with detailed plan, setback variance, and design & connectivity waivers
Project Name:	Southside Drive
Location:	7382 Southside Drive
Owner:	DP Rentals, LLC
Applicant:	DP Rentals, LLC
Representative:	John Talbott - Bardenwerper, Talbott & Roberts PLLC
Jurisdiction:	Louisville Metro
Council District:	25 – David Yates

**Case Manager:**                    **Joel P. Dock, AICP, Planner II**

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

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

**Agency Testimony:**

01:19:56     Joel Dock presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.) He also handed out opposition comments to the Commissioners.

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

John Talbott, Bardenwerper Talbott & Roberts PLLC, 1000 North Hurstbourne Parkway, Louisville, KY 40222

Mike Hill, Land Design & Development, 503 Washburn Avenue Suite 101, Louisville, KY 40222

David Parks (the applicant), 295 North Hubbards Lane, Louisville, KY 40207

Ken Thieneman, 833 Valley College Drive, Louisville, KY 40272

**Summary of testimony of those in support:**

**PLANNING COMMISSION MINUTES**  
**June 6, 2019**

**PUBLIC HEARING**

**CASE NO. 18ZONE1067**

01:27:21 John Talbott, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.) As part of his presentation, he discussed his responses to some of those in opposition.

01:44:13 Ken Thieneman spoke in support. He explained the critical need for these smaller contractor's workshops and businesses.

01:46:10 In response to a question from Commissioner Carlson, Mr. Talbott said there will be no outside storage (contractor's equipment) on the site. Mr. Dock added that outdoor storage is not permitted within the district.

01:47:08 In response to another question from Commissioner Carlson, Mr. Talbott said the applicant would agree to a binding element regarding running equipment outdoors only during specific hours: "No machines will be run /operated between the hours of 10:00 p.m. and 6:00 a.m."

01:49:11 Commissioner Jarboe asked what kind of responses the applicant received during the neighborhood meeting.

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

No one spoke.

**Deliberation:**

01:50:28 Commissioners' deliberation.

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

**Zoning**

01:52:34 On a motion by Commissioner Carlson, seconded by Commissioner Peterson, the following resolution based on the Plan 2040 Staff Analysis, the applicant's justification, and evidence and testimony heard today, was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the intents of **Land Use & Development Goal 1: Community Form** because the

**PLANNING COMMISSION MINUTES**  
**June 6, 2019**

**PUBLIC HEARING**

**CASE NO. 18ZONE1067**

proposal does not constitute a non-residential expansion into existing residential area as the site abuts commercial and office zoning districts, and where residential is present the district does not expand beyond current limits of non-residential uses; the site is located along a minor arterial level roadway with direct access to a major arterial having interstate access and TARC route #6. New Cut Road serves as a primary activity center and properties fronting New Cut adjoin the rear of this property; the proposed district, as a whole, does not allow for industrial operation which requires or necessitates the need to be located within a workplace form. The minimal semi-industrial uses such as contractor's shop allow for the location of professionals to locate at appropriate locations within proximity to neighborhoods; the proposed district allows expanded commercial services to serve nearby residential populations. Hazardous or nuisance uses are not typical of the proposed district and design regulations establish appropriate transitions; potentially hazardous uses as defined by the LDC are not permitted within the proposed district; the classification of the roadway fronting the property is intended to serve higher volumes of traffic and connect to other high speed roadways; the C-2 district requires that most operations be contained inside buildings. It should be noted, however, that outdoor music is permitted within the district. Outdoor activities should be appropriately mitigated in the event they occur on site as the site is adjacent to a residential development; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of **Land Use & Development Goal 2: Community Form** because the district has been appropriately located based on surrounding districts and geometry of the existing lot; sufficient population appears to be available to support a wide range of uses; the concentration of commercial uses within a Town Center form district helps to prevent inappropriate expansions elsewhere in the Metropolitan area; the area contains a mixture of non-residential districts. The proposal will add to the existing mixture of uses; the proposed district does not limit residential activities on site; an existing structure on site will be retained; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of **Land Use & Development Goal 3: Community Form** because the site does not appear to contain significant natural features. Trees will be preserved where possible by the proposed development; the site does not appear to contain wet or highly permeable soils, severe, steep or unstable slopes; the proposal does not appear to be located in a flood-prone area and the site is not in a Karst prone area; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of **Land Use & Development Goal 4: Community Form** because an existing structure on site will be retained. There does not appear to be any historical significance of this structure; and there do not appear to be any distinctive cultural features on site; and

**PLANNING COMMISSION MINUTES**  
**June 6, 2019**

**PUBLIC HEARING**

**CASE NO. 18ZONE1067**

**WHEREAS**, the Commission further finds that the proposal meets the intents of **Land Use & Development Goal 1: Mobility** because the proposal is located within a town center form district where a target market area may serve a population of between 25,000 to 75,000. Intensities permitted allow the area to reach this market. Existing patterns of development in the area vary significantly; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of **Land Use & Development Goal 2: Mobility** because access is along an arterial roadway which is sufficient to serve the development and should not provide for individual residential access; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of **Land Use & Development Goal 3: Mobility** because the proposed district allows for a mixture of compatible uses that may be made accessible bicycle, car, transit, pedestrians and people with disabilities; the district does not hinder mobility or options for mobility; the district does not prevent development of walkable centers to connect different modes of travel; the proposed district does not significantly impact the transportation network as it is along an arterial level roadway within proximity to TARC routes; development of the site will bear or share in rough proportionality the costs of transportation facilities and services made necessary by development; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of **Land Use & Development Goal 2: Community Facilities** because the proposal will be served by existing utilities or capable of being served by public or private utility extensions; the proposal will have an adequate supply of potable water and water for fire-fighting purposes; the proposal will have adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams as determined by the Metropolitan Sewer District (MSD); and

**WHEREAS**, the Commission further finds that the proposal meets the intents of **Land Use & Development Goal 1: Economic Development** because the district is located on an arterial roadway; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of **Land Use & Development Goal 1: Livability** because the site is not located in the regulatory floodplain; and

**WHEREAS**, the Commission further finds that the proposed zone change complies with all of the applicable, Objectives and Policies 3.1.5, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 17, 18, 19, 20, 23, 27 & 28 of Community Form Goal 1, because as stated in the Goal 1,

**PLANNING COMMISSION MINUTES**  
**June 6, 2019**

**PUBLIC HEARING**

**CASE NO. 18ZONE1067**

Policy 3.1.5, the Town Center form typically has a compact mixture of moderately intense uses including offices, a high level of pedestrian, roadway, transit and bicycle access, a connected street pattern, shared parking and pedestrian amenities and more intense uses should be located in close proximity to the major thoroughfare, all of which is satisfied in this development plan; and

**WHEREAS**, the Commission further finds that the proposed use complies with Goal 1 because this development will take a blighted, neglected R-5 use that is completely out of place in a Town Center, much of which is currently used for dumping and which has created a refuge for crime, and re-purposed the property for an office use and contractor's workshop, consistent with the Town Center goal; and

**WHEREAS**, the Commission further finds that the shape of the lot is atypical for a Town Center, largely created by the fact that this area between New Cut Road and Southside Drive creates a triangle shape, with long, irregular shaped lots, making orientation towards the street difficult; and

**WHEREAS**, the Commission further finds that the office use is consistent with the Town Center purpose and will bring this property much closer to the goals of the Town Center form than the property currently provides; the contractor's shop will also enhance the Town Center even though it is not a more traditional Town Center use because it will occupy the long, unused part of the lot away from the street utilizing otherwise wasted areas; it will clean up the lot, eliminate the draw for criminal elements and thereby dramatically improve the area with appropriate lighting; further, it will facilitate and assist the entire area and surrounding lots near New Cut Road and Southside Drive by repurposing it more consistent with the Town Center purpose; the office and the contractor's shop will have connected and shared parking utilizing a shared access agreement consistent with the Town Center goal, along with sidewalks promoting pedestrian bicycle use; and

**WHEREAS**, the Commission further finds that the property will further ensure new development and redevelopment that is compatible with the scale and site design of nearby existing development; it will allow a mixture of densities with the use of appropriate buffers and will not cause an expansion of non-residential use into residential areas; the office and contractor's workshop will locate higher density and intensity near the major thoroughfares of New Cut Road and Southside Drive and place the employment uses near existing infrastructure and transportation; the potential adverse impacts, such as noise, lighting and traffic will be mitigated through the use of buffers and compliance with the Land Development Code; finally, the use of the office and contractor's workshop promote mixed use development and utilization and density

**PLANNING COMMISSION MINUTES**  
**June 6, 2019**

**PUBLIC HEARING**

**CASE NO. 18ZONE1067**

with a long, irregular lot located in the Town Center responding to the distinctive physical, historic, and cultural qualities; and

**WHEREAS**, the Commission further finds that the proposed zone change complies with all of the applicable, Objectives and Policies 1, 2, 5, 6, 7, 9, 12 13, 14, 15, 16, & 17 of Community Form Goal 2, because the proposed use will encourage sustainable growth and density around mixed-use centers and corridors by placing density compatible with desired form and existing infrastructure; the design and density are appropriate with adjacent uses that will serve the needs of the surrounding community; the development will be compact in an activity center resulting in efficient land use and cost effective infrastructure investment; the mixture of compatible uses will reduce traffic and limit trips; the development will rehabilitate the deteriorating home on the property for office use; the plan will provide neighborhood serving uses for the property and the two uses will share an entrance and parking facilities reducing the number of curb cuts; and the site will be easily accessible by pedestrian and bicycle traffic and provide green spaces; and

**WHEREAS**, the Commission further finds that the proposed zone change complies with all of the applicable, Objectives and Policies 2, 3, 6, 7, 8, 9 & 12 of Community Form Goal 3, because the proposed development plan will enhance the surrounding neighborhoods by protecting the open space and natural resources by creating detention basins and protecting natural resources; and the open space is compatible with the Form District in that it provides open space that can be visually enjoyed by the community and ensures transitions between the various surrounding properties; and

**WHEREAS**, the Commission further finds that the detention basins being added will improve the issues with standing water and the problems associated with standing water, while respecting the natural features of the property; and these changes will protect the health, safety and welfare of future uses of the development; and

**WHEREAS**, the Commission further finds that the proposed zone change complies with all of the applicable, Objectives and Policies 1, 3, 4, 7 & 14 of Mobility Goal 1, because the development plan implements an accessible system of alternative transportation modes by providing sidewalks and walkway connections between the uses for bicycles and pedestrian traffic, in addition to vehicles; the site is close to public transportation; the office use is located close to the roadway to minimize distances of travel and encourages bicycle use in an activity center; the plan places higher density and intensity near existing corridors and along the minor arterial of Southside Drive and close to the major arterial of New Cut Road and the TARC service available there; and

**PLANNING COMMISSION MINUTES**  
**June 6, 2019**

**PUBLIC HEARING**

**CASE NO. 18ZONE1067**

**WHEREAS**, the Commission further finds that the proposed zone change complies with all of the applicable, Objectives and Policies 1, 2, 4, 5, 6, 7, & 8 of Mobility Goal 2, because the development plan promotes a safe, accessible and efficient transportation system by accommodating pedestrian, bicycle and vehicular access through the connected lots and accessible rights of way between the two lots being created; the site distances for the curb cut are adequate for the area; the internal circulation of pedestrian and vehicular traffic is appropriate with the connected walkways and shared access, parking, etc.; and the entrance is compatible with surrounding development and aesthetically pleasing to adjacent areas; and

**WHEREAS**, the Commission further finds that the proposed zone change complies with all of the applicable, Objectives and Policies 1, 2, 3, 4, 5, 7, 10, 11, 12, 14, 17, 18, 20, 24, & 27 of Mobility Goal 3, by providing walking and bicycling opportunities with the sidewalks and interconnected walkways and by providing a mix of complimentary neighborhood serving businesses and services and thereby reducing miles travelled by car; the plan will not burden the transportation network, but will enhance it with developing the lot in a way that is closer to the purpose for the Town Center than the site currently provides and by introducing uses that will not create a lot of peak travel traffic, consistent with long range transportation plans; the parking requirements of the site consider the density of the use and the character and pattern of the Form District in that it converts a residence to office use by the street; the two differing uses will share a curb cut reducing access points to Southside Drive fulfilling the policy of joint access for development sites; the plan also satisfies the policy of infill development opportunities supporting biking and pedestrian travel; and

**WHEREAS**, the Commission further finds that the proposed zone change complies with all of the applicable, Objectives and Policies 1, 2, & 3 of Community Facilities Goal 2, because this development plan is not a community facilities plan, but it does locate development in areas currently served by existing infrastructure, it has adequate water supply and access to sewers so as to not burden existing or future community facilities; and

**WHEREAS**, the Commission further finds that the proposed zone change complies with all of the applicable, Objectives and Policies 3, 7, & 9 of Economic Development Goal 1, as this development plan benefits and supports the economic climate that improves growth, innovation, and investment opportunity for all by reusing and redeveloping a deteriorated and blighted property in southwest Louisville; it locates the office and contractor's shop in an area with existing infrastructure in an efficient manner increasing economic opportunities in the area; it will provide opportunities to underserved small businesses in the area increasing economic opportunity to business



**PLANNING COMMISSION MINUTES**  
**June 6, 2019**

**PUBLIC HEARING**

**CASE NO. 18ZONE1067**

owners and employment; and while the development will not create high traffic, the traffic will be directed on a minor arterial; and

**WHEREAS**, the Commission further finds that the proposed zone change complies with all of the applicable, Objectives and Policies 1, 3, 4, 5, & 7 of Economic Development Goal 2, because this development plan enhances the quality of life in the area by reusing and readapting a current less desirable use, while at the same time protecting and improving the economic value of the surrounding areas; it satisfies the goal and policy of infill development to take advantage of the existing infrastructure; and the design elements being used will limit the heat island effect through the use of green detention basins; and

**WHEREAS**, the Commission further finds that the proposed zone change complies with all of the applicable, Objectives and Policies 2, 4, 5, 7, 12, 23, 25, 26, 27, 28, 31, 35, 36, & 39 of Livability Goal 1, because the development plan provides pedestrian and bicycle connectivity while not creating much in new traffic for the area; it also will improve the current drainage problems associated with the site where water puddles on the area, through the use of a detention basin greatly reducing the effects of an impervious surface; trees will be preserved where they can, particularly on the property boundaries, and landscaping will be added to reduce the impacts of the site to nearby multi- family housing; and

**WHEREAS**, the Commission further finds that the proposed zone change complies with all of the applicable, Objectives and Policy 8 of Livability Goal 2, because the development plan dramatically improves a blighted site which will be a benefit to the residences and businesses in the immediate vicinity, particularly the adjacent properties; and

**WHEREAS**, the Commission further finds that the proposed zone change complies with all of the applicable, Objectives and Policies 1, 2, & 4 of Livability Goal 3, because equitable access to the land use planning and policy resources has been provided to surrounding residents and property owners with notice of all public meetings, by providing the neighborhood meeting, and by encouraging and providing an opportunity for area involvement in the plan design; and

**WHEREAS**, the Commission further finds that the proposed zone change complies with all of the applicable, Objectives and Policies 1, 2, & 8 of Livability Goal 4, because the development plan enhances choices for mobility choices, encourages clean air by reducing miles driven by providing needed services to an underserved area; and also provides needed office and contractor services in and along high capacity transit corridors of Southside Drive and next to New Cut Road; and



**PLANNING COMMISSION MINUTES**  
**June 6, 2019**

**PUBLIC HEARING**

**CASE NO. 18ZONE1067**

**WHEREAS**, the Commission further finds that the proposed zone change and development plan complies with all of the applicable; Objectives and Policies of Housing Goal 1, 2, & 3 as it creates and locates necessary services and employment opportunities in an existing activity center near residential areas, thereby strengthening and supporting the housing in the area; this use will facilitate connected and mixed use areas and ensure long term affordability and living options for all in the community; 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-5, Single-Family residential to C-1 & C-2, commercial on property described in the attached legal description be **APPROVED**.

**The vote was as follows:**

**YES: Commissioners Robinson, Peterson, Daniels, Brown, Carlson, and Jarboe.**  
**NOT PRESENT: Commissioners Smith, Lewis, Howard, and Tomes**

- **Waiver #1 - Waiver of Land Development Code (LDC), section 5.5.1.A.1.a to allow principle entrance on Tract 2 to not face Southside Drive**
- **Waiver #2 - Waiver of LDC, section 5.5.1.A.3 to allow parking between the principle structure on Tract 2 and Southside Drive**
- **Waiver #3 - Waiver of LDC, section 5.5.1.A.3.d/5.9.2.A.1.b.ii to not provide pedestrian and vehicular connectivity to adjacent sites**

01:53:33 On a motion by Commissioner Carlson, seconded by Commissioner Peterson the following resolution based on Standard of Review and Staff Analysis, the applicant's justification, and evidence and testimony heard today, was adopted:

**(Waiver #1) WHEREAS**, the Louisville Metro Planning Commission finds that the waiver will not adversely affect adjacent property owners as the structure is located towards the rear of the property and to the rear of an existing structure; and

**WHEREAS**, the Commission further finds that Plan 2040 calls for the appropriate placement, design and scale of centers in Traditional Neighborhood, Neighborhood and

**PLANNING COMMISSION MINUTES**  
**June 6, 2019**

**PUBLIC HEARING**

**CASE NO. 18ZONE1067**

Village Form Districts to ensure compatibility with nearby residences. The proposed orientation does not pose a significant concern related to the overall character or compatibility of the development within the area as it is located to the rear of the site. The intended user requires certain spacing element to allow for maneuverability and this does not negatively impact the frontage; 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 as the intended design and user requires additional space for external and internal maneuvering within parking areas and the structure; and

**WHEREAS**, the Commission further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as the site has been laid out to accommodate a specific user. Any future use of the property should reconsider orientation and pedestrian interaction along the frontage; and

**(Waiver #2) WHEREAS**, the Commission further finds that the waiver will not adversely affect adjacent property owners as parking areas are currently located along the frontage and parking in front of structures is common in the area; and

**WHEREAS**, the Commission further finds that Plan 2040 calls for parking in activity centers to reflect the area's associated Form District standards to balance safety, traffic, transit, pedestrian, environmental and aesthetic considerations. The parking area reflects patterns in the area and the needs of the user with respect to user needs and geometry of the lots; 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 as the structure as proposed would not appropriately accommodate access and parking to the rear while being located at the front of the tract; and

**WHEREAS**, the Commission further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as the site has been laid out to accommodate a specific user. Any future use of the property should reconsider orientation and pedestrian interaction along the frontage; and

**(Waiver #3) WHEREAS**, the Commission further finds that the waiver will not adversely affect adjacent property owners as existing facilities adjacent to the site are built out; and

**PLANNING COMMISSION MINUTES**  
**June 6, 2019**

**PUBLIC HEARING**

**CASE NO. 18ZONE1067**

**WHEREAS**, the Commission further finds that Plan 2040 calls for internal circulation pattern for streets within a development be designed with an appropriate functional hierarchy of streets and appropriate linkages with existing and future development. The user on Tract requires a certain level of security from the general public due to its use as a contractor's shop. Any future use of the site should be strongly encouraged to fully comply with connectivity with adjacent users as retail serving uses and neighborhood or regional services should be interconnected to promote visiting multiple establishments; 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 as a contractor's shop requires certain levels of security from the public; and

**WHEREAS**, the Commission further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as the specific user require certain limited interaction Any future use of the site should be strongly encouraged to fully comply with connectivity with adjacent users as retail serving uses and neighborhood or regional services should be interconnected to promote visiting multiple establishments; and

**WHEREAS**, the Commission further finds that Waiver #1 will not adversely affect adjacent property owners or the public because there would be few if any customers of the applicant since this property will be used primarily as a "contractor's workshop". The adjoining properties' uses on Southside Drive are completely different types than the applicant as one is a multi-family apartment use and the other use is a funeral home making vehicular connections inappropriate. The adjoining properties on New Cut Road already have a connection to allow commercial users access to Southside Drive so the necessity of a connection for those properties is already provided; and

**WHEREAS**, the Commission further finds that the waiver will not violate the Comprehensive Plan for all the reasons set forth in the Detailed Statement of Compliance with all applicable Goals, Objectives and Policies of the Plan 2040 Comprehensive Plan filed with the original rezoning application; and

**WHEREAS**, the Commission further finds that the extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because the connection would not serve any purpose and it would promote crime by providing pedestrian access behind the buildings on New Cut Road and Southside Drive; and

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

**PLANNING COMMISSION MINUTES**  
**June 6, 2019**

**PUBLIC HEARING**

**CASE NO. 18ZONE1067**

an unnecessary hardship on the applicant because it would lose valuable/necessary parking, it would serve no useful purpose, and would likely promote criminal activity by providing vehicular and pedestrian access at the back side of several businesses; and

**WHEREAS**, the Commission further finds that Waiver #2 will not adversely affect adjacent property owners because they are commercial users and multi-family that have far less in common with either Cornerstone 2020 Land Development Code or Plan 2040 than this proposed project because those were developed before this area was designated as a Town Center Form District. Furthermore, the site will have a detention basin and have existing landscaping that mitigate the potential adverse consequences of parking located in the front of the building than the LDC otherwise technically permits; and

**WHEREAS**, the Commission further finds that the waiver will not violate the Comprehensive Plan for all the reasons set forth in the Detailed Statement of Compliance with all applicable Goals, Objectives and Policies of the Plan 2040 Comprehensive Plan filed with the original rezoning application; and

**WHEREAS**, the Commission further finds that the extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because this involves an existing, as-built condition in on a relatively minor lot where parking is situated in order to accommodate the plan for this mixed use in the area's activity center; and

**WHEREAS**, the Commission further finds that strict application of the provisions of the regulation would deprive the applicant of a reasonable use of the land or would create an unnecessary hardship on the applicant because it would lose valuable/necessary parking in an area where, as noted, there are no negative resulting impacts; and

**WHEREAS**, the Commission further finds that Waiver #3 will not adversely affect adjacent property owners because they are all commercial and temporary, multi-family users that have far less in common with the Cornerstone 2020 Land Development Code and Plan 2040 than this proposed project because those were developed before this area was designated as a Town Center Form District; and

**WHEREAS**, the Commission further finds that the waiver will not violate the Comprehensive Plan for all the reasons set forth in the Detailed Statement of Compliance with all applicable Objectives and Policies of the Cornerstone 2040 Plan filed with the original rezoning application; and

**WHEREAS**, the Commission further finds that the extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because of one of the buildings

**PLANNING COMMISSION MINUTES**  
**June 6, 2019**

**PUBLIC HEARING**

**CASE NO. 18ZONE1067**

needs to face inward because of the long, irregular shape to the lot, while the existing home, being reused as an office will continue to face Southside Drive; and

**WHEREAS**, the Commission further finds that strict application of the provisions of the regulation would deprive the applicant of a reasonable use of the land or would create an unnecessary hardship on the applicant because it would otherwise not be able to develop the back part of the site which is currently vacant, overgrown, and attracting dumping and criminal elements; now therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Waiver #1 of the Land Development Code (LDC), section 5.5.1.A.1.a to allow principle entrance on Tract 2 to not face Southside Drive; **AND** Waiver #2 of the LDC, section 5.5.1.A.3 to allow parking between the principle structure on Tract 2 and Southside Drive; **AND** Waiver #3 of the LDC, section 5.5.1.A.3.d/5.9.2.A.1.b.ii to not provide pedestrian and vehicular connectivity to adjacent sites.

**The vote was as follows:**

**YES: Commissioners Robinson, Peterson, Daniels, Brown, Carlson, and Jarboe.**  
**NOT PRESENT: Commissioners Smith, Lewis, Howard, and Tomes**

**Variance from LDC, section 5.2.4.C.3.a to exceed the maximum setback of 15' on Tract 2**

01:55:05 On a motion by Commissioner Carlson, seconded by Commissioner Peterson the following resolution based on Standard of Review and Staff Analysis, the applicant's justification, and evidence and testimony heard today, was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that the requested variance will not adversely affect the public health, safety or welfare as sight lines for pedestrians and motorists are not impacted; and

**WHEREAS**, the Commission further finds that the requested variance will not alter the essential character of the area as the area contains a wide variety of setback, orientation, and placement; and

**WHEREAS**, the Commission further finds that the requested variance will not cause a hazard or nuisance to the public as sight lines for the movement of pedestrians and motorists are not impacted; and

**PLANNING COMMISSION MINUTES**  
**June 6, 2019**

**PUBLIC HEARING**

**CASE NO. 18ZONE1067**

**WHEREAS**, the Commission further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the setback is not able to be met given the design of the structure and need for parking and access to serve each site of the development; 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 as the site is narrower than most sites found in the immediate area and larger more intense users such as the one proposed may locate on site; and

**WHEREAS**, the Commission further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as the user may not be able to accommodate the proposed use is made to fully comply with the setback; and

**WHEREAS**, the Commission further finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as no development has occurred; and

**WHEREAS**, the Commission further finds that the variance will not adversely affect the public health, safety or welfare because these are aesthetic issues only; and

**WHEREAS**, the Commission further finds that the variance will not alter the essential character of the general vicinity because, if anything, the general character of the area is one of buildings set back significantly already from the public street, as all buildings in this area were originally located on their respective sites before this was designated as a Town Center Form District; moreover this overall plan brings the site much closer to the intent in the Form District by changing the use of the current building to an office from residential and improving the building with substantial investment to rehabilitate it; regardless, the building's present location is an as-built condition which will not move further from Southside Drive; the contractor's shop will sit further away from the road, but it is a use which will be designed to fit in the area's design and is necessary because of the long, narrow and irregular shape of the overall property relative to building sizes and shapes; and

**WHEREAS**, the Commission further finds that the variance will not cause a hazard or a nuisance to the public because again this is an aesthetic not hazard or nuisance issue; and

**PLANNING COMMISSION MINUTES**  
**June 6, 2019**

**PUBLIC HEARING**

**CASE NO. 18ZONE1067**

**WHEREAS**, the Commission further finds that the variance will not allow an unreasonable circumvention of the requirements of the zoning regulations because of all that is said above include the fact that the office building is a reuse of an existing structure that is not being moved at all and the second building placement is necessitated by the irregular lot size; and

**WHEREAS**, the Commission further finds that the variance arises from special circumstances, which do not generally apply to land in the general vicinity because, as noted above, the building closest to Southside Drive will not be moved from its current location; and

**WHEREAS**, the Commission further finds that strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create unnecessary hardship because the applicant wouldn't be able to fit most of its normal-shaped buildings on this overall irregularly shaped and narrow site; and

**WHEREAS**, the Commission further finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the regulation but rather are the result of the shape of the buildings the overall site and the present as-built condition of the property; now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Variance from LDC, section 5.2.4.C.3.a to exceed the maximum setback of 15' on Tract 2.

**The vote was as follows:**

**YES: Commissioners Robinson, Peterson, Daniels, Brown, Carlson, and Jarboe.**  
**NOT PRESENT: Commissioners Smith, Lewis, Howard, and Tomes**

**Detailed District Development Plan**

01:55:52 On a motion by Commissioner Carlson, seconded by Commissioner Peterson the following resolution based on Standard of Review and Staff Analysis, and evidence and testimony heard today, was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that the conservation of natural resources on the property proposed for development, including: trees and other



**PLANNING COMMISSION MINUTES**  
**June 6, 2019**

**PUBLIC HEARING**

**CASE NO. 18ZONE1067**

living vegetation, steep slopes, water courses, flood plains, soils, air quality, scenic views, and historic sites will be provided. The site does not appear to contain significant natural features. Trees will be preserved where possible by the proposed development. The site does not appear to contain wet or highly permeable soils, severe, steep or unstable slopes. The proposal does not appear to be located in a flood-prone area and the site is not in a Karst prone area; 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 as pedestrian connections have been provided to each building on the development and sidewalks are present. Any future use of the property should be strongly encourage to fully comply with the connectivity standards to adjacent users as required by the Land Development Code; and

**WHEREAS**, the Commission further finds that the proposal provides open space in a detention area to handle run-off and through drainage; 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 proposed use and development is compatible with the area the area contains a wide variety of setback, orientation, and placement; and

**WHEREAS**, the Commission further finds that the development plan with the current uses proposed conforms to the Comprehensive Plan the site is located along an arterial road with direct connection to an activity center and TARC service. Sidewalks and pedestrian connectivity are provided. Design and materials increase the development compatibility. The area contains a wide variety of orientation, setback, and placement of structures and parking facilities. Current users require a certain level of security form the public. However, any future use of the property should be strongly encourage to fully comply with the connectivity standards to adjacent users as required by the Land Development Code. Appropriate transitions have bene provided to abutting uses; now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Detailed District Development Plan, **SUBJECT** to the following binding elements:

**PLANNING COMMISSION MINUTES**  
**June 6, 2019**

**PUBLIC HEARING**

**CASE NO. 18ZONE1067**

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
  
2. Before any permit (including but not limited to building, parking lot, change of use, site disturbance) 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. 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 certificate of occupancy or 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.
  
  - e. A crossover easement and shared parking agreement in a form acceptable to the Planning Commission legal counsel shall be created between the adjoining property owners and recorded. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services.
  
  - f. A minor subdivision plat or legal instrument shall be recorded creating the lot lines as shown on the development plan & dedicating additional right-of-way as required by the Department of Public Works and shown on the approved development plan.
  
  - g. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the June 6, 2019 Planning Commission meeting. A copy of the approved rendering is

**PLANNING COMMISSION MINUTES**  
**June 6, 2019**

**PUBLIC HEARING**

**CASE NO. 18ZONE1067**

available in the case file on record in the offices of the Louisville Metro Planning Commission.

3. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
4. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
5. No power equipment that will cause a noise disturbance will be run between the hours of 10:00 p.m. and 6:00 a.m.

**The vote was as follows:**

**YES: Commissioners Robinson, Peterson, Daniels, Brown, Carlson, and Jarboe.**  
**NOT PRESENT: Commissioners Smith, Lewis, Howard, and Tomes**