

**Planning Commission Minutes
April 21, 2016**

Public Hearing

Case No. 15ZONE1064

Request: Change in Form District from Traditional Workplace to Town Center; Change in zoning from M-2 to C-1 on 0.92 acres; Waivers; Variances; and a Detailed District Development plan

Project Name: Pizza Hut

Location: 3803, 3805, and 3809 7th Street Road

Owner: LJCC Trust LLC
Layne Smith, Managing Member
822 South First Street
Louisville, KY 40203

Applicant: Apex Restaurants LLC
Brian Reetz, VP
305 Townepark Circle, Suite 101
Louisville, KY 40243

Representatives: James T. Lobb
Weber & Rose PSC
471 West Main Street Suite 400
Louisville, KY 40202

Kathy Linares and Kent Gootee
Mindel Scott & Associates
5151 Jefferson Boulevard
Louisville, KY 40219

Jurisdiction: Louisville Metro

Council District: 3 – Mary Woolridge

Case Manager: **Julia Williams, RLA, AICP, Planner II**

Notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicants.

The staff report prepared for this case was incorporated into the record. The Commissioners received this report in advance of the hearing, and this report was available to any interested party prior to the public hearing. (Staff report is

Planning Commission Minutes
April 21, 2016

Public Hearing

Case No. 15ZONE1064

part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

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

Agency Testimony:

02:01:24 Julia Williams presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.)

The following spoke in favor of the proposal:

James T. Lobb, Weber & Rose PSC, 471 West Main Street Suite 400, Louisville, KY 40202

Kathy Linares and Kent Gootee, Mindel Scott & Associates, 5151 Jefferson Boulevard, Louisville, KY 40219

Summary of testimony of those in favor of the proposal:

02:09:21 James Lobb, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.) He also handed out large copies of the Detailed District Development Plan to the Commissioners.

02:18:55 Kent Gootee, an applicant's representative, offered to answer questions about how the utilities affected the site.

02:19:38 In response to a question from Commissioner Blake, Ms. Williams and Mr. Lobb discussed alternatives for the signage. Kathy Linares talked about LDC regulations for signage in this area, and how it relates to what the applicant is proposing.

02:23:45 In response to a question from Commissioner Howard, Mr. Gootee discussed the utility easements and how they affected the design and signage requests.

Planning Commission Minutes
April 21, 2016

Public Hearing

Case No. 15ZONE1064

02:26:34 Commissioner Blake suggested that the Commission move to the next case, and continue this case to the end of this hearing so that the applicants can write a justification statement for the sign.

02:28:05 On a motion by Commissioner Tomes, seconded by Commissioner Peterson, the following resolution was adopted:

RESOLVED, the Commission agrees to table this case until the end of today's public hearing, at which time the applicant will present a written justification statement for the signage request.

The vote was as follows:

YES: Commissioners Brown, Turner, Blake, Kirchdorfer, Tomes, Jarboe, Peterson, and Howard.

NO: No one.

NOT PRESENT: Commissioners White and Lewis.

ABSTAINING: No one.

THE COMMISSION HEARD CASE NO. 15ZONE1048, THEN RETURNED TO THIS CASE.

***NOTE: Commissioners Kirchdorfer and Brown left the meeting at 3:45 p.m. and did not hear or vote on the remainder of this case.**

03:15:20 The Commission reconvened this case. Kathy Linares read the revised justification statement for signage into the record, as follows:

The requested sign waiver is appropriate since the sign regulations allow a freestanding sign as long as the building on the lot is located 15-feet or more away from the front property line. In this instance, the sign is proposed in front of the southwest building on the site, which is located 15 feet from the property line. Additionally, if the site was subdivided with each building on its own lot as proposed, the sign would be allowed.

For these reasons it will not adversely affect the adjacent property owner, will not violate Cornerstone 2020, is the minimum necessary to comply with the regulations, and the strict application of the regulation would deprive the

Planning Commission Minutes
April 21, 2016

Public Hearing

Case No. 15ZONE1064

applicant of a reasonable use of the property and create an unnecessary hardship.

The following spoke in opposition to the proposal:

No one spoke.

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

No one spoke.

Rebuttal:

There was no rebuttal, since no one spoke in opposition.

Deliberation:

03:18:41 Commissioners' deliberation.

Zoning and Form District

03:27:36 On a motion by Commissioner Jarboe, seconded by Commissioner Tomes, the following resolution was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the intents of **Guideline 1 – Community Form**. The applicant proposes to rezone approximately .55 acres of the site, i.e. the northeastern 2 of the three lots comprising the site, from M-2 to C-1. The applicant will then construct two buildings, one a single story restaurant facility and one a single story retail building. This downzoning would render the entire Site zoned C-1, which is the same as the lot immediately to the south (more accurately, the southwest) of the Site. As the Pre-Application Staff Report ("Pre-App Report"), dated January 8, states, "The subject sites are located along the 7th Street Road corridor leading south to Dixie Highway. The parcels are at the edge of the Traditional Workplace and the Town Center form districts. The railroad line is located to the real of the subject to the east. The surrounding area is a mix of industrial and commercial zoning." The Pre-App Report, at page 5 of 13, shows that the land to the immediate north of the Site is vacant and zoned M-2, while lands continuing on to the north of that are generally zoned M-2; that the land to the immediate south of the Site and on the same side of 7th Street Road is zoned C-1, while lands continuing on to the south and on the same side of 7th Street Road are generally zoned C-1; and that lands across 7th Street Road from the Site, both

Planning Commission Minutes
April 21, 2016

Public Hearing

Case No. 15ZONE1064

to the north and south, are zoned C-2. That land to the immediate south of the Site contains an office building. Finally, the land to the immediate east of the Site, which by orientation would be the back of the development, contains a railroad right of way easement and rail line. In response to the Pre-App Report Cornerstone 2020 checklist, items 2 and 3, at Pre-App Report page 7 of 13, the applicant states that the fronts of the proposed buildings are being reconfigured so that they parallel the setback line; that front entrances are being added; and that a bike rack is being added to provide for additional parking; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 2 – Centers**. The Site is bordered to the north by M-2 zoned properties (Traditional Workplace), to the south by C-1 zoned properties (Town Center), to the east by a rail line, and to the west by C-2 properties (Town Center). The properties to the north, south, and west of the Site border a major arterial roadway (7th Street Road). Further to the north, on the other side of 7th Street Road and sandwiched in between the C-2 and M-2 properties, is an R-6 subdivision, a natural constituency for both the restaurant and retail space planned by the applicant. In response to the Pre-App Report Cornerstone 2020 checklist, items 9 and 13, at Pre-App Report page 8 of 13, the applicant states that, though the proposed buildings are single story rather than multiple story, mixed use, single story buildings are consistent with the use in the area, while multiple story, mixed use buildings would likely require more parking that could be provided for on the site. As stated above, the applicant is adding a bike rack to accommodate bike parking; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 3 – Compatibility**. The rezoning of the properties within the site to C-1, and the construction of a retail building and a restaurant on the Site, renders the Site compatible with the uses of the surrounding M-2, C-1 and C-2 properties for those reasons cited above. In response to the Pre-App Report Cornerstone 2020 checklist, items 14, 17, 20-22, and 26, at pages 9-10 of 13, the applicant states that the Detailed District Development Plan, General Notes, #9, provides that "Building Architecture to comply with Chapter 5.6 of the LDC". That building architecture is still being determined. The additional traffic impacts on nearby communities from the restaurant and retail building should be minimal. The applicant expects that the retail building will be utilized primarily by persons who come in, park, and stay for the bulk of the workday, with 3rd party visitations sporadic at best. The restaurant will have sit down facilities, but it is primarily a drive through and carry out facility, and the drive through lane will serve to regulate the flow and frequency. of customers leaving the lot. Based on historic use at other applicant sites, the applicant also believes that the bulk of the traffic from the restaurant will come later in the day and evening, when traffic is less

Planning Commission Minutes
April 21, 2016

Public Hearing

Case No. 15ZONE1064

congested. The size and intensity of the Site use is similar to, and not more intensive or dense than, existing improvements in the immediate area, including the buildings immediately adjacent to, or across the road from, the Site. The fronts of the proposed buildings are being reconfigured so that they parallel the setback line, and front entrances are being added. Signage will be located as shown on the Detailed District Development Plan attached to the Final Application, as that DDDP may be modified subsequently with approval of Planning and Design. The Detailed District Development Plan, General Notes, #5, provides that "Identification sign shall be submitted to and approved by the planning staff prior to construction plan approval and shall meet the requirements of Chapter 8 of the LDC". Further, the Detailed District Development Plan, Public Works and KTC Note, #1, provides that "No landscaping and commercial signs shall be permitted in state and metro works R/W."; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 4 – Open Space**. Open space is not required for this use, and the Site is not located in an area where there are natural features evident; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 5 – Natural Areas and Scenic and Historic Resources**. There is nothing of cultural or historic value on the Site, and the proposed use will not affect the soils on the Site; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 6 – Economic Growth and Sustainability**. Access to the rezoned Site will be via a major arterial roadway (7th Street Road). The Site is not located downtown, and the use is not industrial in nature; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 7 – Circulation**. Roadway, bikeway and walkway facilities serving the property already exist (see Pre-App Report, Cornerstone 2020 checklist, item #38). The Site sits adjacent to a major arterial, such that no further improvements to the facilities are needed. The applicant has agreed to provide further setback from 7th Street Road to allow for the future widening of that road. The applicant will connect walkways from the two buildings to these existing facilities, and will install a bike rack to better serve bike parking. In response to the Pre-App Report Cornerstone 2020 checklist, items 37, 38, and 40, at page 11 of 13, the applicant states that, as stated in the Detailed District Development Plan, Public Works and KTC Notes, #3, 4, 6, and 10, the applicant will insure that all roadway and entrance intersections meet the landing requirements imposed by public works, that all utilities be located in a single trench unless otherwise required by Metro Works, that all utilities be relocated at the applicant's expense,

Planning Commission Minutes
April 21, 2016

Public Hearing

Case No. 15ZONE1064

and that the applicant agrees to enter into an agreement for cross access to the property to its immediate south-whenver the owner of that southern property will provide equivalent cross access-all as a way of providing better off road circulation between the properties. The applicant is providing a bike rack to accommodate bike parking. As stated in the Detailed District Development Plan, Public Works and KTC Note #9, the applicant is requesting a waiver on the 7th street right of way setback requirement so that the setback required of this property is the same as the setback required of adjacent, already developed properties; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 8 – Transportation Facility Design**. No new roads are proposed or needed. Access will by the existing public roads. However, the applicant agrees to enter into an agreement for cross access to the property to its immediate south-whenver the owner of that southern property will provide equivalent cross access-all as a way of providing better off road circulation between the properties; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 9 – Bicycle, Pedestrian and Transit** because the applicant is providing a bike rack to accommodate bike parking; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 10 – Flooding and Stormwater**. The applicant believes that its proposed use should have no material adverse effect on the existing drainage systems for the Site and not increase the existing stormwater runoff. In response to the Pre-App Report Cornerstone 2020 checklist, item 47, at page 12 of 13, the applicant states that the applicant's revised Detailed District Development Plan has incorporated and addressed MSD's comments; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 12 – Air Quality**. The applicant believes that its proposed use should have no material adverse effect on the existing air quality for the Site. APCD has preliminarily approved the applicant's proposal; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 13 – Landscape Character**. Staff has determined that applicant's proposed rezoning proposal "does not have any existing natural features and is not located in an area where natural corridors are evident."; and

**Planning Commission Minutes
April 21, 2016**

Public Hearing

Case No. 15ZONE1064

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 14 – Infrastructure** because the site has available utilities, adequate sewage treatment and disposal service, and adequate water; and

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

RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the requested change in form district from Traditional Workplace to Town Center and change in zoning from M-2 to C-1 on property located in the attached legal description be **APPROVED**.

The vote was as follows:

YES: Commissioners Turner, Tomes, Jarboe, Blake, and Peterson.

NO: No one.

NOT PRESENT: Commissioners White, Lewis, Brown, and Kirchdorfer.

ABSTAINING: Commissioner Howard.

- **Variance #1 – Variance from 5.1.8.B to permit less than 60% of the site frontage to be occupied by structures.**
- **Variance #2 – Variance from 5.2.4.C.3.F to permit parking to encroach into the 5' rear yard as indicated on the development plan.**
- **Waiver #1 – Waiver from 10.2.4.B to permit 100% encroachment of an easement into a required LBA along 7th Street Road**
- **Waiver #2 - Waiver from 10.2.13 to permit Type C trees to be used in ILAs instead of the required Type A/B trees.**

03:29:22 On a motion by Commissioner Jarboe, seconded by Commissioner Turner, the following resolution was adopted:

(Variance #1) **WHEREAS**, the Louisville Metro Planning Commission finds that the requested variance will not adversely affect public health safety or welfare since the buildings proposed are within the appropriate setback and have entrances and windows that face the public right of way; and

Planning Commission Minutes
April 21, 2016

Public Hearing

Case No. 15ZONE1064

WHEREAS, the Commission further finds that the requested variance will not alter the essential character of the general vicinity since there is a mix of building types in the area which have different orientations; and

WHEREAS, the Commission further finds that the requested variance will not cause a hazard or nuisance to the public since pedestrians are served by the sidewalk and by having the building closer to the roadway where the conflicts with vehicles are lessened; and

WHEREAS, the Commission further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations since the two structures are within the setback and are oriented toward both the road and interior; and

WHEREAS, the Commission further finds that the requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone since the site is providing both structures and parking for those uses the building orientation is altered; and

WHEREAS, the Commission further finds that the strict application of the provisions of the regulation would deprive the applicant of reasonable use of the land since two structures of the proposed size and differing uses would not fit on the site; and

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

(Variance #2) **WHEREAS**, the Commission further finds that the requested variance will not adversely affect the public health, safety or welfare since the encroachment is adjacent to a non-residential use and since the encroachment is adjacent a railroad; and

WHEREAS, the Commission further finds that the requested variance will not alter the essential character of the general vicinity since the encroachment is adjacent to a non-residential use which is a railroad; and

WHEREAS, the Commission further finds that the requested variance will not cause a hazard or nuisance to the public since the encroachment is adjacent to a non-residential use and since the encroachment is adjacent a railroad; and

Planning Commission Minutes
April 21, 2016

Public Hearing

Case No. 15ZONE1064

WHEREAS, the Commission further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations since the proposed parking lot provides the minimum required parking module width; and

WHEREAS, the Commission further finds that the requested variance arises from special circumstances which do not generally apply to land in the same zone because this property is adjacent to a railroad; and

WHEREAS, the Commission further finds that the strict application of the provision would deprive the applicant of reasonable use of the land since the adjacent property is a railroad rather than a use that would need additional buffering and setbacks; and

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

(Waiver #1) **WHEREAS**, the Commission further finds that the waiver will not adversely affect adjacent property owners since planting materials will still be provided in the areas where there is encroachment; and

WHEREAS, the Commission further finds that the waiver will not violate specific guidelines of Cornerstone 2020. Guideline 3, policy 9 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 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. 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,

Planning Commission Minutes
April 21, 2016

Public Hearing

Case No. 15ZONE1064

and to filter air borne and water borne pollutants. The planting materials will still be provided to ensure compatibility; and

WHEREAS, the Commission further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since the planting requirements will still be met within the buffer; 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 because the plantings requirements can still be met within the buffers; and

(Waiver #2) **WHEREAS**, the Commission further finds that the waiver will not adversely affect adjacent property owners since trees will still be planted in the parking lots and parking lot is interior to the site; and

WHEREAS, the Commission further finds that the waiver will not violate specific guidelines of Cornerstone 2020. 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 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 intent is still being met with smaller trees. Smaller trees are necessary due to overhead utilities; and

**Planning Commission Minutes
April 21, 2016**

Public Hearing

Case No. 15ZONE1064

WHEREAS, the Commission further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since it will be an unnecessary expense to bury the power lines; 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 it will be an unnecessary expense to bury the power lines; and

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

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Variance from 5.1.8.B to permit less than 60% of the site frontage to be occupied by structures; a Variance from 5.2.4.C.3.F to permit parking to encroach into the 5' rear yard as indicated on the development plan; and Waiver from 10.2.4.B to permit 100% encroachment of an easement into a required LBA along 7th Street Road; and a Waiver from 10.2.13 to permit Type C trees to be used in ILAs instead of the required Type A/B trees.

The vote was as follows:

YES: Commissioners Turner, Tomes, Jarboe, Blake, and Peterson.

NO: No one.

NOT PRESENT: Commissioners White, Lewis, Brown, and Kirchdorfer.

ABSTAINING: Commissioner Howard.

Waiver #3 – Waiver from 8.3.3.B.6 to permit a freestanding business sign on lot frontage where the proposed building is less than 15' from the street.

03:30:39 On a motion by Commissioner Jarboe, seconded by Commissioner Tomes, the following resolution was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the requested sign waiver is appropriate since the sign regulations allow a freestanding sign as long as the building on the lot is located 15-feet or more away from the front property line. In this instance, the sign is proposed in front of the southwest building on the site, which is located 15 feet from the property line. Additionally,

Planning Commission Minutes
April 21, 2016

Public Hearing

Case No. 15ZONE1064

if the site was subdivided with each building on its own lot as proposed, the sign would be allowed; and

WHEREAS, the Commission further finds that, for these reasons it will not adversely affect the adjacent property owner, will not violate Cornerstone 2020, is the minimum necessary to comply with the regulations, and the strict application of the regulation would deprive the applicant of a reasonable use of the property and create an unnecessary hardship; and

WHEREAS, the Commission further finds that, based on the evidence and testimony presented and the applicant's justification statement that was read into the record by the applicant and presented to the Commission for review that all of the applicable Guidelines of Cornerstone 2020 and the Comprehensive Plan are being met; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Waiver from 8.3.3.B.6 to permit a freestanding business sign on lot frontage where the proposed building is less than 15' from the street.

The vote was as follows:

YES: Commissioners Turner, Tomes, Jarboe, Blake, and Peterson.

NO: No one.

NOT PRESENT: Commissioners White, Lewis, Brown, and Kirchdorfer.

ABSTAINING: Commissioner Howard.

Detailed District Development Plan and Binding Elements

03:32:09 On a motion by Commissioner Jarboe, seconded by Commissioner Tomes, 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

Planning Commission Minutes
April 21, 2016

Public Hearing

Case No. 15ZONE1064

WHEREAS, the Commission further finds that there are no open space requirements with the current proposal; and

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

WHEREAS, the Commission further finds that the overall site design and land uses are compatible with the existing and future development of the area. Appropriate landscape buffering and screening will be provided to screen adjacent properties and roadways. Buildings and parking lots will meet all required setbacks; and

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

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the requested 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. The development shall not exceed 14,000 square feet of gross floor area.
3. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
4. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.

Planning Commission Minutes
April 21, 2016

Public Hearing

Case No. 15ZONE1064

5. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit) is requested:
 - a. The development plan must receive full construction approval from Develop Louisville, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
 - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - d. A 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.
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. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
8. 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.
9. The property owner shall provide a cross over access easement if the property to the south is ever re- developed. A copy of the signed

Planning Commission Minutes
April 21, 2016

Public Hearing

Case No. 15ZONE1064

easement agreement shall be provided to Planning Commission staff upon request.

10. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the April 21, 2016 Planning Commission meeting.
11. No idling of trucks between the rear of the shopping center and adjacent single-family residences. No overnight idling of trucks shall be permitted on-site.
12. No idling of trucks shall take place within 200 feet of residential development. No overnight idling of trucks shall be permitted on-site.

The vote was as follows:

YES: Commissioners Turner, Tomes, Jarboe, Blake, and Peterson.

NO: No one.

NOT PRESENT: Commissioners White, Lewis, Brown, and Kirchdorfer.

ABSTAINING: Commissioner Howard.