

**MINUTES OF THE MEETING  
OF THE  
LOUISVILLE METRO PLANNING COMMISSION  
October 1, 2015**

A meeting of the Louisville Metro Planning Commission was held on October 1, 2015 at 1:00 p.m. at the Old Jail Building, located at 514 W. Liberty Street, Louisville, Kentucky.

**Commission members present:**

Donnie Blake, Chair  
Jeff Brown  
David Tomes  
Marilyn Lewis  
Rob Peterson  
Vince Jarboe  
Clifford Turner  
Chip White

**Commission members absent:**

David Proffitt, Vice Chair  
Robert Kirchdorfer

**Staff Members present:**

Emily Liu, Director, Planning and Design Services  
Joseph Reverman, Planning Manager  
Brian Davis, Planning Supervisor  
Kendal Baker, Planner II  
John G. Carroll, Legal Counsel  
Jonathan Baker, Legal Counsel  
Sue Reid, Management Assistant

The following matters were considered:

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**APPROVAL OF MINUTES**

**SEPTEMBER 17, 2015 PLANNING COMMISSION REGULAR MEETING MINUTES**

On a motion by Commissioner Peterson, seconded by Commissioner Jarboe, the following resolution was adopted.

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** the minutes of its meeting conducted on September 17, 2015.

**The vote was as follows:**

**YES: Commissioners Lewis, Brown, Turner, Peterson and Jarboe**

**NO: No one**

**NOT PRESENT: Commissioner Kirchdorfer and Vice Chair Proffitt**

**ABSTAINING: Commissioners Tomes, White and Chair Person Blake**

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**BUSINESS SESSION**

**CASE NO. 15STREETS1019**

**Request:** Resolution to Initiate Application  
**Project Name:** Park Springs Street Name Change  
**Case Manager:** **Brian Davis, Planning Supervisor**

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.)

**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.**

**Agency Testimony:**

**00:10:21** Brian Davis presented the case (see staff report and recording for detailed presentation). Brian provided the Commissioners with the Resolution to Initiate the Application.

**00:12:19** On a motion by Commissioner White, seconded by Commissioner Peterson, the following resolution was adopted.

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** the requested Resolution to Initiate Application.

**The vote was as follows:**

**YES: Commissioners Lewis, Brown, Turner, Peterson, Jarboe, White, Tomes and Chair Person Blake**

**NO: No one**

**NOT PRESENT: Commissioner Kirchdorfer and Vice Chair Proffitt**

**ABSTAINING: No one**

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**PUBLIC HEARING**

**CASE NO. 15DEVPLAN1082/15SUBDIV1007**

Request: Revised Detailed District Development Plan, Revised Preliminary Subdivision Plan and Waiver for Driveway Access on Collector Level Roadway

Project Name: Orell Station

Location: 7400 W. Orell Road

Owner: TSB Development, Inc.

Applicant: TSB Development, Inc.

Representative: BlueStone Engineers, PLLC

Jurisdiction: Louisville Metro

Council District: 14 – Cindi Fowler

**Case Manager: Brian Davis, AICP, Planning Supervisor**

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.)

**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.**

**Agency Testimony:**

**00:14:00** Brian Davis presented the case (see staff report and recording for detailed presentation).

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

Chris Crumpton, Blue Stone Engineers, 3703 Taylorsville Road, Louisville, KY 40220

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

**00:18:12** Chris Crumpton spoke on behalf of the applicant. Mr. Crumpton provided justification for the waiver request.

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**00:20:55** Commissioner Brown stated that Tract 7 is being included in this waiver. He stated the applicant is asking for direct access to Orell Road for tract 7 despite having frontage on a local residential road. Brian Davis confirmed that tract 7 is included and that Transportation Planning had hoped that the applicant would consider doing something along the Train Station Road right of way.

**00:23:34** Mr. Crumpton stated that was discussed and the question was when Train Station Way would get built, and it won't get built anytime soon, so that request on tract 7 was to include that single access driveway as a result of that.

**00:23:53** Chair Person Blake stated that was his understanding, there's not a road there to make an access to and so that's the reason it was including tract 7.

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

No one spoke.

**Commissioners' Deliberation**

**00:24:10** The Commissioners discussed the case, as well as options for the waiver request, particularly for tract 7. Mr. Crumpton answered questions from the Commissioners.

**00:39:09** On a motion by Commissioner Jarboe, seconded by Commissioner White, the following resolution was adopted:

**RDDDP/Preliminary Subdivision and Amendment to Binding Elements:**

**WHEREAS**, the Louisville Metro Planning Commission finds that there does not appear to be any environmental constraints or historic resources on the subject site. Tree canopy requirements of the Land Development Code will be provided on the subject site, and

**WHEREAS**, the Commission further finds that provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community has been provided, and Metro Public Works and the Kentucky Transportation Cabinet have approved the preliminary development plan, and

**WHEREAS**, the Commission further finds that the open space requirements for the town home portion of the development has been met, and

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

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drainage facilities on the subject site in order to prevent drainage problems from occurring on the subject site or within the community, and

**WHEREAS**, the Commission further finds that the overall site design and land uses are compatible with the existing and future development of the area. Appropriate landscape buffering 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 the development plan conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code; and

**WAIVER of Section 6.1.3 Residential Connection to Collector Level Roadway:**

**WHEREAS**, the Louisville Metro Planning Commission finds that there are many properties along West Orell Road that have direct driveway access to the street; therefore the request is in keeping with the existing character of the area and appears to not have a significant impact on traffic flow along the street, and

**WHEREAS**, the Commission further finds that the waiver does not violate Community Form/Land Use Guideline 3 Policy 1 Compatibility and Policy 3 Residential Compatibility because nearly all of the single family residential development along West Orell Road have direct access to the roadway, and

**WHEREAS**, the Commission further finds that the applicant states that potential homebuyers prefer to have individual driveways; so requiring shared access could affect the potential value of the single family tracts along West Orell Road, and

**WHEREAS**, the Commission further finds that the proposed driveway locations appear to be spaced so as not to congest traffic along West Orell Road and provide adequate site distance to and from each location; now, therefore be it

**RESOLVED**, that the Louisville Metro Planning Commission in Case Number 15DEVPLAN1082/15SUBDIV1007, Revised Detailed District Development Plan, Revised Preliminary Subdivision Plan and Waiver for Driveway Access on Collector Level Roadway does hereby **APPROVE** the decision which was made at the Land Development and Transportation Committee meeting on September 24, 2015, **SUBJECT** to the following Binding Elements:

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**Existing Binding Elements w/Highlighted Changes**

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. No further subdivision of the land into a greater number of lots than originally approved will occur without approval of the Planning Commission. 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 applicant shall submit a plan for approval by Planning Commission staff showing trees/tree masses to be preserved prior to beginning any construction procedure (i.e. clearing, grading, demolition). Adjustments to the tree preservation plan which are requested by the applicant may be approved by Planning Commission staff if the revisions are in keeping with the intent of the approved tree preservation plan. The plan shall exhibit the following:
  - a. Proposed site plan (showing buildings, edges of pavement, property/lot lines, easements, existing topography, and other significant site features (LOJIC topographic information is acceptable)
  - b. Preliminary drainage considerations (retention/detention, ditches/swales, etc.).
  - c. Location of all existing trees/tree masses existing on the site as shown by aerial photo or LOJIC maps.
  - d. Location of construction fencing for each tree/tree mass designated to be preserved.
3. Before any permit (including but not limited to building, parking lot, change of use, site disturbance permit) is requested:
  - a. The development plan must receive full construction approval from Louisville Metro Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.
  - b. A major subdivision plat creating the lots and roadways as shown on the approved district development plan shall be recorded prior to issuance of any building permits.

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- c. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
  - 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.
- 4. A note shall be placed on the preliminary plan, construction plan, and the record plat that states, "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."
- 5. 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.
- 6. An original stamped copy of the approved Tree Preservation Plan shall be present on site during all clearing, grading, or construction activity and shall be made available to any DPDS inspector or enforcement office upon request.
- 7. All plans setting out Tree Canopy Protection Areas (TCPAs) must contain the following notes:
  - a. Tree Canopy Protection Areas (TCPAs) identified on this plan represent individual trees and/or portions of the site designated to meet the Tree Canopy requirements of Chapter 10 Part 1 of the Land Development Code and are to be permanently protected. All clearing, grading, and fill activity in these areas must be in keeping with restrictions established at the time of development plan approval. As trees are lost through natural causes new trees shall be planted in order to maintain minimum tree canopy as specified in Chapter 10, Part 1 of the LDC and as specified on the approved development or preliminary subdivision plan.
  - b. Dimension lines have been used on this plan to establish the general location of TCPAs and represent the minimum distances. The final boundary for each TCPA shall be established in the field by the applicant,



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developer, or property owner to include canopy area of all trees at or within the dimension line.

- c. Tree protection fencing shall be erected around all TCPAs prior to site disturbance to protect the existing tree stands and their root systems. The fencing shall be located at least 3 feet beyond the edge of the tree canopy and shall remain in place until all construction is completed. When trees must be removed, the fence shall be relocated to protect all remaining trees within that TCPA.
  - d. No parking, material storage, or construction activities are permitted within the TCPAs beyond that allowed for preliminary site investigation work.
  - e. Clearing necessary to provide access for survey work, rock soundings or other usual and customary site investigations shall be permitted prior to Site Disturbance Approval. Preliminary site investigations shall be carefully planned to minimize the amount of clearing required. Clearing should follow proposed roadway centerlines and should not result in a clear access way of more than twenty (20) feet in width. Cleared access ways beyond proposed roadways to assess individual lots shall not exceed twelve (12) feet in width or encroach into any proposed open space lots. No trees exceeding eight (8) inches in diameter measured at breast height (DBH) shall be removed without prior approval by DPDS.
8. Prior to the recording of the record plat, copies of the recorded documents listed below shall be filed with the Planning Commission.
- a. Articles of Incorporation filed with the Secretary of State and recorded in the office of the Clerk of Jefferson County and the Certificate of Incorporation of the Homeowners Association.
  - b. A deed of restriction in a form approved by Counsel to the Planning Commission addressing responsibilities for the maintenance of common areas and open space, TCPAs, WPAs.
  - c. Bylaws of the Homeowner's Association in a form approved by the Counsel for the Planning Commission.
9. 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

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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.

10. All street signs shall be installed by the Developer and shall conform with the Manual on Uniform Traffic Control Devices (MUTCD) requirements. Street signs shall be installed prior to the recording of the subdivision record plat or occupancy of the first residence on the street, and shall be in place at the time of any required bond release. The address number shall be displayed on a structure prior to requesting a certificate of occupancy for that structure.
11. Trees will be preserved and/or provided on site as required by Chapter 10, Part 1 of the Land Development Code and as indicated in the Tree Canopy Calculations on the Preliminary Subdivision plan. The applicant shall submit a landscape plan for approval by Planning Commission staff for any trees to be planted to meet the Tree Canopy requirements of the Chapter 10, Part 1 of the LDC. A tree preservation plan shall be submitted for review and approval for any trees to be preserved to meet the Tree Canopy requirements of Chapter 10.
12. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the **September 24, 2015** ~~June 25, 2008~~ meeting of the **Land Development & Transportation Development Review Committee**.
13. At the time the developer turns control of the homeowner's association over to the homeowners, the developer shall (1) provide sufficient funds to ensure there is no less than \$3000 cash in the homeowner's association account and (2) provide public amenities in the designated open space areas to be reviewed and approved by the staff Landscape Architect.
14. The signature entrance plan shall be submitted to Planning Commission staff for review and approval prior to recording of the Record Plat.
15. The applicant shall provide a wetlands determination letter from the US Army Corps of Engineers for this site prior to any clearing, grading, or construction. If wetlands are identified, the applicant shall demonstrate to the Planning Commission that the wetlands on site will be preserved or shall revise the plan to mitigate any impact on the wetlands. The location of any wetlands and associated buffers must be identified on construction plans and/or record plats.

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16. The applicant shall obtain approval of a detailed landscape plan for the 50-foot Landscape and Variable Berming Area along Lower River Road. The landscape buffer area shall be maintained by the property owners association. The landscape plan shall be submitted for review and approval by DPDS staff prior to record plat approval.
17. The applicant shall submit a landscape plan for approval by Planning Commission staff showing plantings and/or other screening and buffering materials to comply with the Chapter 10 of the Land Development Code prior to approval of the record plat. The applicant shall provide the landscape materials on the site as specified on the approved landscape plan prior to issuance of Certificates of Occupancy for the site.
18. The applicant shall install signs, approved by the Metro Public Works Dept., which indicate the future extension of the public right-of-way for ~~Road A Street A~~ **D**. Such signs shall be installed prior to release of bonds for the installation of street infrastructure. *(Amended by June 25, 2008 meeting of DRC)*
19. Open space lots shall not be further subdivided or developed for any other use and shall remain as open space in perpetuity. A note to this effect shall be placed on the record plat.
20. Developer shall provide irrigation systems to ensure that the signature entrances to be located along West Orell Road and Lower River Road are properly watered.
21. The applicant shall provide a 20-foot pedestrian easement to Louisville Metro for public access to extend the Orell Road sidewalk from Lower River Road west along the northern property line of Tract 5 to the Ohio River Levee Trail to be recorded on the record plat. Developer is not responsible for the building of the sidewalk.
22. The applicant agrees to replace perimeter plantings located along Orell Road and Lower River Road for a period of 5 years after planting of said materials.

**The vote was as follows:**

**YES: Commissioners Lewis, Turner, Peterson, Jarboe, White, Tomes, and Chair Person Blake**

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**NO: Commissioner Brown**

**NOT PRESENT: Commissioner Kirchdorfer and Vice Chair Proffitt**

**ABSTAINING: No one**

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**CASE NO. 15ZONE1029**

Request: Change in form district from Regional Center to Suburban Workplace, a change in zoning from R-4, C-2, & M-2 to CM and R-4 to C-2, and waivers

Project Name: New Cut Center

Location: 6112/6120 New Cut Road & 8901 Kessler Ave

Owner: MSRSF Investments LLC.;Settlers Point Business Park,LLC

Applicant: MSRSF Investments LLC.;Settlers Point Business Park,LLC

Representative: Mindel Scott & Assoc.; Bardenwerper Talbott & Roberts, PLLC

Jurisdiction: Louisville Metro

Council District: 13-Vicki Aubrey Welch

**Case Manager: Julia Williams, RLA, 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. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

**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.**

**Agency Testimony:**

**00:40:45** Brian Davis presented the case on behalf of Julia Williams (see staff report and recording for detailed presentation).

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

Bill Bardenwerper, Bardenwerper Talbott & Roberts, 1000 N. Hurstbourne Pkwy.,  
Louisville, KY 40223

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

**00:52:44** Mr. Bardenwerper spoke on behalf of the applicant and showed a PowerPoint presentation.

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

No one spoke.

**Commissioners' Deliberation**

**01:13:27** The Commissioners discussed the case.

**01:17:37** On a motion by Commissioner White, seconded by Commissioner Peterson, the following resolution was adopted:

**Waiver #2 Outdoor Amenity Area:**

**WHEREAS**, the Louisville Metro Planning Commission finds that the waiver will not adversely affect adjacent property owners because the amenity area is intended to serve as an outdoor gathering area for facility workers, and for a facility this size an area equivalent to a large subdivision clubhouse is surely enough of a gathering area for the number of workers anticipated inside these facilities, especially since most of them will be located in the office areas, and

**WHEREAS**, the Commission further finds that the waiver will not violate the Comprehensive Plan for all the reasons set forth in the Detailed Statement of Compliance with all applicable Guidelines and Policies of the Cornerstone 2020 Comprehensive Plan filed with the original rezoning application, 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, and not more, because as stated above, the amenity area provided is sufficient and not less than necessary to serve the likely number of employees who will work in these buildings, and

**WHEREAS**, the Commission further finds that strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant because by requiring additional amenity area

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beyond the amount provided would necessitate use of an excessive amount of the non-building area of the lot for unused amenity space which is more importantly allocated for delivery vehicles, loading and unloading and employee and customer parking; now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE** Waiver #2 to reduce the square footage of outdoor amenity area to 10% of the office space instead of 10% of the building footprint, based on the applicant's justification, questions being answered during the testimony, and it would be a personal hardship on the applicant to have to provide 78,000 feet of benches and tables when 1,000 would suffice, but the green space will still be open, manicured and usable.

**The vote was as follows:**

**YES: Commissioners Lewis, Turner, Peterson, Jarboe, Brown, White, Tomes, and Chair Person Blake**

**NO: No one**

**NOT PRESENT: Commissioner Kirchdorfer and Vice Chair Proffitt**

**ABSTAINING: No one**

**Change in form district from Regional Center to Suburban Workplace, Change in zoning from R-4, C-2 and M-2 to CM and R-4 to C-2, and General/Detailed District Development Plan:**

**WHEREAS**, the Louisville Metro Planning Commission finds that the community form district for this area is Regional Center which is characterized by major shopping and employment centers. This large piece of vacant property, although surrounded by a variety of uses, is really more in keeping with the workplace uses on large tracts of land otherwise located at various Snyder Freeway interchanges and along the Outer Loop in this area west of I-65 and the airport. The Suburban Workplace Form District is a form characterized by predominately distribution, warehouse, industrial and office uses where buildings are set back from the street in a landscaped setting, and Suburban Workplaces often contain one or several large scale uses, as proposed in the case of this application for large warehouse, distribution or light manufacturing buildings, and

**WHEREAS**, the Commission further finds that the Intents of this Guideline of the Comprehensive Plan are to promote an efficient use of land and investment in existing infrastructure, to lower utility costs by reducing the need for extensions, to reduce commuting time and transportation-related air pollution, and to encourage commercial revitalization in developing areas, and

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**WHEREAS**, the Commission further finds that this application complies with these Intents of this Guideline because New Cut Road is an arterial highway with adequate traffic-carrying capacity for the proposed warehouse buildings, as evidenced by the letter submitted to DPDS by the District 5 Office of the Kentucky Transportation Cabinet (KTC). Utilities already exist to accommodate these warehouses. Whether the under-utilized or unutilized properties to the north of this one along New Cut Road are developed in a similar manner or commercially, development of this site will help assure those of site and utility access, including cross connectivity; as this larger area is already developed intensively in a similar Workplace Form or with major retail uses (e.g., the nearby Walmart), the area attracts large numbers of employees. As a variety of housing is also located nearby, commuting times can be reduced and transportation-related air pollution will not be exacerbated by this application; those already traveling from distant locations to this area will find more employment opportunities as a consequence of the proposed development of this large vacant property, whereas those residing nearby will shorten their commuting trips between home and work. This particular property was long underutilized as a par 3 golf course and recently has been vacant; and a high quality, attractive new employment opportunity on this site makes more sense than leaving the property unproductive, and

**WHEREAS**, the Commission further finds that applicable Policies 1, 2, 4, 5, 7, 9, 11, 14, 15 and 16 of this Guideline all pertain to where activity centers are located and how they are designed. This application complies with these applicable Policies of this Guideline given that another warehouse/distribution/light industrial facility in an area and along an interstate highway where like-kind uses exist means that this location for these warehouses is site-appropriate. This application helps retain employment within an area where other workplace activities are located, and this development will include new buildings that are Land Development Code (LDC) design-compliant, as shown in the PowerPoint presentation at the Public Hearing, and

**WHEREAS**, the Commission further finds that the Intents of this Guideline are to allow a mixture of land uses near each other as long as they are designed to be compatible with each other, to prohibit the location of sensitive land uses in areas where accepted standards for noise, lighting, odors or similar nuisances might be violated, and to preserve the character of existing neighborhoods, and

**WHEREAS**, the Commission further finds that this application complies with these Intents of this Guideline given that the site plan accompanying this application, as further explained in the PowerPoint presentation shown at the Public Hearing, illustrates an attractive design of this site, with new and attractive buildings, with landscaped setbacks with suitable buffering and LDC compliant tree canopy, and



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**WHEREAS**, the Commission further finds that applicable Policies 1, 2 and 4 of this Guideline pertain to the assurance of compatibility through design. The elevation renderings accompanying this application demonstrate that the proposed buildings will be attractive as LDC design-compliant; and the site plan shows how setback areas will be landscaped and new large open space will be retained where LDC required tree canopy will be provided, and

**WHEREAS**, the Commission further finds that applicable Policies 5, 6, 7, 8 and 9 of this Guideline all pertain to the potential nuisances caused by odors, traffic, noise, lighting and aesthetics; the LDC specifically addresses these issues, such as lighting by requiring that it be directed down and away from residential properties. The LDC also addresses aesthetics by requiring buildings, including ones of these kinds, be designed in ways to break up long expanses of non-descript facades. It is anticipated that no odors will be involved with the warehouse/distribution/light industrial activities that are expected in these buildings; and all activities, except trucks coming and going (mostly during normal working hours) will occur within the proposed buildings, and

**WHEREAS**, the Commission further finds that applicable Policies 17, 18 and 19 of this Guideline pertain to the location of industries near other industries and the handling of hazardous materials. This application complies with these applicable Policies of this Guideline because these proposed warehouse/distribution/light industrial buildings are located significant distances from nearby residential properties, and hazardous materials are not anticipated at this site, and

**WHEREAS**, the Commission further finds that applicable Policies 21, 22, 23, 24 and 29 pertain to transitions, screening, bufferings, setback and impacts from parking, loading and delivery. The development plan accompanying this application, especially the colored site plan shown as part of the PowerPoint presentation shown at the Public Hearing, demonstrate that most of the LDC required setbacks are provided; and other facilities of this kind, which the principals of this applicant entity have developed and constructed elsewhere around Metro Louisville, exist and function in compatible, not disruptive ways with their neighbors, and

**WHEREAS**, the Commission further finds that the Intents of this Guideline are to assure the availability of necessary land to facilitate industrial development, to reduce public and private costs for land development, and to ensure that regional scale workplaces and industrial land uses have access to people, goods and services and appropriate locations to conduct their businesses, and

**WHEREAS**, the Commission further finds that this application complies with these Intents of this Guideline given that the Outer Loop west of I-65 and other Snyder Freeway interchanges are where facilities of this same kind proliferate; as evidenced by

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the above-referenced letter from KTC, New Cut Road has adequate traffic-carrying capacity for these two warehouse buildings, which is also as recent, previous traffic studies relative to this site have determined, and

**WHEREAS**, the Commission further finds that applicable Policies 1, 2, 3, 4, 5, 8 and 10 of this Guideline all pertain to preserving workplaces, assuring good access to them, locating industries proximate to transportation facilities and the redevelopment of older industrial areas. This application complies with all of these applicable Policies of this Guideline given that this property has remained underutilized or vacant for years. This site is a good one for the warehouse/distribution/light industrial buildings as proposed. This site's access off New Cut Road provides good access to the Snyder Freeway and thus to airport, I-65, I-64 and I-71; and the principals involved with the entity associated with this application have developed, constructed and managed facilities of this kind all over Metro Louisville, and this will be a new facility like the newest of the kind that it recently constructed, and

**WHEREAS**, the Commission further finds that the Intents of these Guidelines are to assure the safe and proper functioning of street systems, to assure that roads such as New Cut Road do not exceed their carrying capacities, and to ensure that internal and external circulations are safe, that transportation facilities have adequate carrying capacity and that alternative means of transportation are accommodated, and

**WHEREAS**, the Commission further finds that this application complies with these Intents of these Guidelines given all that is said above and given further that these proposed warehouse/distribution/light industrial buildings will be low-peak hour traffic generating uses. The New Cut Road access for these buildings has been approved by KTC as evidenced above. New Cut Road is a wide enough arterial highway that leads from Outer Loop to the Snyder Freeway to the Watterson Expressway, providing easy access to I-65, I-64 and I-71 as well as to the airport; and there are no serious current access issues as respects to the proposed use of this property for two warehouse buildings, and

**WHEREAS**, the Commission further finds that applicable Policies 1, 2, 3, 10, 11, 12, 13, 14, 16, 17 and 18 of Guideline 17; applicable Policies 7, 9, 10 and 11 of Guideline 8; and Policies 1, 2, 3 and 4 of Guideline 9 all pertain to the specific issues that Metro Public Works and Transportation Planning, in consultation with KTC District 5, have asked be addressed on the detailed district development plan filed with this application. Those agencies have their particular standards which elaborate more specifically as to these particular policies; this application complies with those standards and these applicable Policies of these Guidelines because Mindel Scott & Associates, Inc. and BTM Engineering have experience with the particular standards of these agencies, and accordingly MSA and BTM have designed the DDDP accompanying this application

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with particular attention to the issues of access, internal circulation, adequacy of parking, adequacy of loading and maneuvering, site design and alternative means of transportation to the extent applicable. These agencies have reviewed the DDDP in detail, and have given their preliminary stamp of approval, thus assuring compliance with these applicable Policies of these Guidelines, and

**WHEREAS**, the Commission further finds that the Intents and applicable Policies 1, 2, 3, 4, 5, 6, 7, 10, 11 and 12 of this Guideline pertain to the issues of assuring that the hydraulic capacity of natural systems is accommodated so to ensure that drainage systems designs minimize damage to streams and nearby properties and also that floodplains not be adversely affected so as to increase area flooding, and

**WHEREAS**, the Commission further finds that this application complies with these Intents and applicable Policies of this Guideline given that the DDDP has been designed to assure that drainage is captured by internal catch basins and delivered to side-saddle detention areas along the existing stream. Post development rates of runoff cannot exceed predevelopment conditions, which is the purpose of detention included within this DDDP. Floodplain filling and compensation will occur with this development, and in the Pond Creek watershed that requires compensation for fill for a 1.5 to 1.0 ratio. MSD has assured the adequacy of the stormwater management system and floodplain compensation, such that the DDDP has received MSD's preliminarily stamp of approval, thus demonstrating compliance with these applicable Policies of this Guideline, and

**WHEREAS**, the Commission further finds that the Intents and applicable Policies of these Guidelines seek to assure that water and air quality are protected. This application complies with the Intents and applicable Policies of these Guidelines given that regulations promulgated by MSD and the Air Pollution Control District (APCD) as to water and air quality will be fully addressed if not on the submitted DDDP then pursuant to construction plans filed post approval. This application must assure eventual compliance with MSD's soil erosion and sedimentation control plus water quality ordinances. A large wetlands mitigation area is provided, which will be in compliance with MSD's Floodplain Management Ordinance; and as to air quality, locating this facility in close proximity to workforce housing as well as to commercial activities and facilities of a like-kind assures minimizing vehicle miles traveled, thus reducing impacts on air quality, and

**WHEREAS**, the Commission further finds that the Intents and applicable Policies 1, 2, 4 and 6 of this Guideline seek to assure that facilities of this or any kind provide adequate screening, buffering and landscaping to protect adjoining uses. This application complies with these Intents and applicable Policies as demonstrated on the color site

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plan accompanying this application and given that a large open green space will be retained where LDC required tree canopy will be preserved and/or provided; and

**Waiver #1 to not provide a sidewalk along Outer Loop and a portion of New Cut Road as indicated on the Development Plan:**

**WHEREAS**, the Louisville Metro Planning Commission finds that the waiver will not adversely affect adjacent property owners since there are no other sidewalks along Outer Loop on the south side between South Ditch and Outer Loop. A partial sidewalk is being provided along New Cut road from the entrance north. South of the New Cut entrance begins the Gene Snyder interchange, and

**WHEREAS**, the Commission further finds that Guideline 7, Policy 1 states that developments should be evaluated for their impact on the street and roadway system and to ensure that those who propose new developments bear or reasonably share in the costs of the public facilities and services made necessary by development. Guideline 9, Policy 1 states that new development should provide, where appropriate, for the movement of pedestrians, bicyclists and transit users with sidewalks along the streets of all developments where appropriate. Sidewalks along Outer Loop and the south portion of New Cut would not be appropriate at this time due to the South Ditch and Gene Snyder constraints, and

**WHEREAS**, the Commission further finds that the extent of waiver of the regulation is the minimum necessary to afford relief to the applicant since there are no other sidewalks to connect to along the south side of Outer Loop due to the South Ditch. Bridging across the South Ditch would be an additional expense. South of the entrance along New Cut Road is the Gene Snyder interchange where the ramps and expressway are expansive, and

**WHEREAS**, the Commission further finds that providing the sidewalks would create an unnecessary hardship on the applicant due to the environmental constraint of the South Ditch and the physical constraint of the Gene Snyder expressway; and

**Waiver #3 to not provide a VUA LBA between the parking lot and the private access easement on Lot 2:**

**WHEREAS**, the Louisville Metro Planning Commission finds that the waiver will not adversely affect adjacent property owners since the roadway is internal to the site and will dead end at lot 3, and

**WHEREAS**, the Commission further finds that the waiver will not violate guideline 3, Compatibility, of Cornerstone 2020, which calls for the protection of roadway corridors

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and public areas from visual intrusions, for mitigation of parking areas so as not to negatively impact nearby residents and pedestrians, and for parking areas adjacent to streets to be screened and buffered. The waiver will not violate guideline 13, Landscape Character, which calls for the protection of parkways through standards for buffers, landscape treatment, lighting and signs. The purpose of vehicle use area landscape buffer areas is to improve the appearance of vehicular use areas and property abutting roadways. The roadway will act more like a drive lane than a roadway, 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 roadway acts more like a drive lane. There is TCPA indicated on the opposite side of the roadway that will provide trees in the area, and

**WHEREAS**, the Commission further finds that providing the VUA LBA would create an unnecessary hardship on the applicant since the roadway acts more like a drive lane. There is TCPA indicated on the opposite side of the roadway that will provide trees in the area; 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 Regional Center to Suburban Workplace, and the requested change in zoning from R-4, C-2, & M-2 to CM and R-4 to C-2 be **APPROVED**; and does hereby **APPROVE** Waiver #1 to not provide a sidewalk along Outer Loop and a portion of New Cut Road as indicated on the Development Plan, and Waiver #3 to not provide a VUA LBA between the parking lot and the private access easement on Lot 2, and the General/Detailed District Development Plan, based on the staff report and applicant's testimony and **SUBJECT** to the following Binding Elements:

**Proposed 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 450,000 square feet of gross floor area for Lot 2. The development shall not exceed 330,000 square feet of gross floor area for Lot 3.

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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.
5. Before any permit (including but not limited to building, parking lot, change of use, site disturbance) is requested:

The development plan must receive full construction approval from Develop Louisville, Louisville Metro Public Works and the Metropolitan Sewer District.

Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.

A minor subdivision plat or legal instrument shall be recorded creating the lot lines 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.

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.

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.

A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.

6. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the

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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 applicant/subject property owner shall provide a vehicular connection to the adjacent non-residentially zoned properties within the area labeled on the approved development plan as "Access Easement for Future Connection to Adjacent Property". At such time as the Adjacent Property is proposed for development/redevelopment requiring Planning Commission or Transportation Planning approval, the exact location of the vehicular connection shall be determined by the Planning Commission or Transportation Planning with input from the affected property owners. At the time of commencement of construction on the Adjacent Property of said plan for development/redevelopment, the applicant/subject property owner shall be required to construct all portions of the vehicular connection that exist on the property that is the subject of this approved development plan. The applicant/subject property owner shall provide DPDS an access and crossover easement agreement in a form acceptable to Planning Commission legal counsel and shall record same prior to DPDS transmittal of the approved development plan in this case to the office(s) responsible for permit issuance.~~
9. The Applicant/Owner of the Subject Property shall provide a vehicular connection to the adjacent non-residentially zoned property ("Adjacent Property") within the area labeled on the approved development plan in this case as "Access Easement for Future Connection to Adjacent Property". At such time as the Adjacent Property files a new or revised detailed district development plan for development/redevelopment requiring Planning Commission or Transportation Planning approval, the exact location of this vehicular connection shall be

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determined by the Planning Commission or Transportation Planning with input from the Applicant/Owner of the Subject Property and the owner of the Adjacent Property. At the time of commencement of construction on the Adjacent Property in accordance with said detailed district development plan, the Applicant/Owner of the Subject Property shall be required to construct said vehicular connection on the Subject Property to the extent that the owner of the Adjacent Property grants the same rights to cross access as required herein. The Applicant/Owner of the Subject Property shall provide DPDS with an access and crossover easement agreement in a form acceptable to Planning Commission legal counsel and shall record same prior to DPDS transmittal of the approved development plan in this case to the office(s) responsible for permit issuance.

10. The façade elevations shall be in accordance with applicable form district standards and shall be approved by PDS staff prior to construction permit approval.
11. No idling of trucks shall take place within 200 feet of single-family residences. No overnight idling of trucks shall be permitted on-site.
12. The design of the outdoor amenity area is required to be approved by the Planning Commission or designee. The amenity area shall be shown on the landscape plan submitted for approval.

**The vote was as follows:**

**YES: Commissioners Lewis, Turner, Peterson, Jarboe, Brown, White, Tomes, and Chair Person Blake**

**NO: No one**

**NOT PRESENT: Commissioner Kirchdorfer and Vice Chair Proffitt**

**ABSTAINING: No one**



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**CASE NO. 15NEIGH1002 & 15NEIGH1003**

**NOTE: Commissioner Jarboe and Commissioner Turner left the meeting at approximately 2:30 p.m., therefore, did not vote on this case.**

Request: Highview Neighborhood Plan  
Applicant: Louisville Metro Advanced Planning  
Location: Louisville Metro  
Council District: 23 – James Peden

**Case Manager: Ken Baker, AICP**

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.)

**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.**

**Agency Testimony:**

**01:21:30** Ken Baker presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation).

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

Jonathan Henney, Gresham Smith & Partners, 101 S. 5<sup>th</sup> Street, Suite 1400, Louisville, KY 40202

David Steff, President of Apple Valley Homeowner's Association, 7812 Applevue Lane, Louisville, KY 40228

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

**01:26:16** Jonathan Henney spoke on behalf of the applicant, and also referred to the PowerPoint presentation (see recording for detailed presentation).

**01:40:03** David Steff spoke in favor of the case. Mr. Steff stated they have the perfect area to make a Town Center right down Fegenbush Lane.

**01:41:47** In response to a question from Commissioner Peterson, Ken Baker described the public process for this Neighborhood Plan. He stated that instead of asking the community to come to us they had actually gone to them when there were community events, the Fall Festival or Summer Music Festivals. He stated they had booths at those events and gave updates and asked for input at those events, and got a lot of community input.

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

No one spoke.

**Commissioners' Deliberation**

**01:44:15** The Commissioners discussed the case.

**01:46:36** On a motion by Commissioner Tomes, seconded by Commissioner White, the following resolution was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposed Land Use/Community Form recommendations in the Highview Neighborhood Plan promote new development that will be designed to be compatible with the scale, rhythm, form and function of the existing development as well as with the pattern of uses. The proposed form district changes/rezonings support existing land uses and patterns of the Neighborhood and Town Center Forms, and preserves/enhances the neighborhood character, and

**WHEREAS**, the Commission further finds that the focus on encouraging investment/reinvestment in the revised Town Center and the network of neighborhood activity centers/nodes, promotes efficient use of land and investment in existing infrastructure and encourages vitality and a sense of place in the neighborhood and community, and

**WHEREAS**, the Commission further finds that the plan proposes recommendations for expanding commercial opportunities while maintaining the existing residential character

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of the neighborhood. The proposed development locations will minimize impacts to existing residences, schools and other sensitive areas in the neighborhood, and

**WHEREAS**, the Commission further finds that the plan proposes recommendations for maintaining existing open spaces (Highview Park) and enhancing neighborhood access to these community assets. The proposed recommendations seek to enhance existing open spaces serving the neighborhood, and

**WHEREAS**, the Commission further finds that the Land Use/Community Form recommendations propose strengthening the Town Center and establishing a network of strategic neighborhood activity centers. These recommendations encourage redevelopment and reinvestment opportunities that will be compatible with and stabilize the residential land use, and

**WHEREAS**, the Commission further finds that the proposed Mobility recommendations in the Highview Plan provide for adequate services to support existing uses and promote growth. Implementation of the mobility recommendations will provide walking and bicycling opportunities that will decrease the use of single-occupant vehicles and improve safety, and

**WHEREAS**, the Commission further finds that the Mobility recommendations place an emphasis on making improvements to the current street and sidewalk networks to support access to community facilities via walking and biking. The recommendations also would provide for safer access to public transit. The Land Use/Community Form recommendations support expanding opportunities for neighborhood-serving commercial uses, which could lead to a reduction in vehicle trips for retail goods and services, and

**WHEREAS**, the Commission further finds that the proposed Highview Neighborhood Plan recommendations reduce the impacts of pollution caused by vehicular traffic and land uses by encouraging compact development in centers and promoting alternative modes of transportation by improving bicycle and pedestrian access in the neighborhood, and

**WHEREAS**, the Commission further finds that the Plan recommends enhancing connections to Highview Park and throughout the neighborhood via walking and biking. As such, the plan supports the guideline's goals to have community facilities that are accessible to the adjacent neighborhoods; now, therefore be it

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **RECOMMEND TO METRO COUNCIL APPROVAL** of 15NEIGH1002 & 15NEIGH1003 Highview Neighborhood Plan and the Executive Summary of the plan which is to be an

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amendment to Cornerstone 2020, based on evidence and testimony heard today and the staff report.

**The vote was as follows:**

**YES: Commissioners Lewis, Peterson, Brown, White, Tomes and Chair Person Blake**

**NO: No one**

**NOT PRESENT: Commissioners Kirchdorfer, Turner, Jarboe and Vice Chair Proffitt**

**ABSTAINING: No one**

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**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 3:04 p.m.

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**Chair**

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**Planning Director**