

**MINUTES OF THE MEETING  
OF THE  
LOUISVILLE METRO PLANNING COMMISSION  
November 7, 2018**

A meeting of the Louisville Metro Planning Commission was held on November 7, 2018 at 6:30 p.m. at the Southwest Government Center, located at 7219 Dixie Highway, Louisville, Kentucky.

**Commission members present:**

Vince Jarboe, Chair  
Jeff Brown  
Rich Carlson  
Ruth Daniels  
Donald Robinson  
Emma Smith

**Commission members absent:**

Marilyn Lewis, Vice Chair  
Lula Howard  
Robert Peterson  
David Tomes

**Staff Members present:**

Emily Liu, Planning and Design Director  
Brian Davis, Planning and Design Manager  
Julia Williams, Planning Supervisor  
Beth Stuber, Transportation Planning  
Travis Fiechter, Legal Counsel  
Pamela M. Brashear, Management Assistant

**Others Present:**

Tony Kelly, Metropolitan Sewer District

The following matters were considered:

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**CASE NO. 18ZONE1037**

Request: Change in Form District from Regional Center to Suburban Workplace, change in Zoning from R-4 and C-1 to CM with Waivers and a Revised Detailed District Development Plan with Binding Elements

Project Name: New Cut Road Warehouse

Location: 6008, 6108 and 6110 New Cut Road

Owner: George's Mobile Home Park, Mark and Terri Hass

Applicant: Exeter Property Group, LLC

Representative: Land Design and Development; Duncan Galloway Egan Greenwald, PLLC

Jurisdiction: Louisville Metro

Council District: 13- Vicki Aubrey Welch

**Case Manager: Julia Williams, AICP, Planning Supervisor**

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

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

**Agency Testimony:**

00:03:06 Ms. Williams discussed the case summary, standard of review and staff analysis from the staff report. Commissioner Carlson asked if the applicant has commented on the additional buffering listed in the staff report. Ms. Williams said the applicant can answer that question. Also, there are no waiver justifications. Ms. Williams will provide it.

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

Kyle Galloway, 9625 Ormsby Station Road, Louisville, Ky. 40223  
Ann Richard, Land Design and Development, 503 Washburn Avenue, Louisville, Ky. 40222  
Tom Theobald, 5455 West 74<sup>th</sup> Street, Indianapolis, In. 46268

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

00:13:51 Mr. Galloway gave a power point presentation. The proposed site has been vacant for some time. A small portion of the R-4 will be rezoned to C-1 as

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commercial strip centers. There will be some additional buffering but there are drainage ditches and easements (MSD) that can't have any plantings. The view shed will be very attractive. Retail would not be appropriate because there's not enough density and the need will be created by the workforce development (commercial). The proposal won't add a lot of traffic and will be useful to the neighborhood as a whole. There will be Outer Loop intersection improvements scheduled for 2019 per Jason Richardson from Kentucky Department of Transportation (KDOT). Sidewalks along Outer Loop is discouraged from the state but they will be added on New Cut Rd. where appropriate.

00:28:16 Commissioner Carlson asked how long will it take for the landscaping to be placed and what is the time frame for growth? Ms. Richard, LDD, said it will be 10-15 years. The evergreen trees are proposed to be installed at 6 feet tall and the deciduous trees at 1.2 to 2 inch caliper. Commissioner Carlson asked if they could plant larger trees. Ms. Richard said yes, but those are what is required by the Land Development Code. Commissioner Carlson asked, what is positive net absorption? Mr. Theobald said it's absorption of warehouse space, the net gain of absorption of new space being filled up with industrial distribution type users.

00:31:06 Commissioner Brown said the landscape rendering differs from the development plan. Which one is correct? Ms. Richard said the plantings on the development plan were added at staff's request to demonstrate the specific landscaping for the loading dock area. Chair Jarboe asked if the plantings can be added in MSDs easements. Ms. Richard said there's a 120 inch sewer line running parallel to Pond Creek with a significant sewer easement attached to it so the question for MSD is can we plant in it and how close can we get to the sewer line? MSD also has a 25 foot vegetative buffer and we need their permission to plant in it as well.

00:33:45 Mr. Kelly, MSD, stated he will not permit any plantings in the sewer line easement, but if there's space in the 25 foot buffer, it's fine.

00:35:40 Commissioner Smith said a facility of this size warrants the maximum buffering.

00:36:08 Chair Jarboe stated there are 2 vacant warehouses in the area so why not use one of them? Mr. Galloway said the product is different. Mr. Theobald said the main street property adjacent to our property is designed for a single user.

00:39:07 Mr. Galloway stated we're outside the scope of the Fairdale Plan.

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

Pam Shofner-Daniels, 8900 Brown Austin Road, Fairdale, Ky. 40118

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Ed Morris, 500 Mount Holly, Fairdale, Ky. 40118  
Jessica Norris, 411 Echappe Lane, Fairdale, Ky. 40118  
Angela Uebelhad, 117 Danny Court, Louisville, Ky. 40214  
Sharon Woodring, 9908 Larlyn Drive, Fairdale, Ky. 40118  
Artie Bell, 11800 Old Mitchell Hill Road, Fairdale, Ky. 40118

**Summary of testimony of those in opposition:**

00:40:05 Ms. Shofner-Daniels read the Fairdale Vision statement which was adopted November 1, 2006. The proposal is slightly outside of the plan area, but it's still a gateway. The population in Fairdale is 11,000, the median household income is \$46,400.00, the unemployment rate is 4.1% and growth rate (by 2023) of 0.58%, so we have employment, money and people to substantiate putting in retail.

Ms. Shofner-Daniels listed some retail needed in Fairdale as follows: bank, grocery store, Cash Saver, pharmacy, laundromat, bakery, nice restaurants, thrift shop, gym, farmer's market or dry cleaner. Also, the additional truck traffic will deteriorate the roads. There are no sidewalks on either side of New Cut Rd. and are much needed for safety. There are 60 homes directly across from the proposed site.

00:47:03 Mr. Morris stated the airport expansion is what drives these economic warehouses. The south end is paying the price with loss of neighborhoods. There are other warehouses sitting empty and a lot of 'hiring' signs. The Memorial Forest will be nice in the next 5-6 years, but will be inundated with warehouses. Traffic is horrendous in the area. The Outer Loop and National Turnpike to 3<sup>rd</sup> St. intersection was the 2<sup>nd</sup> highest fatality intersection in the city of Louisville (2 years ago). There were plans to widen it for the past 10 years, but no funds are available. The same standards are not held as in other parts of the city.

00:54:34 Ms. Norris stated there is a warehouse close to her house and it's in use. It shakes her house and there is concern for her foundation. Also, if this meeting would have been in the area of the proposed site, there would have been more people in attendance.

00:56:02 Ms. Uebelhad stated she was born and raised in Fairdale and they need more retail. The residents will use retail, not the warehouse workers. Also, the proposal will increase traffic.

00:58:10 Ms. Woodring said she can see warehouses from the Gene Snyder Freeway because they're very massive. No amount of tree buffering will help. Fairdale doesn't need any more warehouses but there is a need for senior homes.

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01:02:05 Chair Jarboe asked, what can the property owner do? He has been trying to sell the property for years (over 7 years). Ms. Woodring said he has the right to sell but it needs to meet the current zoning regulations.

01:14:04 Ms. Bell discussed the meeting regarding the gateway and Colonial Gardens.

**Rebuttal**

01:14:55 Mr. Galloway stated that this plan is outside the Fairdale Neighborhood Plan area. The front of the building will look nice and the applicant will contribute to a traffic light if the state approves. There has been a decline in retail because of shopping on line and we need to adapt to that. The staff is in agreement to the proposal.

**Deliberation**

01:20:49 Commissioner Carlson said he understands the residents' concerns. Single family residential is an inappropriate use for that area. The plan meets the guidelines of the Land Development Code and the waivers are adequately justified. Lowe's would have generated more traffic.

01:25:14 Commissioner Daniels stated the applicant has provided changes requested with waivers and it meets the guidelines of the Comprehensive Plan.

01:25:38 Commissioner Brown stated R-4 is inappropriate. This plan is outside the Fairdale Neighborhood Plan area. The proposed site is appropriate for a warehouse and landscaping will help mitigate the impact from the 2 waivers.

01:26:40 Commissioner Smith stated the plan conforms to the Comprehensive Plan and Cornerstone 2020.

01:27:25 Commissioner Robinson agrees with the other commissioners.

01:28:00 Chair Jarboe said the Outer Loop should have been expanded years ago and it's up to the state. The Planning Commission has to follow the guidelines and hopefully some retail will go in.

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

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**Change in Form District from Regional Center to Suburban Workplace**

On a motion by Commissioner Carlson, seconded by Commissioner Brown, the following resolution based on the Cornerstone 2020 Staff Analysis and the applicant's testimony was adopted.

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Community Form guideline because the proposal provides a pedestrian entrance to the proposed sidewalk; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Community Form guideline because the building setbacks and required buffers adjacent to the roadway are provided; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Community Form guideline because this use is proposed directly north of another large proposed industrial development with commercial uses to the north; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Community Form guideline because the applicant has provided cross connectivity to the adjacent site as well as public sidewalks and provided pedestrian access from the building entrance to the sidewalk; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Compatibility guideline because the proposed building materials are similar to other warehouse buildings in the vicinity; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Compatibility guideline because this proposal does not create a non-residential expansion into a residential area. While the current zoning is residential, the site is vacant with the surrounding area already zoned for industrial and commercial; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Compatibility guideline because APCD has no issues with the proposal; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Compatibility guideline because Transportation Planning has not indicated any issues with traffic for the proposal; and

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**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Compatibility guideline because lighting will be in compliance with LDC standards. A note regarding lighting has been placed on the plan; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Compatibility guideline because the proposal is a higher intensity use and requires a more intense zone. It is located at the intersection of a major and minor arterial; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Compatibility guideline because the proposal meets setback and buffer requirements; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Compatibility guideline because the proposal meets setback and buffer requirements; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Compatibility guideline because it appears the setbacks and building height is compatible with the non-residential uses surrounding the site; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Compatibility guideline because there is no parking or loading near residential; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Compatibility guideline because it appears all required buffers for VUA are proposed and parking and loading are appropriately placed on the site; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Compatibility guideline because signs will meet LDC requirements; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Open Space guideline because the amenity area is proposed as required; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Open Space guideline because the amenity area is proposed as required; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Open Space guideline because tree canopy requirements appear to be met; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Natural Areas and Scenic Historic Resources guideline because the stream buffer,

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while variable in some places, meets the LDC requirements. The stream is being preserved; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Natural Areas and Scenic Historic Resources guideline because LOJIC has not identified any hydric soils on site; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Economic Growth and Sustainability guideline because the use itself is industrial in nature; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Economic Growth and Sustainability guideline because this proposal is located near other office/industrial uses where infrastructure exists; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Economic Growth and Sustainability guideline because this use may generate large amounts of traffic but is located at the intersection of a minor and major arterial; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Economic Growth and Sustainability guideline because the proposal will have approximately 175 employees, is located on an arterial roadway and just north of Gene Snyder; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Circulation guideline because roadway improvements for New Cut Road will be implemented for the proposal; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Circulation guideline because cross access and pedestrian connectivity is being provided on the site. A sidewalk is being provided along New Cut Road; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Circulation guideline because cross access is provided; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Circulation guideline because Transportation Planning is requiring ROW dedication along New Cut Road; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Circulation guideline because the proposal includes adequate parking to support the use; and



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**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Transportation Facility Design guideline because roadway connections are adequate; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Transportation Facility Design guideline because access is proposed from New Cut Road and appears to be in the most appropriate location, lining up with the roadway directly adjacent; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Transportation Facility Design guideline because the existing road network is unaffected; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Bicycle, Pedestrian and Transit guideline because cross access and pedestrian connectivity is being provided on the site. A sidewalk is being provided along New Cut Road; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Flooding and Stormwater guideline because MSD has no issues with the proposal; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Air Quality guideline because APCD has no issues with the proposal; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Landscape Character guideline because the existing stream on site will be preserved; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Infrastructure guideline because existing utilities serve the site; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Infrastructure guideline because there is an adequate water supply available for the proposal; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Infrastructure guideline because the Health Department has no issues with the proposal.

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**RESOLVED**, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council the change in Form District from Regional Center to Suburban Workplace on property described in the attached legal description be **APPROVED**.

**The vote was as follows:**

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

**Zoning Change from R-4 & C-1 to C-M**

On a motion by Commissioner Carlson, seconded by Commissioner Brown, the following resolution based on the Cornerstone 2020 Staff Analysis and the applicant's testimony was adopted.

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Community Form guideline because the proposal provides a pedestrian entrance to the proposed sidewalk; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Community Form guideline because the building setbacks and required buffers adjacent to the roadway are provided; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Community Form guideline because this use is proposed directly north of another large proposed industrial development with commercial uses to the north; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Community Form guideline because the applicant has provided cross connectivity to the adjacent site as well as public sidewalks and provided pedestrian access from the building entrance to the sidewalk; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Compatibility guideline because the proposed building materials are similar to other warehouse buildings in the vicinity; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Compatibility guideline because this proposal does not create a non-residential

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expansion into a residential area. While the current zoning is residential, the site is vacant with the surrounding area already zoned for industrial and commercial; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Compatibility guideline because APCD has no issues with the proposal; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Compatibility guideline because Transportation Planning has not indicated any issues with traffic for the proposal; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Compatibility guideline because lighting will be in compliance with LDC standards. A note regarding lighting has been placed on the plan; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Compatibility guideline because the proposal is a higher intensity use and requires a more intense zone. It is located at the intersection of a major and minor arterial; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Compatibility guideline because the proposal meets setback and buffer requirements; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Compatibility guideline because the proposal meets setback and buffer requirements; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Compatibility guideline because it appears the setbacks and building height is compatible with the non-residential uses surrounding the site; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Compatibility guideline because there is no parking or loading near residential; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Compatibility guideline because it appears all required buffers for VUA are proposed and parking and loading are appropriately placed on the site; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Compatibility guideline because signs will meet LDC requirements; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Open Space guideline because the amenity area is proposed as required; and

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**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Open Space guideline because the amenity area is proposed as required; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Open Space guideline because tree canopy requirements appear to be met; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Natural Areas and Scenic Historic Resources guideline because the stream buffer, while variable in some places, meets the LDC requirements. The stream is being preserved; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Natural Areas and Scenic Historic Resources guideline because LOJIC has not identified any hydric soils on site; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Economic Growth and Sustainability guideline because the use itself is industrial in nature; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Economic Growth and Sustainability guideline because this proposal is located near other office/industrial uses where infrastructure exists; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Economic Growth and Sustainability guideline because this use may generate large amounts of traffic but is located at the intersection of a minor and major arterial; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Economic Growth and Sustainability guideline because the proposal will have approximately 175 employees, is located on an arterial roadway and just north of Gene Snyder; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Circulation guideline because roadway improvements for New Cut Road will be implemented for the proposal; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Circulation guideline because cross access and pedestrian connectivity is being provided on the site. A sidewalk is being provided along New Cut Road; and

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**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Circulation guideline because cross access is provided; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Circulation guideline because Transportation Planning is requiring ROW dedication along New Cut Road; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Circulation guideline because the proposal includes adequate parking to support the use; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Transportation Facility Design guideline because roadway connections are adequate; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Transportation Facility Design guideline because access is proposed from New Cut Road and appears to be in the most appropriate location, lining up with the roadway directly adjacent; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Transportation Facility Design guideline because the existing road network is unaffected; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Bicycle, Pedestrian and Transit guideline because cross access and pedestrian connectivity is being provided on the site. A sidewalk is being provided along New Cut Road; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Flooding and Stormwater guideline because MSD has no issues with the proposal; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Air Quality guideline because APCD has no issues with the proposal; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Landscape Character guideline because the existing stream on site will be preserved; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Infrastructure guideline because existing utilities serve the site; and

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**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Infrastructure guideline because there is an adequate water supply available for the proposal; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Infrastructure guideline because the Health Department has no issues with the proposal.

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council the change in zoning from R-4 and C-1 to C-M on property described in the attached legal description be **APPROVED**.

**The vote was as follows:**

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

**Waiver from Chapter 5.5.2.A.1 to not provide building entrances and glazing on the north façade facing Outer Loop**

On a motion by Commissioner Carlson, seconded by Commissioner Smith, the following resolution based on the Standard of Review and Staff Analysis, applicant's justification and applicant's testimony was adopted.

**WHEREAS**, the waiver will not adversely affect adjacent property owners since the loading area will be heavily screened with plant materials and is located at a further distance from Outer Loop due to the existing stream; and

**WHEREAS**, Guideline 2, Policy 12 encourages large developments in activity centers to be compact, multi-purpose centers designed around a central feature such as a public square or plaza or landscaped element. Guideline 3, Policy 1 requires new development and redevelopment with the scale and site design of nearby existing development and with the pattern of development within the form district. The building on the site is internally focused to address the adjacent properties warehouses and how those warehouses have offices and employee parking facing an existing access easement; and

**WHEREAS**, the Louisville Metro Planning Commission finds, the extent of waiver of the regulation is the minimum necessary to afford relief to the applicant since the orientation

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of the building in the proposed manner will allow large trucks to access the site directly from New Cut Road rather than using the access easement on the adjacent property and interfering with that sites truck maneuvering and employee parking; and

**WHEREAS**, the Louisville Metro Planning Commission further finds the applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived since they have provided a 15' buffer adjacent to the trailer parking to further screen the truck parking and the loading area.

**Waiver from Chapter 5.6.1.B to reduce the amount of windows and glazing on the south façade**

**WHEREAS**, the requested waiver will not adversely affect adjacent property owners since the adjacent property is a similar use with limited office; and

**WHEREAS**, Guideline 3, Policies 1 and 2 call for the compatibility of all new development and redevelopment with the scale and site design of nearby existing development and with the pattern of development within the form district. The type of building materials may be considered as a mitigation measure and may also be considered in circumstances specified in the Land Development Code. When assessing compatibility, it is appropriate to consider the choice of building materials in the following circumstances: (1) projects involving residential infill; (2) projects involving non-residential uses; and (3) when specified in the Land Development Code. The proposal is for a non-residential use. The Land Development Code provides building design standards for non-residential and mixed use buildings. The purpose of the regulation is to provide visual interest and a human scale that are representative of the form district through the use of windows, columns, pilasters, piers, variation of material, entrances, storefront windows, and other animating features. Since the façade is interior to the site and facing the adjacent property which is of a similar use, the waiver will be compatible with the parking and facades on the adjacent site; and

**WHEREAS**, the Louisville Metro Planning Commission finds, the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since the adjacent use is the same as the proposed use of the building proposed on the subject site; and

**WHEREAS**, the Louisville Metro Planning Commission further finds 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 adjacent use is the same as the proposed use of the proposed building on the site.

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**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** a waiver from Chapter 5.5.2.A.1 to not provide building entrances and glazing on the north façade facing Outer Loop and a waiver from Chapter 5.6.1.B to reduce the amount of windows and glazing on the south façade.

**The vote was as follows:**

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

**Revised Detailed District Development Plan with binding elements and removal of existing binding elements**

On a motion by Commissioner Carlson, seconded by Commissioner Brown, the following resolution based on the Standard of Review and Staff Analysis and the applicant's testimony was adopted.

**WHEREAS**, the existing stream on the site will be preserved. Tree canopy requirements of the Land Development Code will be provided on the subject site; and

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

**WHEREAS**, there are no open space requirements pertinent to the current proposal; and

**WHEREAS**, the Metropolitan Sewer District has approved the preliminary development plan and will ensure the provision 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 Louisville Metro Planning Commission finds, 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 Louisville Metro Planning Commission further finds the development plan conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code.



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**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** the Revised Detailed 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. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
3. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
4. Before any permit (including but not limited to building, parking lot, change of use, site disturbance) is requested:
  - a. The development plan must receive full construction approval from Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.
  - b. Encroachment permits must be obtained from the Kentucky Transportation Cabinet.
  - c. A minor subdivision plat or legal instrument shall be recorded dedicating additional right-of-way to New Cut Road to provide a total of 60' feet from the centerline. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services prior to obtaining a building permit.
  - d. A reciprocal access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be created between the adjoining property owners to the east of the property with frontage on New Cut Rd. and recorded. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services prior to obtaining a building permit.
  - e. The property owner/developer must obtain approval of a detailed plan for

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**PUBLIC HEARING**

**CASE NO. 18ZONE1037**

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.

- f. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
5. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
  6. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
  7. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
  8. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the November 7, 2018 Planning Commission meeting.

**The vote was as follows:**

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

**PLANNING COMMISSION MINUTES**  
**November 7, 2018**

**STANDING COMMITTEE REPORTS**

**Land Development and Transportation Committee**

No report given.

**Site Inspection Committee**

No report given.

**Planning Committee**

No report given.

**Development Review Committee**

No report given.

**Policy and Procedures Committee**

No report given.

**CHAIRPERSON/DIRECTOR'S REPORT**

No report given.

**ADJOURNMENT**

The meeting adjourned at approximately 8:06 p.m.

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**Chair**

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**Planning Director**