

**PLANNING COMMISSION MINUTES**  
**November 1, 2018**

**PUBLIC HEARING**

**CASE NO. 18ZONE1020**

Request: Change in zoning from C-1 to C-2 with a Revised Detailed District Development Plan, setback variances, and landscape waivers

Project Name: Park Community Credit Union

Location: 7710 Bardstown Road & 1509 Cedar Creek Road

Owner: Park Community Federal Credit Union

Applicant: Park Community Federal Credit Union

Representative: Jon Baker – Wyatt Tarrant & Combs, LLP

Jurisdiction: Louisville Metro

Council District: 22 – Robin Engel

**Case Manager: Joel 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:**

01:50:22 Joel Dock presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.)

01:53:47 Commissioner Carlson asked if turning left onto Bardstown Road from this site is the best traffic management. Beth Stuber, with Louisville Metro Transportation Planning, said the State has said it's ok to make that left turn there. She discussed turning options.

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

Jon Baker, Wyatt Tarrant & Combs, 500 West Jefferson Street Suite 2800, Louisville, KY 40202

Chris Brown, BTM Engineering, 3001 Taylor Springs Drive, Louisville, KY 40220

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

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01:55:17 Jon Baker, the applicant's representative, handed out the applicant's findings of fact to the Commissioners. He presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.)

01:58:39 Chris Brown explained the development plan in detail (see recording.) He reviewed previous plans for the site, and explained how this plan has been improved.

02:03:36 Mr. Baker resumed the podium and discussed protecting the parkway buffer. He noted that the plan creates a compact site but maintains the green. He also showed renderings.

02:05:27 Commissioner Jarboe asked if there was a stoplight at Cedar Creek Road and Bardstown Road. Mr. Baker said yes. He added that there will be cross-connectivity through an adjoining property.

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

Debbie Williamson, 7510 Cedar Creek Road, Louisville, KY

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

02:06:50 Debbie Williamson pointed out the location of her property and asked how this development would affect her property. Using an aerial photo, Mr. Baker showed the location of an access point to exit the property; there will be additional cross-connectivity to an adjoining property when it develops. Ms. Williamson asked if there will be trees or fencing to buffer her property. Mr. Brown explained where the landscaping and buffering will go.

**Deliberation:**

02:08:33 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.**

**Change-in-Zoning from C-1 to C-2, Commercial**

02:12:12 On a motion by Commissioner Howard, seconded by Commissioner Robinson, the following resolution based on the Cornerstone 2020 Staff Analysis, the applicant's justification, and the evidence and testimony heard today, was adopted:

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**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the intents of Guideline 1: Community Form because the subject site is located along a commercial corridor and incorporates a mixture of commercial uses; and the subject site is located along an arterial level roadway and within close proximity to an interstate; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 2: Centers because the proposal does not create a new center as an existing C-1 district is present and is located in the Neighborhood Form District. The proposal includes new construction or the reuse of existing buildings to provide commercial space; the proposed retail commercial development is located in an area that has a sufficient population to support it; the development appears to be utilizing the majority of the land available for development while minimizing parking; the subject site is located along a major transit line and provides a public sidewalk; the proposal includes a mix of commercial services; the applicant appears to be utilizing the majority of the land available for development while minimizing parking; the proposal shares entrance and parking facilities with adjacent uses to reduce curb cuts and surface parking as a single entrance at the front and rear along with interconnected parking is provided; the proposal is designed to share utility hookups and service entrances with adjacent developments; and the proposal is designed to support easy access by bicycle, car and transit and by pedestrians and persons with disabilities through appropriate connections through pedestrian oriented uses (bank) as opposed to auto-oriented uses (auto service); and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 3: Compatibility because building design will be compliant with the Land Development Code; the proposal does not constitute a non-residential expansion into an existing residential area as the site is zoned C-1, commercial; the proposal mitigates any potential odor or emissions associated with the development.; the proposal mitigates any adverse impacts of its associated traffic on nearby existing communities as a unified access to Bardstown Road is provided; lighting will be compliant with LDC 4.1.3.; the proposal is located along an arterial roadway within close proximity to an interstate; adjacent uses are similar in scale and intensity; setbacks, lot dimensions and building heights are compatible with those of nearby developments that meet form district standards; landscape plantings and screening are being provided as required; no garages have been proposed; and signage will be in compliance with Ch.8.; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 4: Open Space because parkway buffer has been provided as required; and minimum tree canopy requirements will be met; and

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**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 5: Natural Areas and Scenic and Historic Resources because minimum tree canopy requirements will be met; no historic resource have been identified; and MSD approval has been received; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 6: Economic Growth and Sustainability because the proposal is not downtown and is not an industrial use; and the proposed mixed commercial center is located along a commercial corridor of an arterial roadway; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 7: Circulation because the proposal will contribute its proportional share of the cost of roadway improvements and other services and public facilities made necessary by the development through physical improvements to these facilities, contribution of money, or other means; the proposal promotes mass transit, bicycle and pedestrian use and provides amenities to support these modes of transportation as appropriate connections through pedestrian oriented uses (bank) as opposed to auto- oriented uses (auto service) are provided and the subject site is located along a major transit line and provides a public sidewalk; the proposal's transportation facilities are compatible with and support access to surrounding land uses, and contribute to the appropriate development of adjacent lands as cross access and shared parking and access is provided; the proposal includes the dedication of rights- of-way for street, transit corridors, bikeway and walkway facilities within or abutting the development; the proposal includes adequate parking spaces to support the use; and the proposal provides for joint and cross access through the development and to connect to adjacent development sites; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 8: Transportation Facility Design because the proposal provides for joint and cross access through the development and to connect to adjacent development sites; and primary access to the site is from a major arterial roadway; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 9: Bicycle, Pedestrian and Transit because the proposal provides, where appropriate, for the movement of pedestrians, bicyclists and transit users around and through the development as appropriate connections through pedestrian oriented uses (bank) as opposed to auto-oriented uses (auto service) are provided and the subject site is located along a major transit line and provides a public sidewalk; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 10: Flooding and Stormwater because the proposal's drainage plans have been approved by MSD; and

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**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 12: Air Quality because the proposal has been reviewed by APCD and found to not have a negative impact on air quality; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 13: Landscape Character because no natural corridors appear to be present; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 14: Infrastructure because the proposal is located in an area served by existing utilities or planned for utilities; the proposal has access to an adequate supply of potable water and water for fire-fighting purposes; and the proposal has adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 1 – Community Form because the proposed site is located within the Suburban Neighborhood Form District and the application complies with this Guideline because the Neighborhood Form allows a various uses, including neighborhood-serving uses, along an activity corridor, such as this site. Indeed, according to Cornerstone 2020 Guideline 1.B.3, the Neighborhood Form contemplates, at appropriate locations, neighborhood centers with a mixture of uses such as offices, retail shops, restaurants and services. The Proposal complies with Cornerstone 2020 Guideline 1 because it is a compact, neighborhood-serving commercial center on property located along a major arterial roadway and also has frontage along and access to a secondary collector roadway. To its north and south, the Property is adjacent to other commercially-zoned properties and is located across Bardstown Road from Cedar Creek Baptist Church as well as from other similarly-sized commercial uses, including restaurants, auto service and an insurance office; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 2 – Centers because the property is located less than one-third of a mile from the southbound off-ramp of the Gene Snyder Freeway, along the [southbound] west side of Bardstown Road, a major arterial roadway. The Property also maintains frontage on Cedar Creek Road, a secondary collector, as well as the Cedar Creek Connector, which contains 30-feet of right-of-way, in which the Proposal plans for a curb cut to/from Lot 3. This curb cut no Lot 3 will provide the development with a secondary access point. As previously mentioned, the proposal site lies within a growing activity corridor that contains a mixture of neighborhood-serving uses. Though undeveloped, the properties to the immediate north and south of the Property are also zoned C-1, Commercial. Directly across Bardstown Road is an

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established activity center which contains land uses similar to what the applicant proposes with this application, such as: Brakeway and a Hall's auto service, Waffle House and Popeye's restaurants, as well as a State Farm Insurance office and the Cedar Creek Baptist Church. As Cedar Creek Road traverses Bardstown Road it turns into Brentlinger Lane. And directly south of Brentlinger Lane, commercial land uses extend and include: Chic-fil-A, Kohl's department store, Visionworks, Marathon Gas and a Circle K store. Other commercial uses on Bardstown Road within a mile of this property include: a Rite Aid store, Aspen Creek restaurant, Thornton's gas station, Outback Steakhouse, Pizza Hut, Chase Bank (all within Glenmary Plaza), and various retail stores, not to mention Southpointe Commons, a large regional commercial center currently under development at the southeast node of Gene Snyder and Bardstown Road. The Proposal will add additional commercial services to the existing commercial activity center, providing customers with more options in the immediate area to serve their needs.

**WHEREAS**, the Commission further finds that the proposal complies with Cornerstone 2020 Guideline 2 and its applicable policies because it proposes a compact pattern of development in agreement with the Neighborhood Form District, and compatible with other existing, neighborhood-serving uses in the immediate and general surrounding areas. Planned for vacant, unused land on an established, busy commercial corridor, the proposal will result in an efficient use of land, largely relying on existing infrastructure. Holding tanks will be necessary to serve sewage needs until sewer service is available to the immediate area; a void exists in sewer service infrastructure, the construction of which requires participation from numerous partners.

**WHEREAS**, the Commission further finds that the Strategy 5 Louisville Metro Retail Market Study noted that the area south of the Bardstown Road/Gene Snyder interchange is experiencing "significant residential development" with twenty-seven separate residential subdivisions containing 6,459 housing units, of which 3,191 had been constructed as of the date of the study. The Retail Study identified the Bardstown retail zone as underserved in practically all major retail categories within a band of zip codes that traverses the breadth of the zone along the 1-265 corridor. (Retail Study at p. 14). The Study went on to say that "the demand/supply dynamic ... points to market support for additional retail inventory, probably beyond what could be accommodated in existing space, or even in potential redevelopment sites...." (Retail Study at p. 15). Accordingly, the subject property is located in an area with sufficient support population exists to support the commercial use; and

**WHEREAS**, the Commission further finds that the Property is within close proximity of numerous residential developments and, therefore, is located in an area where a sufficient population exists to support the proposed commercial development. The

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Proposal will add to the mixture of compatible land uses within the growing commercial activity center along the Bardstown Road (and Old Bardstown Road) corridor, thereby reducing the need for drivers to go beyond the Fern Creek area for necessary services, consequently further reducing the number of and lessening the length of vehicular trips. The Proposal will have good visibility on a well-trafficked corridor, which allows motorists looking for banking and auto service easy and efficient access to and from the site. The parking and vehicular use areas will be screened and buffered from Bardstown Road as well as adjoining residential uses. The Property is on existing TARC routes, a sidewalk will be constructed as shown on the development plan, and a bicycle racks will be provided on each of the lots to ensure the proposed development is accessible by all transportation modes. For all of the foregoing reasons, the proposed development complies with Cornerstone 2020 Centers Guideline 2; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 3 – Compatibility because Guideline 3 of Cornerstone 2020 is intended to ensure that all land uses and transportation facilities are compatible with nearby land uses and minimize impacts to residential areas, schools and other sensitive areas. The requested change in zoning complies with Guideline 3 because the proposed development is a compact, efficient commercial development appropriately located along Bardstown Road, a major arterial, and within a growing activity center that serves the Neighborhood Form District. The requested Bardstown Rd. Setback and Cedar Creek Rd. setback variances are necessary to maximize site-design efficiencies, but the added setbacks for the credit union, auto-service and restaurant/retail buildings will not alter the essential character of the suburban commercial corridor as similar setbacks exist in the general area. The proposed development will ensure an appropriate transition between commercial and residential uses through proper site design and landscape buffers, and effectively mitigates any potential nuisances caused by vehicular traffic, noise, lighting, or odors. Moreover, the one-story buildings intended for the Property are compatible in terms of mass, scale and design with existing and proposed development in the surrounding area; and

**WHEREAS**, the Commission further finds that, as stated, the Proposal will adjoin commercially-zoned properties to the north and south and is consistent with the litany of commercial uses along the high-activity commercial corridor, Bardstown Road, including the restaurant and auto-service uses directly across Bardstown Road from the Property. Specifically, the Proposal will provide easily-accessible banking, auto-service, retail and or restaurant services to the Fern Creek area located south of the Gene Snyder Freeway, which will be especially convenient for southbound vehicles during the pm peak hours. The Proposal's access points include a full-access on Bardstown Road and a secondary access to Cedar Creek Connector, which provides

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direct connection to Cedar Creek Road; cross-access to the adjacent commercial properties is also being provided. A sidewalk will be constructed across the site's frontage to create a pedestrian connection to the adjacent properties. Proposed handicap parking complies with local, state and federal ADA design requirements, and are appropriately located on the site to not conflict with vehicles as they move throughout the site. And except for a minor waiver of a landscaping buffer between a vehicular use area and Cedar Creed Connector, parking design, including interior landscaping areas located on-site, signage, and lighting will comply with LDC regulations. This minor waiver is necessary to afford the Property's safe and efficient site design, notably the alignment of the internal access drive needed to move site traffic on the Property between Bardstown Road and Cedar Creek Connector; to prevent the use of the Property as a convenient cut-through, the design of the internal drive avoids a straight, direct connection between the respective public rights-of-way. There will be no adverse lighting, odor, or visual impacts on surrounding land uses; and

**WHEREAS**, the Commission further finds that the proposal will contribute to the overall mixture of uses, reduce vehicle miles traveled, and promote economic development along established commercial corridors. The proposal will minimize land use incompatibilities and the impact on public facilities. The lot dimensions and building heights will be compatible with surrounding buildings that meet form district standards. Accordingly, the proposed development complies with Cornerstone 2020 Guideline 3 and its applicable policies; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guidelines 4 and 5 – Open Space, Natural Areas, and Scenic and Historic Resources because the proposed development complies with Cornerstone 2020 Guidelines 4 and 5 because the subject property does not contain any natural, scenic, historic, distinctive cultural features or limiting environmental features, such as wet soils or steep slopes, that would prevent its development as proposed. Due to its relatively small size, the development is not required to provide open space on-site. The proposed landscaping and parkway buffer areas are consistent with the existing pattern of development within the active Bardstown Road commercial corridor. Proposed interior landscape areas comply with Land Development Code requirements, and will serve to break up parking and vehicular use areas and enhance the aesthetics of the new commercial center. Therefore, the proposed development complies with Guidelines 4 and 5 of Cornerstone 2020; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 6 – Economic Growth and Sustainability because the proposed development application complies with Guideline 6 of Cornerstone 2020 and its applicable policies because it will bring additional investment and promote economic development within the established Bardstown Road commercial corridor. The subject property-



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being an accessible, unused commercial site along a major arterial roadway where a gap exists between other commercial uses - is an appropriate location for a compact commercial center, which includes a credit union, retail or restaurant, and auto service, because it is located in an area with existing infrastructure, served by transit, and where a large population exists to serve the proposed development. The Property is a vacant site suitable for commercial development, where the proposed uses can provide new employment opportunities to a burgeoning population area; and

**WHEREAS**, the Commission further finds that the Strategy 5 Louisville Metro Retail Market Study identified the Bardstown retail zone as underserved in practically all major retail categories within a band of zip codes that traverses the breadth of the zone along the 1-265 corridor. (Retail Study at p. 14). The Study concluded that the demand/supply dynamic points to market support for additional retail inventory beyond what could be accommodated in existing space, or even in potential redevelopment sites. (Retail Study at p.15). Accordingly, the Property is located in an area with sufficient support population exists to support the commercial use; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guidelines 7, 8, and 9 – Circulation, Transportation Facility Design, and Bicycle, Pedestrian and Transit because it is designed to ensure the safe and efficient circulation by all types of transportation modes, including automobiles, bicycles, pedestrians, and transit. The Property is located on the western frontage of Bardstown Road, one-third of a mile from the southbound off-ramp of the Gene Snyder and just north of where Cedar Creek Road and Brentlinger Lane intersects with Bardstown Road- a controlled, signalized intersection. The proposed compact commercial development will provide safe, uniform access from Bardstown Road as well as appropriate cross-access to the adjacent commercially-zoned properties to the north and south; and

**WHEREAS**, the Commission further finds that the development will utilize an existing curb cut a long Bardstown Road, where Cedar Creek Connector is today. An established entrance to Bardstown Road from the Property, located just south of the Cedar Creek Connector curb cut, will be removed and restored per KYTC standards. A secondary access point to the Property will be provided on Lot 3, via a curb cut to Cedar Creek Connector, which connects to Cedar Creek Road. Internal circulation will meet the Transportation Planning's requirements. On the Property, a total of 79 parking spaces, including 6 handicap parking spaces, will be provided in conformance with Land Development Code and ADA requirements, thereby ensuring adequate parking will be furnished for the proposed uses on the site. Interior landscaping will be provided to break up parking areas and enhance the overall aesthetics of the site. The Proposal will not exceed the carrying capacity of existing streets and no additional right-of-way dedication is required; and

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**WHEREAS**, the Commission further finds that a 5-foot sidewalk will be constructed along Bardstown Road and appropriate provisions has been made for bicycle racks on all the proposed commercial lots. A fee-in-lieu of providing the sidewalk along the Cedar Creek Connector is requested. The Property is served by TARC Route 17, ensuring an adequate level of transit service for the proposed development, especially for employees of the commercial establishments. All of the above will ensure that internal and external circulation of the development provides safe and efficient travel movement by all modes of transportation; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guidelines 10, 11, and 12 – Flooding, Stormwater, and Water & Air Quality because the Property is not located in the 100-year floodplain, and does not contain steep slopes, unstable or hydric soils, or blue-line streams. As a result, there are no environmental constraints which would prevent the development of this Proposal. Two detention basins will be located on the Property, with one basin proposed on the western side of Lot 1, and a second basin planned for the western side of Lot 3, where it will be situated between Cedar Creek Road, Cedar Creek Connector and the western edge of the parking area. The detention basins will be subject to MSD review and approval prior to the issuance of construction permits. The basins are designed to enable proper stormwater handling and release management ensuring that adjacent properties will not be adversely affected. Working together, the detention basins will limit post-development peak flows to pre-development peak flows for the two-, ten- and one-hundred-year storms or to the capacity of the downstream system, whichever is more restrictive. In addition, a water quality unity will be installed to meet all MS4 water quality regulations. An Erosion Prevention and Sediment Control Plan utilizing best management practices will also be implemented prior to commencing construction of the development. For the time being, and until sewers can be brought to the area immediately surrounding the Property, sewer service is proposed to be addressed via holding tanks. Louisville Metro Board of Health approval is required prior to MSD construction plan approval. For the foregoing reasons, the proposed development complies with Cornerstone 2020 Guidelines 10, 11 and 12, and all applicable Guideline Policies; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 13 – Landscape Character because the proposal meets or exceeds the requirements of the Land Development Code. A 30-foot parkway buffer area will be established and maintained along the Property's frontage with Bardstown Road, which will contain landscaping in accordance with LDC requirements. To break up and screen the on-site parking areas, and improve the overall aesthetic appearance of the site, interior landscape areas will be provided on the Property. Landscape waivers are requested to permit landscape buffer areas to overlap with utility and drainage easements by more than 50% and to reduce the required vehicular use area landscape

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buffer area along Cedar Creek Connector from 10 feet to 7.5 feet. The required plantings will be inserted within the 7.5-foot buffer area, however, which will mitigate any negative impacts of the requested waiver. Tree canopy on the site will meet or exceed Land Development Code requirements and all dumpsters on the Property will be appropriately screened. Accordingly, the proposed development complies with Cornerstone 2020 Guideline 13 and its applicable policies; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guidelines 14 and 15 – Infrastructure and Community Facilities because the Property is served by existing infrastructure and all necessary utilities, including water, electricity, and telephone; sewer service is proposed to be addressed via holding tanks, at least temporarily, until a coordinated plan to provide sewers to this immediate area is undertaken. Moreover, the Proposal is located in an established commercial corridor with adequate carrying capacity and will provide appropriate cross-connectivity to adjacent properties. The development also has an adequate supply of potable water and water for fire-fighting purposes, and is served by the Fern Creek Fire Department, located nearby to the north on Bardstown Road; now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the proposed change in zoning from C-1 to C-2, Commercial on property described in the attached legal description be **APPROVED**.

**The vote was as follows:**

**YES: Commissioners Peterson, Robinson, Tomes, Daniels, Howard, Carlson, and Jarboe.**

**NOT PRESENT: Commissioners Lewis, Smith, and Brown.**

- **Variance #1 - Variance from Land Development Code, section 5.3.1.C to allow buildings on Lots 1 & 2 to exceed maximum parkway setback on Bardstown Road as shown on the development plan**
- **Variance #2 - Variance from Land Development Code, section 5.3.1.C to allow building on Lots 3 to exceed maximum setback on Cedar Creek Road as shown on the development plan**

02:12:41 On a motion by Commissioner Howard, seconded by Commissioner Robinson, the following resolution based on the Standard of Review and Staff Analysis, and the evidence and testimony heard today, was adopted:

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**(Variance #1) 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 motorists or pedestrians are not impacted; and

**WHEREAS**, the Commission further finds that the requested variance will not alter the essential character of the general vicinity as the orientation with respect to the angle of the front property lines results in a minor infringement of the requirements that does not alter the essential character of the area; and

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

**WHEREAS**, the Commission further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the orientation with respect to the angle of the front property lines results in a minor infringement of the requirements that does not alter the essential character of the area; 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 arrangement and shape of the lots results in the pattern chosen with respect to the front property line; 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 request does not adversely impact public safety or create a hazard or nuisance; 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

**(Variance #2) WHEREAS**, the Commission further finds that the requested variance will not adversely affect the public health, safety or welfare as sight lines for motorists or pedestrians are not impacted; and

**WHEREAS**, the Commission further finds that the requested variance will not alter the essential character of the general vicinity as the setback, for all intents and purposes, is a rear property line and the proposed structure is being integrated into a unified development which is served primarily from Bardstown Road; and

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

**WHEREAS**, the Commission further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the setback, for all intents and purposes, is a rear property line and the proposed structure is being integrated into a unified development which is served primarily from Bardstown Road; 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 arrangement and shape of the lots results in the pattern chosen with respect to property lines; 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 request does not adversely impact public safety or create a hazard or nuisance; 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; now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Variances as follows:

- Variance #1 - Variance from Land Development Code, section 5.3.1.C to allow buildings on Lots 1 & 2 to exceed maximum parkway setback on Bardstown Road as shown on the development plan
- Variance #2 - Variance from Land Development Code, section 5.3.1.C to allow building on Lots 3 to exceed maximum setback on Cedar Creek Road as shown on the development plan

**The vote was as follows:**

**YES: Commissioners Peterson, Robinson, Tomes, Daniels, Howard, Carlson, and Jarboe.**

**NOT PRESENT: Commissioners Lewis, Smith, and Brown.**

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- **(Waiver #1) Waiver of LDC, section 10.2.10 to reduce LBA along Cedar Creek Connector**
- **(Waiver #2) Waiver of LDC, section 10.2.4.B.3 to allow utility easement/LBA overlap**

02:14:14 On a motion by Commissioner Howard, seconded by Commissioner Robinson, the following resolution based on the Standard of Review and Staff Analysis, and the 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 all required landscape material will be provided; and

**WHEREAS**, the Commission further finds that Guideline 3, Policy 9 of Cornerstone 2020 calls for the protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigate when appropriate. Guideline 13, Policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. All required landscape material will be provided; 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 all required landscape material will be provided and reduction is minimal; 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 all required landscape material will be provided and the reduction is minimal; and

**(Waiver #2) WHEREAS**, the Commission further finds that the waiver will not adversely affect adjacent property owners as all screening and planting material will be provided; and

**WHEREAS**, the Commission further finds that Guideline 3, Policy 9 of Cornerstone 2020 calls for the protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigate when appropriate. Guideline 13, Policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. All screening and planting material will be provided; 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 all screening and planting material will be provided; and

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**WHEREAS**, the Commission further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as all screening and planting material will be provided; now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE** the requested waivers, as follows:

- (Waiver #1) Waiver of LDC, section 10.2.10 to reduce LBA along Cedar Creek Connector
- (Waiver #2) Waiver of LDC, section 10.2.4.B.3 to allow utility easement/LBA overlap

The vote was as follows:

**YES: Commissioners Peterson, Robinson, Tomes, Daniels, Howard, Carlson, and Jarboe.**

**NOT PRESENT: Commissioners Lewis, Smith, and Brown.**

**Revised Detailed District Development Plan**

02:15:08 On a motion by Commissioner Howard, seconded by Commissioner Robinson, the following resolution based on the Standard of Review and Staff Analysis, and the 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 living vegetation, steep slopes, water courses, flood plains, soils, air quality, scenic views, and historic sites will be provided. The property does not appear to contain any significant natural resource. Tree canopy and landscaping will be provided, as well as the parkway buffer; and

**WHEREAS**, the Commission further finds that provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community are provided as a public sidewalk is being provided and connectivity for pedestrians form public transit is provided. Connectivity to adjacent sites will be provided; and

**WHEREAS**, the Commission further finds that the proposal provides open space that helps meet the needs of the proposed development and community as the parkway buffer is being provided as required; and

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**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 setbacks, lot dimensions and building heights are compatible with the existing and projected future development of the area and the building design will comply with non- residential site design standards; and

**WHEREAS**, the Commission further finds that the proposed development plan conforms to the Comprehensive Plan. The subject site is located along a commercial corridor and incorporates a mixture of commercial uses. The proposal includes new construction to provide commercial space which is oriented towards Bardstown Road. Primary access to the site is from a major arterial roadway and located along a major transit line. A public sidewalk and pedestrian connectivity is provided. Landscape plantings and screening are being provided as required; now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE** the requested 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. 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.
3. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, or alteration permit) is requested:
  - a. The development plan must receive full construction approval from



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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 building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
  - d. A minor subdivision plat shall be recorded creating the lot lines and dedicating additional right-of-way as shown on the development plan. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
  - e. 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 and recorded. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
4. 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.
  5. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the November 1, 2018 Public Hearing. Final renderings for Lot 3 shall be approved by Planning Commission staff prior to issuance of building permit.
  6. Reciprocal and crossover access shall be provided at the time of non-residential development (prior to issuance of building permit) for the properties to the north and south. A copy of the signed easement agreement shall be provided to Planning Commission staff upon request.
  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

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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.

**The vote was as follows:**

**YES: Commissioners Peterson, Robinson, Tomes, Daniels, Howard, Carlson, and Jarboe.**

**NOT PRESENT: Commissioner Lewis, Smith, and Brown.**