

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO PLANNING COMMISSION
April 7, 2016**

A meeting of the Louisville Metro Planning Commission was held on Thursday, April 7, 2016 at 1:00 p.m. at the Old Jail Building, located at 514 West Liberty Street, Louisville, Kentucky.

Commission members present:

Donnie Blake, Chairman
Vince Jarboe, Vice Chairman
Jeff Brown
Marilyn Lewis
Robert Peterson (arrived at 1:36 p.m.)
Lula Howard

Commission members absent:

Robert Kirchdorfer
David Tomes
Chip White
Clifford Turner

Staff Members present:

Joseph Reverman, Assistant Director, Planning and Design Services
Brian Davis, Planning & Design Supervisor
John G. Carroll, Legal Counsel
Jon Baker, Legal Counsel
Julia Williams, Planner II
Mike Wilcher, Planning Supervisor
Jay Lockett, Associate Planner
Tammy Markert, Transportation Planning
Chris Cestaro, Management Assistant

Others:

Tony Kelly, Metropolitan Sewer District (MSD)

The following matters were considered:

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Approval of Minutes

Minutes of the meeting of the March 17, 2016 Planning Commission public hearing.

04:07:44 On a motion by Commissioner Brown, seconded by Commissioner Jarboe, the following resolution was adopted:

RESOLVED, that the Planning Commission does hereby **APPROVE** the minutes of the March 17, 2016 Planning Commission public hearing, with the corrections as noted on pages 17 and 25.

The vote was as follows:

YES: Commissioners Brown, Blake, Jarboe, and Peterson.

NO: No one.

NOT PRESENT: Commissioners White, Tomes, Turner, and Kirchdorfer.

ABSTAINING: Commissioners Lewis and Howard.

Minutes of the meeting of the March 21, 2016 special Planning Commission public hearing held at 6:00 p.m.

00:21:33 On a motion by Commissioner Jarboe, seconded by Commissioner Howard, the following resolution was adopted:

RESOLVED, that the Planning Commission does hereby **APPROVE** the minutes of the March 21, 2016 special Planning Commission public hearing held at 6:00 p.m.

The vote was as follows:

YES: Commissioners Brown, Blake, Jarboe, and Howard.

NO: No one.

NOT PRESENT: Commissioners White, Tomes, Turner, Kirchdorfer and Peterson.

ABSTAINING: Commissioner Lewis.

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Business Session

Reappointment of Commissioner Vince Jarboe

*NOTE: This item was taken out of order.

02:40:08 Commissioner Donnie Blake read a statement into the record, reappointing Commissioner Vince Jarboe to the Louisville Metro Planning Commission.

02:40:49 On a motion by Commissioner Lewis, seconded by Commissioner Peterson, the following resolution was adopted:

RESOLVED, the Louisville Metro Planning Commission does hereby reappoint Commissioner Vince Jarboe to the Planning Commission with an expiration date of October 1, 2017.

The vote was as follows:

YES: Commissioners Lewis, Brown, Blake, Peterson, and Howard.

NO: No one.

NOT PRESENT: Commissioners White, Tomes, Turner, Kirchdorfer and Peterson.

ABSTAINING: Commissioner Jarboe.

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Public Hearing

Case No. 15ZONE1057

Request: Change in zoning from R-4 to C-1 with Waivers
Project Name: 6503 Billtown Road
Location: 6503 Billtown Road

Owner: Donald and Linda Rogers
6503 Billtown Road
Louisville, KY 40299

Applicant: Shalimar Investments LLC
Sukhjit Bains, Representative
10412 Bluegrass Parkway
Louisville, KY 40299

Representatives: William Bardenwerper
Bardenwerper Talbott & Roberts PLLC
1000 N. Hurstbourne Parkway 2nd Floor
Louisville, KY 40223

Kevin Young and Ann Richard
Land Design & Development, Inc.
503 Washburn Avenue Suite 101
Louisville, KY 40223

Jurisdiction: Louisville Metro

Council District: 20 – Stuart Benson

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

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

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

An audio/visual recording of the Land Development and Transportation Committee meeting related to this case is available on the Planning &

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Design Services website, or you may contact the Customer Service staff to view the recording or to obtain a copy.

Agency Testimony:

00:25:55 Julia Williams presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.)

00:34:40 In response to question from Commissioner Blake, Ms. Williams discussed the Gene Snyder buffer issue.

The following spoke in favor of the proposal:

William Bardenwerper, Bardenwerper Talbott & Roberts PLLC, 1000 N. Hurstbourne Parkway 2nd Floor, Louisville, KY 40223

Kevin Young and Ann Richard, Land Design & Development, Inc., 503 Washburn Avenue Suite 101, Louisville, KY 40223

Sukhjit Bains, Shalimar Investments LLC, 10412 Bluegrass Parkway, Louisville, KY 40299

Diane Zimmerman, CDM Smith Traffic Engineers, 9420 Bunsen Parkway Suite 225, Louisville, KY 40220

Summary of testimony of those in favor of the proposal:

00:36:12 William Bardenwerper, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.)

00:37:39 Commissioner Peterson arrived at 1:36 p.m.

00:44:30 Kevin Young, an applicant's representative, discussed the proposal, landscaping, the waiver request, access to the brown property, detention, and providing pedestrian access.

00:50:04 Mr. Bardenwerper reviewed the proposed additional binding elements (see recording for verbatim presentation).

00:55:26 Mr. Young and Mr. Bardenwerper discussed making an intersection at the State Road/Brown property driveway and the subject site driveway/access

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point. In response to a question from Commissioner Jarboe, Mr. Young discussed details about the Gelhaus Lane entrance.

00:58:12 Commissioner Blake asked that the word "attractive" be stricken from the applicant's proposed binding elements (regarding trash receptacles.) He and Mr. Bardenwerper also talked about the hours of operation for the proposed gas-and-convenience store.

01:01:02 Commissioner Brown asked what the second of the two proposed LED signs would be used for; Commissioner Blake asked if the signs could be moved to eliminate the need for the waiver.

The following spoke in opposition to the proposal:

Wayne Hutchins, 11906 Longview Farm Drive, Louisville, KY 40299

Robert Dean, 6708 Weather Vane Drive, Louisville, KY 40299

Sara Sills, 6610 Rolling Pasture Way, Louisville, KY 40299

Kassie Kulb, 6608 Rolling Pasture Way, Louisville, KY 40299

Summary of testimony of those in opposition to the proposal:

01:02:41 Wayne Hutchins suggested creating a right-turn lane to reduce dangerous traffic situations caused by school traffic. He said the traffic study was not representative of normal traffic flows because it was done the day before school's winter break started.

01:06:22 Robert Dean spoke in opposition and showed a photographic presentation. He said the proposal is contrary to the Fern Creek Small Area Plan.

01:14:40 Sara Sills handed out photos to the Commissioners and spoke about traffic issues.

01:16:55 Kassie Kulb, representing Billtown Road Neighbors group, also expressed concerns about traffic and pedestrian safety. She said the residents want to keep this area rural and residential.

01:22:11 In response to a question from Commissioner Blake, Ms. Williams addressed some citizen comments about the Fern Creek Small Area Study.

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

No one spoke.

Rebuttal:

01:23:59 Mr. Bardenwerper said the Fern Creek Small Area Plan has largely not been followed, and he said the proposed development is compatible with the evolving development in the area.

01:28:08 Diane Zimmerman presented the results of the traffic impact study, and described the applicant’s contributions to road improvements in the immediate area.

01:30:11 Mr. Bardenwerper and Mr. Young discussed limiting LED signage to one sign (gas station price sign) by the gas station, closest to the Gene Snyder. The applicant will follow Chapter 8 regarding signage. See recording for detailed discussion.

01:34:16 The right-turn at Billtown Road and Gellhaus Lane was discussed. Pat Brierley, with Metro Transportation Planning, explained that there are no plans to make intersection improvements at this time. Angela Webster, representing Councilman Stuart Benson, said there are no funds for the turn lane at Billtown and Gellhaus at this time.

01:37:35 Mr. Bardenwerper said no one ever said anything about the Metro Council paying for the turn lane. The lane and its potential funding was further discussed - that will be a requirement of a new apartment community.

01:42:29 Mr. Young said that, because this area is part of the Urton Lane Corridor Extension, the applicant has agreed to dedicate additional right of way on both Billtown and Gellhaus.

01:48:30 Mr. Dean said the schools and bus depot were not part of the Fern Creek Small Area Plan. Mr. Bardenwerper replied that those are institutional uses, and how the Comprehensive Plan takes into account small areas plans that were done before the Comprehensive Plan was adopted.

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Deliberation:

01:56:33 Commissioners' deliberation (**NOTE:** Commissioner Peterson said he would abstain from voting on this case since he missed the staff presentation.)

02:05:10 Concerns that the hours of operation were NOT specific to the gas station; concerns about the 2:00 a.m. time.

02:27:40 Commissioner Brown read a proposed BE into the record for contribution towards right-turn lane, to read as follows:

"Developer shall contribute \$10,000 for the future construction of a right-turn lane from Billtown Road to Gellhaus Lane within 30 days of a request from Metro Public Works." There was discussion between Commissioner Brown and Jonathan Baker, Legal Counsel for the Planning Commission, about the possibility of putting this into a bond.

02:30:11 It was agreed that hours of operations will be 5:00 a.m. to midnight and this will be put into a binding element.

Zoning

02:30:55 On a motion by Commissioner Brown, seconded by Commissioner Jarboe, the following resolution was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the site is located in the Neighborhood Form District. The Neighborhood Form is characterized by predominantly residential uses that vary from low to high density and that blend compatibly into the existing landscape and neighborhood areas. High-density uses will be limited in scope to minor or major arterials and to areas that have limited impact on the low to moderate density residential areas; and

WHEREAS, the Commission further finds that the Neighborhood Form contains diverse housing types in order to provide housing choice for differing ages and incomes. New neighborhoods are encouraged to incorporate these different housing types within a neighborhood as long as the different types are designed to be compatible with nearby land uses. These types may include, but not be limited to large lot single family developments with cul-de-sacs, neo-traditional neighborhoods with short blocks or walkways in the middle of long blocks to

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connect with other streets, villages and zero lot line neighborhoods with open space, and high density multi-family condominium-style or rental housing; and

WHEREAS, the Commission further finds that the Neighborhood Form may contain open space and, at appropriate locations, civic uses and neighborhood centers with a mixture of uses such as offices, retail shops, restaurants and services. These neighborhood centers should be at a scale that is appropriate for nearby neighborhoods. The Neighborhood Form should provide for accessibility and connectivity between adjacent uses and neighborhoods by automobile, pedestrian, bicycles and transit; and

WHEREAS, the Commission further finds that Neighborhood streets may be either curvilinear, rectilinear or in a grid pattern and should be designed to invite human interaction. Streets are connected and easily accessible to each other, using design elements such as short blocks or bike/walkways in the middle of long blocks to connect with other streets. Examples of design elements that encourage this interaction include narrow street widths, street trees, sidewalks, shaded seating/gathering areas and bus stops. Placement of utilities should permit the planting of shade trees along both sides of the streets; and

WHEREAS, the Commission further finds that, while this area includes uses such as schools and a nursing home facility, this proposal would introduce commercial and office uses to the area. The mixture of uses proposed are neighborhood serving uses such as a bank, restaurant, convenience store and office/retail. This proposal would be considered medium intensity and is located on Billtown Road, which is designated as a Minor Arterial. This proposal will create a new center within the Neighborhood Form District and would provide desirable non-residential uses for the nearby residents. The adjacent residential in the area as well as the school population indicates that there is enough population to serve the use. Its vicinity adjacent to the Gene Snyder off ramp also suggests it will capture some of those drivers. The proposal is adjacent to schools which indicate that there is infrastructure adjacent to the site to accommodate non-residential development. The uses proposed by the applicant are compatible with each other which could possibly reduce the number of vehicle trips in the area; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 1 – Community Form**. The application complies with the Suburban Neighborhood Form District description of an area characterized by *predominantly* residential uses but that also includes, at appropriate locations, a mixture of uses, such as offices, retail shops, restaurants and services so long as these uses are at a scale appropriate for the nearby neighborhoods; and

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WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 2 – Centers**. The application complies with the Intents and applicable Policies 1, 2, 3, 4, 5, 7, 8, 9, 11, 13, 14 and 15 of this Guideline as follows: The subject property adjoins the mixture of institutional, high-density residential and single-family residential uses mentioned above, placing it in the activity center that already exists in and around this location. With goods and services available in close proximity to the Snyder Freeway-Billtown Road interchange and the institutional and residential uses mentioned above, this small retail center adds to the vitality and sense of place among the mostly disconnected nearby neighborhoods, some of whose residents will be able to walk to this small center. Others will find it a convenient first-stop on their ways home returning north along Billtown Road from the Snyder Freeway, where others will find it convenient for stops on their ways either to work in and around Jeffersontown arriving from the Snyder Freeway, or to and from the JCPS elementary and middle schools; and

WHEREAS, the Commission further finds that, as an "activity center", the proposal is appropriately located at the intersection of collector and arterial roads, and it is designed to be of intensity, density, size and mix of uses appropriate for a small neighborhood center. Everything within this small center is compact, and it presently is contemplated to include four uses: a convenience store, a restaurant, a branch bank and other small retail. They share parking and work off the same utility infrastructure; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 3 – Compatibility**. The application complies with the Intents and applicable Policies 1, 2, 4, 5, 6, 7, 8, 9, 12, 20, 21, 22, 23, 24 and 28 of this Guideline because this is a small neighborhood-serving retail center. Odors would only exist as a consequence of the proposed restaurant, but the nearest uses are the JCPS elementary and middle schools that wouldn't even notice this. Noise would only potentially emanate from an all-night or late evening convenience store, but residential properties potentially impacted by such nuisances are located significant distances away. Lighting will follow restrictions of the Land Development Code (LDC) and thus be directed down and away from nearby residential properties, with 90 degree cut-off at property lines. Transitions to adjoining properties on the east side will be attractively screened with fence and landscaping. Parking will be shared. Loading and delivery will be located and/or screened so as to minimize impacts on nearby properties. Signage will be in conformance with the LDC; and

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WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 6 – Economic Growth and Sustainability**. The application complies with the Intents and applicable Policies 2, 5, 6 and 11 of this Guideline because this property is located at the busy intersection of Billtown Road and the Snyder Freeway next to two JCPS schools and no longer has any single-family residential viability. As part of an existing activity center, it is designed to be a high quality, neighborhood-compatible retail center. It is located close to fairly intense residential populations the length of Billtown Road from Jeffersontown to the Snyder Freeway and along collector-level streets connecting with Billtown Road, such as Gelhaus Lane. Absent this rezoning application, this no longer suitable single-family property could not be reused in virtually any other manner; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guidelines 7, 8, & 9 – Circulation; Transportation Facility Design; and Bicycle, Pedestrian and Transit**. The application complies with the Intents and applicable Policies 1, 2, 4, 6, 9, 10, 11, 12, 13, 14,15, 16 and 18 of Guideline 7; Policies 1, 4, 5, 7, 9, 10 and 11 of Guideline 8; and Policies 1, 2, 3 and 4 of Guideline 9 because Billtown Road is slated for near-term reconstruction to add a center turn-lane. This will move traffic much more efficiently along this very busy, peak-hour heavy arterial roadway. That is because what slows traffic and creates congestion are left-hand turns, not from the center turn-lane. Also, the intersection of Billtown Road and Gellhaus Lane is already a signalized one, which helps with traffic flows through that intersection and into and out of this site by creating traffic gaps for vehicles to safely enter and exit. Furthermore, the design of this small center, together with its points of access, take into account the standards promulgated by KTC and Metro Transportation Planning and Public Works. The latter will be required to review the detailed district development plan (DDDP) submitted with this application prior to time of LD&T and Planning Commission public reviews, or this application will not be publicly heard. That review and preliminary stamp of approval will assure that Transportation Planning and Public Works standards for comer clearances, access, connectivity, internal circulation and parking minimums are all satisfied. Bike racks and sidewalks will be provided as required; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline10 – Flooding and Stormwater**. The application complies with the Intents and applicable Policies 1, 3, 4, 6, 7, 10 and 11 of this Guideline because a detention basin is shown on the DDDP, in compliance with MSD's standards for storm water management. Accordingly, post-development rates of runoff will not exceed pre-development conditions. MSD will be required to review the storm water management plan and give its preliminary stamp of approval to

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the DDDP prior to docketing for LD&T and Planning Commission public reviews. The applicant's professional representatives have met with JCPS to review area resident concerns about the potential of nonfunctioning detention basins on the JCPS property and about connecting the storm water pipe from this property to that on the JCPS property. JCPS and this applicant will work together on that; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 11 – Water Quality**. The application complies with the Intents and applicable Policies 3, 5 and 8 of this Guideline because MSD has promulgated both soil erosion/sedimentation control regulations and even newer ones with respect to water quality. Construction plans for this center will require compliance with these regulations prior to obtaining building permits; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 12 – Air Quality**. The application complies with the Intents and applicable Policies 2, 4, 7 and 8 of this Guideline because, by locating this small neighborhood center in close proximity to a large residential support population, notably along an already busy arterial road at its intersection with the Snyder Freeway and with a busy collector level road, not only will vehicle miles traveled be reduced, but also customers already driving these road systems will be able to pop in and pop out of this center without having to travel greater distances for the exact same services; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 13 – Landscape Character**. The application complies with the Intents and applicable Policies 1, 2, 4, 5 and 6 of this Guideline. Compliance with this Guideline is achieved by virtue of compliance with LDC requirements. But as stated above, landscaping, screening and buffering will exceed LDC requirements, as promised neighbors at the neighborhood meeting; and

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

RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the legislative body of Louisville Metro Government that the requested change in zoning from R-4 to C-1 on property located in the attached legal description be **APPROVED**.

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The vote was as follows:

YES: Commissioners Lewis, Brown, Blake, Jarboe, and Howard.

NO: No one.

NOT PRESENT: Commissioners White, Tomes, Turner, and Kirchdorfer.

ABSTAINING: Commissioner Peterson.

Waiver #1 - Waiver from 10.3.7 to reduce the Gene Snyder Buffer from 50' to 5' as indicated on the development plan.

Waiver #2 - Waiver from 10.2.4 to reduce the required 25' LBA to 5' along the property lines shared with the JCPS properties.

02:32:41 On a motion by Commissioner brown, seconded by Commissioner Jarboe, the following resolution was adopted:

(Waiver #1) **WHEREAS**, the Louisville Metro Planning Commission finds that the waiver will not adversely affect adjacent property owners since the Gene Snyder right of way off ramp extends down Billtown Road for some distance and is significantly away from the nearest residential development; and

WHEREAS, the Commission further finds that the waiver will not violate specific guidelines of Cornerstone 2020. Guideline 3, policy 9 of Cornerstone 2020 calls for the protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigate when appropriate. Guideline 3, policies 21 and 22 calls for appropriate transitions between uses that are substantially different in scale and intensity or density, and to mitigate the impact caused when incompatible developments occur adjacent to one another through the use of landscaped buffer yards, vegetative berms and setback requirements to address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances. Guideline 3, policy 24 states that parking, loading and delivery areas located adjacent to residential areas should be designed to minimize the impacts from noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered. Guideline 13, policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. Guideline 13, Policy 7 calls for protection of the character of parkways and scenic byways and corridors through standards for buffers, landscape treatment, lighting and signs. The intent of parkway development standards is to protect existing scenic and aesthetic qualities, to

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ensure a quality visual experience on developing corridors and to protect and improve the visual experience on established corridors. Providing the 50' buffer at the end of the Gene Snyder ramp will not sufficiently buffer the site from the expressway as the main part of the expressway is significantly further away from the site; 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 providing the 50' buffer at the end of the Gene Snyder ramp will not sufficiently buffer the site from the expressway as the main part of the expressway is significantly further away from the site; and

WHEREAS, the Commission further finds that providing the 50' buffer at the end of the Gene Snyder ramp will not sufficiently buffer the site from the expressway as the main part of the expressway is significantly further away from the site; and

(Waiver #2) **WHEREAS**, the Commission further finds that the waiver will not adversely affect adjacent property owners since the school provided most of the required buffer on their site. A fence and landscaping will still be provided; and

WHEREAS, the Commission further finds that the waiver will not violate specific guidelines of Cornerstone 2020. Guideline 3, policy 9 of Cornerstone 2020 calls for the protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigate when appropriate. Guideline 3, policies 21 and 22 calls for appropriate transitions between uses that are substantially different in scale and intensity or density, and to mitigate the impact caused when incompatible developments occur adjacent to one another through the use of landscaped buffer yards, vegetative berms and setback requirements to address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances. Guideline 3, policy 24 states that parking, loading and delivery areas located adjacent to residential areas should be designed to minimize the impacts from noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered. Guideline 13, policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. Guideline 13, Policy 6 calls for screening and buffering to mitigate adjacent incompatible uses. The intent of landscape buffer areas is to create suitable transitions where varying forms of development adjoin, to minimize the negative impacts resulting from adjoining incompatible land uses, to decrease storm water runoff volumes and velocities associated with impervious surfaces, and to filter air borne and water borne pollutants. A fence

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and landscaping will still be provided between the site and the adjacent school, which has provided much of the buffer on their site; 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 buffer is mainly provided on the school site; and

WHEREAS, the Commission further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant since the buffer is mainly provided on the school site; and

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

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Waiver from 10.3.7 to reduce the Gene Snyder Buffer from 50' to 5' as indicated on the development plan **AND** a Waiver from 10.2.4 to reduce the required 25' LBA to 5' along the property lines shared with the JCPS properties.

The vote was as follows:

YES: Commissioners Lewis, Brown, Blake, Jarboe, and Howard.

NO: No one.

NOT PRESENT: Commissioners White, Tomes, Turner, and Kirchdorfer.

ABSTAINING: Commissioner Peterson.

Waiver #3 - Waiver from 8.2.1.D.6 to permit an LED sign to be located less than 300' from the nearest residential property.

02:33:40 On a motion by Commissioner Brown, seconded by Commissioner Jarboe, the following resolution was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the waiver will not adversely affect adjacent property owners because the LED for the gas pumps will be located adjacent to the Billtown Road access to the site, which is the further location from the existing Billtown Farms subdivision, the adjoining single-familyhome where the senior care facility across Gellhaus Lane. Also,

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Billtown Farms residents have requested the LED sign in place of letters manually altered to reflect changing gas prices; 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 zoning application; and

WHEREAS, the Commission further finds that the extent of the waiver is the minimum necessary to afford relief to the applicant because the sign is proposed as an LED for purposes of gas prices per request of Billtown Farms residents, and also because it will be located at the farthest practical distance from residentially occupied buildings; and

WHEREAS, the Commission further finds that strict application of the provisions of the regulation would deprive the applicant of a reasonable use of the land or would create an unnecessary hardship on the applicant because, without this waiver, the applicant would be unable to satisfy the sign design preference of the majority of residents who have stated a preference as to how gas pricing is advertised; and

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

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Waiver from 8.2.1.D.6 to permit an LED sign to be located closest to the Billtown Road entrance which is less than 300' from the nearest residential property.

The vote was as follows:

YES: Commissioners Lewis, Brown, Blake, Jarboe, and Howard.

NO: No one.

NOT PRESENT: Commissioners White, Tomes, Turner, and Kirchdorfer.

ABSTAINING: Commissioner Peterson.

Detailed District Development Plan and Binding Elements

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02:34:50 On a motion by Commissioner Brown, seconded by Commissioner Jarboe, the following resolution was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that there do 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 but none of the existing trees are proposed to be preserved; 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 there are no open space requirements with the current proposal; and

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

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

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

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

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the

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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 15,820 square feet of gross floor area.
3. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
4. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
5. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested:
 - a. The development plan must receive full construction approval from Develop Louisville, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
 - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - d. A 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 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

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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 façade elevations shall be in accordance with applicable form district standards and shall be approved by PDS staff prior to construction permit approval.
10. No idling of trucks shall take place within 200 feet of residential uses. No overnight idling of trucks shall be permitted on-site.
11. The Gellhaus Lane access shall be right-in only unless Metro Public Works approves either a full-cut at this point of access or a right-in/right-out. If a right-in/right-out, such access should be constructed in concert with a deceleration right-turn lane into the adjoining Jefferson County Public School property, thereby assuring that any right-turns out intending to make a U-turn back in the direction of the Gellhaus Lane/Billtown Road intersection are unlikely to make that U-turn using Longview Farm Drive.
12. Developer shall work with MSD and JCPS to better define the ditch along the JCPS frontage on Gellhaus Lane to improve the flow of stormwater entering the existing storm pipe.
13. An 8-foot high vinyl privacy fence shall be installed along the east and south property lines adjoining the JCPS and Brown properties as shown on the color site plan accompanying the presentation shown at the April 7, 2016 Planning Commission public hearing.
14. Landscaping shall be in accordance with the concept landscape plan presented at the April 7, 2016 Public Hearing and shall include along Gellhaus Lane 2-2 ½ inch caliper trees 8 ft in height at time of planting, all otherwise in compliance with the LDC Landscape Regulation.
15. Lighting shall be in accordance with the lighting plan presented at the April 7, 2016 Public Hearing and shall include maximum 16 ft tall light poles

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with shoebox-style fixtures and a 90 degree cutoff with lighting not in excess of 0.5 foot candles at the property lines.

16. Hours of operation shall be limited from 5:00 a.m. to midnight.
17. Freestanding signage shall be limited to monument, not pylon, style, otherwise in accordance with the sign regulations of the LDC. Gas prices shall be advertised with LED lighting, not manually changed pricing numbers.
18. There shall be no exterior access to bathrooms.
19. Trash receptacles shall be placed for ease of use at multiple points under the gas canopy and along the front facades of the retail and restaurant buildings.
20. Dumpsters shall be fully enclosed with a solid fence screen.
21. Commercial use on the site shall not permit liquor stores, check cashing stores, laundromats, pawn shops, medical labs, hotel/motels, funeral homes and homeless shelters.
22. The developer shall prohibit construction access and construction and maintenance vehicles from using Billtown Farms subdivision streets.
23. Developer shall contribute \$10,000 for the future construction of a right-turn lane from Billtown Road to Gellhaus Lane. Developer shall post a bond with Metro Public Works prior to full construction approval for the site, to be used for the road construction project. Developer's bond will be released on April 7, 2026 if the turn lane has not been constructed.

The vote was as follows:

YES: Commissioners Lewis, Brown, Blake, Jarboe, and Howard.

NO: No one.

NOT PRESENT: Commissioners White, Tomes, Turner, and Kirchdorfer.

ABSTAINING: Commissioner Peterson.

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Case No. 15ZONE1048

***NOTE: This item was taken out of order and heard first.**

Request: Change in zoning from R-6 to C-2 with Land Development Code Variance and Waivers; and a Revised Detailed District Development Plan

Project Name: Zanzabar
Location: 2100 & 2104 South Preston Street

Owner/Applicant: Anthony Wettig
Zanzabar LLC
Anthony Wettig
2100 South Preston Street
Louisville, KY 40217

Representative: Schroll Land Surveying
Bill Schroll, Representative
5450 Southview Drive
Louisville, KY 40214

Jurisdiction: Louisville Metro

Council District: 15 – Marianne Butler

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

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

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

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

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Agency Testimony:

00:22:30 Julia Williams said the legal ad was not posted, so the applicant is requesting that this case be continued to the April 21, 2016 Planning Commission public hearing.

One person signed in to speak in opposition:

Gail Linville, 526 Atwood Street, Louisville, KY 40217 (signed in but did not speak)

00:25:05 On a motion by Commissioner Howard, seconded by Commissioner Jarboe, the following resolution was adopted:

RESOLVED, the Louisville Metro Planning Commission does hereby **CONTINUE** this case to the April 21, 2016 Planning Commission public hearing.

The vote was as follows:

YES: Commissioners Lewis, Brown, Blake, Jarboe, and Howard.

NO: No one.

NOT PRESENT: Commissioners White, Tomes, Turner, Kirchdorfer and Peterson.

ABSTAINING: No one.

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Case No. 15ZONE1066

Request: Change in zoning from R-5 to OR for approximately 2.21 acres and a waiver
Project Name: Lyndon Office Centre Phase II
Location: 504-516 Lyndon Lane

Owner: Syd Wright Company
Sydney and Elsie Wright
P.O. Box 99
Harrods Creek, Kentucky 40027

Applicant: Pinnacle Properties LLC
John Miranda, Representative
802 Lily Creek Road
Louisville, KY 40243

Representatives: William Bardenwerper
Bardenwerper Talbott & Roberts PLLC
1000 N. Hurstbourne Parkway 2nd Floor
Louisville, KY 40223

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

Jurisdiction: City of Lyndon

Council District: 18 – Marilyn Parker

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

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

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

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

Agency Testimony:

02:42:42 Julia Williams presented the case and showed a Power Point presentation (see recording for detailed presentation.)

The following spoke in favor of the proposal:

William Bardenwerper, Bardenwerper Talbott & Roberts PLLC, 1000 N. Hurstbourne Parkway 2nd Floor, Louisville, KY 40223

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

John Miranda, Pinnacle Properties LLC, 802 Lily Creek Road, Louisville, KY 40243

Summary of testimony of those in favor of the proposal:

02:47:29 William Bardenwerper, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.)

02:53:04 David Mindel discussed trees, landscaping, and drainage.

The following spoke in opposition to the proposal:

No one spoke.

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

No one spoke.

Rebuttal:

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

Deliberation:

02:56:22 Commissioners' deliberation.

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Change in Zoning, Waiver, and District Development Plan

(Zoning) 05:14:43 On a motion by Commissioner Jarboe, seconded by Commissioner Howard, the following resolution was adopted:

(Zoning) **WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the intents of **Guideline 1 – Community Form**. This application complies with this Guideline because the Suburban Neighborhood Form District, like the Town Center Form District, is characterized by both residential and a mix of compatible commercial uses; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 2 – Centers** because this application complies with the Intents and applicable Policies 1, 2, 4, 5, 7, 9, 11, 13, 14 and 15 of the Guideline as follows: the portion of this overall site that is the subject of the rezoning looks and feels like the balance of the site that is already zoned C-1; utilities are available at property lines; the Lyndon Town Center has proven to be a good location for office condominiums because of the significant intensity of residential uses and several high density apartment communities located in and around it and also because of the variety of retail uses located in and around the Lyndon Town Center as well- all making use of the kinds of office tenants who typically locate in these kinds of office condominium buildings; locating these office condominium buildings as proposed at this site does help reduce vehicle miles traveled and further improves the vitality and sense of place of the Lyndon Town Center core; and the proposed development serves to revitalize a portion of the Lyndon Town Center and immediate surroundings that are presently underutilized and arguably in need of rejuvenation; and

WHEREAS, the Commission further finds that this office condominium community constitutes a compact development of seven relatively small, residential style office buildings, no more than two stories in height, which is similar to some nearby two-story homes; the parking lot for all seven buildings will be shared, and buildings will be located around the perimeter of the parking located at the center of the site; and in this way, the buildings screen the parking, and the buildings are easily accessible to the parking; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 3 – Compatibility** because this application complies with the Intents and applicable Policies 1, 2, 4, 5, 6, 7, 8, 9, 21, 22, 23, 24 and 29 of this Guideline as follows: The proposed buildings are residential in style and design, two stories in height of brick construction. Office condo buildings do not create

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odors or noise; and lighting will be directed down and away from nearby residential properties and will be in compliance with lighting restrictions of the Land Development Code (LDC); and

WHEREAS, the Commission further finds that, previous to the present office condominium plan, the owners of the subject property had planned for large, three-story apartment buildings on this overall site; nearby residents expressed opposition to these buildings mostly because of their size and scale, which they felt were out of character, and thus incompatible, with adjoining residential properties; at the neighborhood meetings pertaining to this application, neighbors present expressed a preference for these proposed office condominium buildings over the previous apartment proposal and over anything retail; and they liked the smaller buildings, lesser hours of operation and the proposed transitions in terms of setbacks, screening and buffering, which will likely involve mostly new, instead of retained, trees and other plant materials. The applicant met with neighbors again once the building designs and landscape buffer plan were finally prepared; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 6 – Economic Growth and Sustainability**. This application complies with the Intents and applicable Policies 2, 3, 5, 6, 7 and 11 of this Guideline as follows: This is a mostly vacant site, although partly occupied by three insubstantial residential structures; the Lyndon Town Center has proven to be a great location for office condo buildings of this kind because it is a center of fairly intense residential and commercial activity; and therefore, redeveloping this overall site will lead to a continuing revitalization of the Lyndon Town Center; 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**. This application complies with the Intents and applicable Policies 1, 2, 3, 4, 6, 10, 11, 12, 13, 14, 16 and 18 of Guideline 7; Policies 7, 9, 10 and 11 of Guideline 8; and Policies 1,2, 3 and 4 of Guideline 9 as follows: In addition to the signature entrance on Lyndon Lane, which appears to be an adequate distance from other commercial points of access along this active collector level roadway, the office condo development will have another point of access from the rear of the existing Walgreens store and from the adjoining small retail building housing a dry cleaner and tax corporation service; and it provides for excellent cross-connectivity and helps address issues of traffic congestion in the Lyndon Town Center at peak hours and during times of CSX train traffic; and

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WHEREAS, the Commission further finds that the detailed district development plan (DDDP) and the approved RDDDP received the preliminary stamps of approval from Metro Transportation Planning and Public Works, prior to docketing for the Development Review Committee (DRC) and Planning Commission public review; those agency reviews looked at the proposed points of access and connections as well as corner clearances, site distances, median opening and adequacy of parking; and those agencies also required some level of traffic analysis in order to determine impacts on local road systems levels of service; and

WHEREAS, the Commission further finds that transit is available in the area; sidewalks will be provided where required; and bicycle parking will be accommodated; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 10 – Flooding and Stormwater**. The application complies with Intents and applicable Policies 1, 3, 6, 7, 10 and 11 of Guideline 10 as follows: on-site detention will be provided such that post-development rates of runoff do not exceed pre-development conditions; because area residents advised the applicant of drainage problems in the area, the applicant had its engineer review these drainage conditions and advise MSD of them so as to determine whether reasonable repairs and/or mitigation measures can be made to existing storm water systems in association with this proposed office condominium development; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 11 – Water Quality**. The application complies with the Intents and applicable Policies 1, 3 and 5 of this Guideline because, at time of construction, the developer of this site will be required to comply with MSD's soil erosion and sedimentation control regulations; and new water quality standards have been implemented by MSD which must be addressed as well at time of construction plan approval; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 12 – Air Quality**. The application complies with the Intents and applicable Policies 1, 2, 3, 6, 7, 8 and 9 of this Guideline because the proposed office condominium community is located at the heart of the Lyndon Town Center, thus reducing vehicle miles traveled for people already engaged in commerce and residing in this area; and reduced miles traveled leads to improved air quality; and

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WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 13 – Landscape Character**. The application complies with the Intents and applicable Policies 1, 2, 4, 5 and 6 of this Guideline because the LDC requires tree canopies as well as both perimeter and interior landscaping of all sites; this application complies with LDC standards, and indeed it will exceed those standards because of the enhanced setback together with good plan for screening and buffering as promised nearby residents as explained above; and

(Waiver) **WHEREAS**, the Commission further finds that the waiver will not adversely affect adjacent property owners since the zoning districts are separated on site and will not affect adjacent properties; and

WHEREAS, the Commission further finds that the waiver will not violate specific guidelines of Cornerstone 2020. Guideline 3, policy 9 of Cornerstone 2020 calls for the protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigate when appropriate. Guideline 3, policies 21 and 22 calls for appropriate transitions between uses that are substantially different in scale and intensity or density, and to mitigate the impact caused when incompatible developments occur adjacent to one another through the use of landscaped buffer yards, vegetative berms and setback requirements to address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances. Guideline 3, policy 24 states that parking, loading and delivery areas located adjacent to residential areas should be designed to minimize the impacts from noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered. Guideline 13, policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. Guideline 13, Policy 6 calls for screening and buffering to mitigate adjacent incompatible uses. The intent of landscape buffer areas is to create suitable transitions where varying forms of development adjoin, to minimize the negative impacts resulting from adjoining incompatible land uses, to decrease storm water runoff volumes and velocities associated with impervious surfaces, and to filter air borne and water borne pollutants. A buffer on this site serves no purpose when the uses proposed are the same; 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 buffer is located only between zoning districts on the same site; and

WHEREAS, the Commission further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of

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the land or would create an unnecessary hardship on the applicant since the buffer is located only between zoning districts on the same site; and

(Development Plan and Binding Elements) **WHEREAS**, the Commission further 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 there are no open space requirements with the current proposal; and

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

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

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

RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the legislative body of the City of Lyndon that the requested change in zoning from R-5 to OR , the requested Waiver from 10.2.4 to not provide the buffer required between C-1 and OR zoning, and the District Development plan and binding elements, be **APPROVED, 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

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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 and to the City of Lyndon for review and approval; any changes/additions/alterations not so referred shall not be valid.

2. The development shall not exceed 12,800 square feet of gross floor area.
3. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
4. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
5. Before any permit (including but not limited to building, parking lot, change of use, site disturbance) is requested:
 - a. The development plan must receive full construction approval from Develop Louisville, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. 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.
 - 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.
6. If a building permit is not issued within one year(s) of the date of approval of the plan the property shall not be used in any manner unless a revised district development plan is approved or an extension is granted by the Planning Commission or designee and the City of Lyndon.
7. 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

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implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.

8. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
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 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. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the April 7, 2016 Planning Commission hearing.

The vote was as follows:

YES: Commissioners Lewis, Brown, Blake, Jarboe, Peterson, and Howard.

NO: No one.

NOT PRESENT: Commissioners White, Turner, Tomes, and Kirchdorfer.

ABSTAINING: No one.

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Public Hearing

Case No. 9-58-89 / 15424 BE Citation

NOTE: This case has been CONTINUED from the March 17, 2016 Planning Commission public hearing.

Property Address: 9201 Blue Lick Road
Case Manager: John Carroll, Assistant County Attorney

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

Agency Testimony:

03:00:17 John Carroll, Legal Counsel for the Planning Commission, presented the case and discussed the Commission's resolution from the March 17, 2016 hearing (see recording for detailed presentation.)

03:03:17 Mike Wilcher, Planning Supervisor, showed a Power Point presentation with updated photos from the Site Inspection which was conducted in the past week (see recording for photos and detailed presentation.)

Speakers:

Mark Madison, Milestone Design Group, 108 Daventry Lane, Louisville, KY 40223, representing the property owners.

Testimony:

03:05:42 Mark Madison, the appellants' representative, explained the work that has been done to bring the site into compliance. He also discussed a road improvement/completion that is being worked on that affects what the applicant can do about landscape buffers.

03:11:43 Mr. Carroll asked Mr. Madison when he would be able to have a revised development plan filed. Mr. Madison explained what would or would not require a revised plan. He said the appellants' goal is to get the compliance issues resolved first.

03:13:20 Commissioner Blake suggested continuing this case in order to receive an Action Plan from the appellants.

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03:15:21 Mr. Wilcher said there has been lots of progress in improving the appearance of the site. The last time the plan was approved, there was an extension granted for a couple of years for the roadway widening projects to be completed before the landscaping was installed. That expiration date passed at the end of 2014. He said the Metro Council's office is concerned about granting another extension for the landscaping. Commissioner Blake said it sounded like at least some of the landscaping can be installed now.

03:16:15 Commissioner Peterson and others discussed the issue.

03:17:28 Mr. Wilcher added that the owner wants to retain a tractor trailer, currently on the site, as a permanent storage structure. The Metro Councilperson's office is not in favor of this.

03:23:33 On a motion by Commissioner Jarboe, seconded by Commissioner Brown, the following resolution was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the specific violations on the site to be corrected are:

- Permitted items in outdoor storage areas on-site must be located on a hard and durable surface per LDC Guidelines.
- The hard and durable surface must be installed as shown on the approved plan in Case No. 15424.
- Landscaping must be installed per the approved landscape plan in Case No. 17580.

Now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby suspend, as of today, the \$500-per-day fine that was imposed on March 17, 2016 until the appellants produce an Action Plan to resolve the violations and does hereby **CONTINUE** this case to the **May 19, 2016** Planning Commission public hearing, when the appellants will present the Action Plan.

The vote was as follows:

YES: Commissioners Lewis, Brown, Blake, Jarboe, and Peterson.

NO: No one.

NOT PRESENT: Commissioners White, Tomes, Turner, and Kirchdorfer.

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ABSTAINING: Commissioner Howard.

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Public Hearing

Case No. 9-36-96 BE Citation

Property Address: 9609 National Turnpike
Case Manager: Jonathan Baker, Assistant County Attorney

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

Agency Testimony:

03:25:01 Mike Wilcher (Site Inspection) presented a Power Point presentation showing photos of the site. See recording for detailed presentation. Jonathan Baker, Legal Counsel for the Planning Commission, said this case has been continued to this date so that the appellant can present a more detailed plan for compliance.

Speakers:

Paul Curry, 1038 Edward Avenue, Louisville, KY 40204

Testimony:

Paul Curry, representing the appellant (Mr. Nelson), presented the appellant's proposal for remedy. He said Mr. Nelson is "clearing this property" to eliminate outdoor storage (not in an enclosed structure.) Mr. Curry and Mr. Baker discussed parking of vehicles (including person vehicles) on the site for more than 24 hours.

03:35:20 Mr. Curry and Mr. Baker discussed the back building, and whether or not it is in violation.

03:36:57 Mr. Curry discussed submitting a revised plan, or possibly requesting a waiver. Commissioner Blake reviewed the process for requesting a waiver, and noted that that is a separate process from addressing the citation issues. Mr. Curry briefly described some of the work that Mr. Nelson has done on the property.

03:40:41 In response to a question from Commissioner Jarboe, Mr. Baker reviewed the progress of this case. He said that a date has been selected to have this site be in compliance (June 2, 2016). Commissioner Blake added that there has to be a revised plan submitted for a waiver request. Mr. Curry said the

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current landscape plan and storage requirements are “too onerous”. Mr. Wilcher explained what communication had been had with Mr. Nelson regarding what he’s been doing on the property.

Deliberation:

03:47:39 Commissioners’ deliberation.

03:53:06 Mr. Baker said it is up to the appellant if he wants to submit a revised plan, depending on what he wants to do with the property. However, the current citation states that this site must be in compliance with the approved plan by June 2, 2016. This was re-stated by the Planning Commission on March 17, 2016. Commissioner Blake said the applicant has to be in compliance with the currently approved plan by June 2, 2016. In response to a statement from Commissioner Blake, Mr. Wilcher said that there is no approved *landscape* plan.

04:00:55 Mr. Baker reviewed the history of this case. The Commissioners discussed the issue; it was recommended that the appellant work with PDS staff to bring the site into compliance by June 2, 2016.

The Commission by general consensus placed this case on the agenda for the June 2, 2016 Planning Commission public hearing.

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STANDING COMMITTEE REPORTS

Land Development and Transportation Committee

No report given.

Legal Review Committee

No report given.

Planning Committee

No report given.

Policy and Procedures Committee

No report given

Site Inspection Committee

No report given.

ADJOURNMENT

The meeting adjourned at approximately 5:23 p.m.



Chairman



Division Director