

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO PLANNING COMMISSION MEETING
MARCH 15, 2018**

A meeting of the Louisville Metro Planning Commission was held on March 15, 2018 at 1:00 p.m. at the Old Jail Building, located at 514 W. Liberty Street, Louisville, KY 40202.

Commissioners present:

Vince Jarboe, Chair

Marilyn Lewis, Vice Chair

Emma Smith

Robert Peterson

Jeff Brown

Ramona Lindsey

Rich Carlson

Laura Ferguson

Commissioners absent:

Lula Howard

David Tomes

Staff members present:

Emily Liu, Director, Planning & Design Services

Joe Reverman, Assistant Director, Planning & Design Services

Brian Davis, Planning & Design Manager

Laura Mattingly, Planner II

Joel Dock, Planner II

Jay Lockett, Planner I

Beth Stuber, Transportation Planning

Tony Kelly, MSD

Travis Fiechter, Legal Counsel

Kristen Padron, Management Assistant

*Commissioner Peterson arrived at approximately 1:15 p.m.

The following matters were considered:

**PLANNING COMMISSION MINUTES
MARCH 15, 2018**

APPROVAL OF MINUTES

MARCH 1, 2018 PLANNING COMMISSION MEETING MINUTES

00:09:28 On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution was adopted:

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the minutes of its meeting conducted on March 1, 2018.

The vote was as follows:

YES: Brown, Lindsey, Carlson, Jarboe, and Ferguson

NOT PRESENT: Peterson, Howard, and Tomes

ABSTAINING: Smith and Lewis

**PLANNING COMMISSION MINUTES
MARCH 15, 2018**

PUBLIC HEARING

CASE NUMBER 17SUBDIV1025

Project Name:	Aiken II
Location:	Aiken Rd at Johnson Rd
Owner(s):	Gilbert K Curry
Applicant:	Perfection Builders
Jurisdiction:	Louisville Metro
Council District:	19 – Julie Denton
Case Manager:	Jay Lockett, Planner I

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

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

Agency Testimony:

00:10:44 Jay Lockett discussed the case summary, standard of review and staff analysis from the staff report, and noted that the preliminary subdivision plan and side setback variance were already approved on March 1, 2018.

The following spoke in favor of this request:

Nick Pregliasco, 1000 N. Hurstbourne Pkwy., Louisville, KY 40223
Kathy Linares, 5151 Jefferson Blvd., Suite 101, Louisville, KY 40219

Summary of testimony of those in favor:

00:14:20 Nick Pregliasco summarized the applicant's proposal and showed a presentation. He responded to questions from the Commissioners.

00:24:55 Kathy Linares stated that a condition could be added to the plan that the curbs of the medians be mountable.

The following spoke in opposition to this request:

No one spoke.

Deliberation:

00:25:40 The Commissioners concur that the variance is justified.

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.

**PLANNING COMMISSION MINUTES
MARCH 15, 2018**

PUBLIC HEARING

CASE NUMBER 17SUBDIV1025

00:30:05 On a motion by Commissioner Brown, seconded by Commissioner Smith, the following resolution, based on the Standard of Review and Staff Analysis and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the requested variance will not adversely affect the public health, safety or welfare since homes in the subdivision will still maintain adequate yards and setbacks around structures. All provisions for safe circulation of traffic and access to utility infrastructure will be maintained, and

WHEREAS, the Commission further finds that the requested variance will not alter the essential character of the general vicinity since the mix of older and newer homes in the area have varied setbacks and a mixed rural and suburban character, and

WHEREAS, the Commission further finds that the requested variance will not cause a hazard or nuisance to the public since all appropriate access and utilities will be provided within the subdivision, and

WHEREAS, the Commission further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations, as the mixed setbacks allowed by the request will create a varied streetscape that is in keeping with the spirit of the Conservation Subdivision regulations which encourage flexibility of housing design, and

WHEREAS, the Commission further finds that the requested variance does not arise from special circumstances, but is rather a design choice, and

WHEREAS, the Commission further finds that the strict application of the provisions of the regulation would not deprive the applicant of the reasonable use of the land or create an unnecessary hardship, as the subdivision could still be developed as proposed with standard setbacks, and

WHEREAS, the Commission further finds that the circumstances are not the result of actions taken subsequent to the adoption of the zoning regulations; now, therefore be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the variance from Land Development Code section 7.11.10.C to allow maximum front yard setbacks of up to 40', a variance of up to 15' beyond the allowed 25', **SUBJECT** to the following conditions of approval:

1. A note is added to the major subdivision plan that states "mountable curbs shall be used for the medians within the public right-of-way on all these public roads."
2. On any lot where the building exceeds the front yard setback set forth in Land Development Code section 7.11.10.C, the garage shall not be located closer to the street than the front of the home.

**PLANNING COMMISSION MINUTES
MARCH 15, 2018**

PUBLIC HEARING

CASE NUMBER 17SUBDIV1025

3. No more than 75% of the homes constructed in the subdivision shall exceed the front yard setback set forth in Land Development Code section 7.11.10.C.
4. The applicant shall install additional evergreen trees along the northeast property line adjoining Lampley property, located at 16510 Aiken Rd and along the eastern property line adjoining the Polo Fields Subdivision. The trees shall be planted and located where the trees will provide the best buffer for the adjacent land owner or to fill in gaps in the tree line that is preserved, but in no event less than the equivalent of a minimum of 2 evergreen trees per 100 linear feet.

The vote was as follows:

YES: Brown, Lindsey, Carlson, Jarboe, Peterson, Smith, Lewis, and Ferguson
NOT PRESENT: Howard and Tomes

**PLANNING COMMISSION MINUTES
MARCH 15, 2018**

PUBLIC HEARING

CASE NUMBER 17DEVPLAN1237

Project Name:	Mellwood Art Center
Location:	300 Delmont Ave
Owner(s):	1860 Mellwood, LLC
Applicant:	Mose Putney, Putney Architecture
Representative:	Mose Putney, Putney Architecture
Jurisdiction:	Louisville Metro
Council District:	9 - Bill Hollander
Case Manager:	Laura Mattingly, 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. (The staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

00:32:52 Laura Mattingly discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Mose Putney, 1860 Mellwood, LLC

Summary of testimony of those in favor:

00:44:57 Applicant Mose Putney stated that the slope on the west side of Delmont Ave. would not allow them to construct a sidewalk. He proposed to construct a crosswalk from the north side of Mellwood Ave. to the existing sidewalk along the south side of Mellwood Ave., and another crosswalk from the east side of Delmont Ave. to the west side closer to the building. This would alleviate the need for a sidewalk along the west side of Delmont Ave.

00:50:37 Chair Jarboe stated that approval for a crosswalk cannot be provided by the Planning Commission. Crosswalks would have to be approved by Public Works.

00:53:25 Mr. Putney responded to questions from the Commissioners. He asked if it would be possible to get approval for the development plan today pending approval of crosswalks by Public Works. Ms. Mattingly suggested revising binding element #25 to set a date for sidewalk construction and to require cooperation with Public Works for crosswalks.

00:57:45 Commission Brown stated he would like to see binding element #25 tied to the Certificate of Occupancy. Public Works would install a crosswalk when the sidewalk is completed. Ms. Mattingly stated a parking waiver would not be needed if a crosswalk is constructed.

**PLANNING COMMISSION MINUTES
MARCH 15, 2018**

PUBLIC HEARING

CASE NUMBER 17DEVPLAN1237

The following spoke in opposition to this request:

No one spoke.

Deliberation:

00:59:45 The Commissioners concur that the proposal is justified. The parking waiver can be eliminated with the revision of binding element #25.

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.

Sidewalk waiver

01:02:07 On a motion by Commissioner Brown, seconded by Commissioner Lindsey, the following resolution, based on the Standard of Review and Staff Analysis and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the waiver will not adversely affect adjacent property owners as there is an existing sidewalk on the opposite side of Delmont Avenue that serves the development. Bertie Avenue does not connect to any other right of way and dead ends behind the subject site, making a sidewalk in this location unwarranted, 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 for the movement of pedestrians, bicyclists and transit users with sidewalks along the streets of all developments where appropriate. These guidelines are not violated, as existing sidewalks along the site frontage and the east side of Delmont Avenue give pedestrian access to the development and provide pedestrian connectivity along Mellwood Avenue, and

WHEREAS, the Commission further finds that the extent of waiver of the regulation is the minimum necessary to afford relief to the applicant as the existing topography makes the addition of sidewalks along Delmont difficult and costly. Additionally, Bertie Avenue is mostly unimproved, making a sidewalk in this location unreasonable; now, therefore be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the waiver of 5.8.1.B to not provide a sidewalk along Delmont Avenue and Bertie Avenue.

The vote was as follows:

YES: Brown, Lindsey, Carlson, Jarboe, Peterson, Smith, Lewis, and Ferguson

NOT PRESENT: Howard and Tomes

**PLANNING COMMISSION MINUTES
MARCH 15, 2018**

PUBLIC HEARING

CASE NUMBER 17DEVPLAN1237

Detailed District Development Plan

01:03:04 On a motion by Commissioner Brown, seconded by Commissioner Lindsey, the following resolution, based on the Standard of Review and Staff Analysis and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that LOJIC has not identified any significant natural resources on site. The site is already mostly developed and none of the existing trees will be affected, and

WHEREAS, the Commission further finds that provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community appear to have been provided through the existing roadway connections and appropriately place sidewalks, and

WHEREAS, the Commission further finds that there is no requirement for open space for this proposal, and

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

WHEREAS, the Commission further finds that the overall site design and land uses appear compatible with the existing and future development of the area. Most of the proposal already exists and the change in use with the small addition will put a use to an underutilized building, and

WHEREAS, the Commission further finds that the development plan generally conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code with the exception of the sidewalk waiver, which appears justified; now, therefore be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the detailed district development plan, **SUBJECT** to the following binding elements:

All binding elements from the approved General Development Plan (9-63-03) are applicable to this site, in addition to the following:

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.

**PLANNING COMMISSION MINUTES
MARCH 15, 2018**

PUBLIC HEARING

CASE NUMBER 17DEVPLAN1237

2. All uses permitted and conditional uses in the C-1 zoning regulations shall be permitted on this site. Only C-2 Conditional uses and the following C-2 permitted uses will be allowed by binding element:
 - Billiard parlors; game rooms and similar entertainment uses
 - Contractor's shop, including but not limited to building, electrical, HVAC, landscape, and plumbing contractors, provided all operation are confined within a building.
 - Dance halls,
 - Dancing instruction
 - Engraving, watchmaking, and jewelry manufacturing, where products are sold on premises
 - Equipment rental, where all activities are within a building
 - Exposition building or center
 - Flea market
 - Indoor paint ball
 - Music and vocal instructions
 - Printing, lithographing, or publishing establishments, if constructed to ensure that there is no noise or vibration evident outside the walls of the building
 - Restaurants, where food and drink may be served or consumed, where dancing or entertainment is allowed, outside as well as inside a building, including drive-in restaurants where all or part of the service or consumption is inside a vehicle
 - Retail or wholesale stores or businesses are not involving any kind of manufacture, processing or treatment of products other than that which is clearly incidental to the business conducted on the premises, and provided that not more than fifty (50) percent of the floor area of the building is used in the manufacture, processing, or treatment of products, and that such operation or products are not objectionable due to noise, odor, dust, smoke, vibration, or other similar causes
 - Sign painting
 - Taverns, bars and saloons and lounges, and restaurants identified by signs as a "tavern", "bar", "saloon", "lounge" or similar designation
 - Theaters, enclosed within a building
 - Trade schools

Notice of a request to amend this binding element shall be given in accordance with the Planning Commission's policies and procedures. The LD&T Committee may require a public hearing on the request to amend this binding element.
4. Signs shall be in accordance with Chapter 8.
5. No outdoor advertising signs shall be permitted on the site.
6. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.

**PLANNING COMMISSION MINUTES
MARCH 15, 2018**

PUBLIC HEARING

CASE NUMBER 17DEVPLAN1237

7. Before any permit (including but not limited to building, parking lot, change of use, or 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. Any necessary variances shall be obtained from the Board of Zoning Adjustment to allow the development as shown on the approved district development plan prior to parking being constructed in required yards.
 - 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. Shall be installed prior to utilizing the outdoor entertainment area or new parking areas.
 - 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.
 - e. 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 & Design Services. Transmittal of the approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
8. If a certificate of occupancy is not issued within one year of the date of approval of the plan or rezoning, whichever is later, 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. The parking lots on the north side of Mellwood are being built in phases and will have 3 years from the date of the approved plan to receive construction permits.
9. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for any proposed new 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. Existing uses excluded.
10. 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.
11. The materials and design of façade changes shall be consistent with the concept rendering(s) entitled “ Preliminary Conceptual Drawing Only” presented at the February 5, 2004 Planning Commission meeting (Pedestrian walkway over Mellwood is not included in

**PLANNING COMMISSION MINUTES
MARCH 15, 2018**

PUBLIC HEARING

CASE NUMBER 17DEVPLAN1237

the proposal). Façade changes other than maintenance or repair of the existing structure shall be submitted to the Urban Design Administrator of Planning & Design Services for review and approval. If the Urban Design Administrator determines that a proposed façade change is a significant change from the concept rendering, the Administrator may require review by the Planning Commission, LD&T, or DRC. The Administrator shall provide notice of the review meeting in accordance with Category 3 notice procedures. The applicant shall provide renderings/plans to the Clifton Heights and Butchertown Neighborhood associations at the time they submit them to Planning and Design Services.

12. No idling of trucks shall take place within 200 feet of single-family residences.
13. The applicant shall provide documentation showing that the development complies with all the regulations from Chapter 4, Part 1, Section 3, Lighting, prior to the issuance of a construction permit. These regulations include the following items:
 - a. Mounting Height Limit
 - b. Luminaire Shielding
 - c. Canopy Lighting Level
 - d. Light Trespass
14. The address number shall be displayed on a structure prior to requesting a certificate of occupancy for that structure.
15. As discussed with the community on Jan. 20, 2004, no through street are to be closed as part of this plan. The portion of Bertie that extends onto undeveloped property, where there are no other property owners, is agreed to by the neighborhood.
16. There shall be no parking by visitors/artists at the Bertie Ave. entrance/exit to the complex except for loading/unloading exhibits or materials and no store front or new public egress to the buildings will be constructed on Bertie Avenue. Access from Bertie shall be for employee and tenant use for loading/unloading only.
17. There shall be no outdoor amplified musical entertainment of any kind, live or recorded after 12 midnight on weekend nights (Friday-Saturday) or after 11:00 p.m. on week nights.
18. No adult entertainment activities shall occur on any portion of the subject property, including without limitation theaters, book stores, novelty sales, dancing or live performances. This binding element shall not be modified unless there is 30 days advance notice to adjoining property owners and the Clifton Heights Community Council of a hearing before the Planning Commission and the Metro Council.
19. There shall be no freestanding cell towers. There shall be no radio or television transmitting or receiving equipment (including antennas) located on the smokestack.
20. No clear cutting of the existing trees on the south east corner of the site as shown on the approved development plan shall be permitted.

**PLANNING COMMISSION MINUTES
MARCH 15, 2018**

PUBLIC HEARING

CASE NUMBER 17DEVPLAN1237

21. The density of any future condominiums/apartments will be held to the number permitted under C-1, which is 17.4 dwellings per acre, due to the number of single family homes surrounding this development.
22. The demolition any of the major structures for new construction. The applicant and its successors and assignees shall consult with the Clifton Heights Community Council before filing any request for multifamily units on the site, or any demolition of existing structures for new construction.
23. The applicant shall have construction plans for the improvements on the south side of Mellwood Avenue approved by November 15th.
24. The developer/property owner shall mow to the centerline of the undeveloped portion of Bertie Ave on the same schedule as the rest of the property.
25. The proposed sidewalk along the north side of Mellwood Avenue must be fully constructed prior to the issuance of a Certificate of Occupancy for the proposed expansion associated with case number 17DEVPLAN1237.

The vote was as follows:

YES: Brown, Lindsey, Carlson, Jarboe, Peterson, Smith, Lewis, and Ferguson
NOT PRESENT: Howard and Tomes

**PLANNING COMMISSION MINUTES
MARCH 15, 2018**

PUBLIC HEARING

CASE NUMBER 17ZONE1016

Request:	R-6 to OR-1
Project Name:	Triple C's Barber Shop
Location:	826 Humler Street
Owner:	John Cole III
Applicant:	John Cole III
Representative:	Milton R. Haskins, Jr.
Jurisdiction:	Louisville Metro
Council District:	6 – David James
Case Manager:	Laura L. Mattingly, AICP, Planner II

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

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

Agency Testimony:

01:05:30 Laura Mattingly discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Milton Haskins, Jr., W Market Street, Suite 101, Louisville, KY 40202

Summary of testimony of those in favor:

01:11:04 Milton Haskins, Jr. appeared before the Commissioners on behalf of the applicant. He responded to questions.

The following spoke in opposition to this request:

No one spoke.

Deliberation:

01:13:00 The Commissioners concur that the proposal is justified. Commissioner Brown sees no need to limit the hours further than 7:00 a.m. to 7:00 p.m.

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

Change in Zoning

**PLANNING COMMISSION MINUTES
MARCH 15, 2018**

PUBLIC HEARING

CASE NUMBER 17ZONE1016

01:17:26 On a motion by Commissioner Brown, seconded by Commissioner Lindsey, the following resolution, based on the Cornerstone 2020 Checklist and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Community Form guideline because the proposal does not affect the existing street pattern. This proposal includes no new construction and is located near a small park (Victory Park). The proposal is for the preservation and reuse of an existing building for commercial purposes, and

WHEREAS, the Commission further finds that the proposal meets the Centers guideline because the proposal will not create a new center but it involves the repurposing of an existing building. The proposal is located in a higher density mixed residential neighborhood. The proposal is compact and results in an effective land use pattern. The areas infrastructure is already set up to serve a mix of uses which indicates it will be able to serve a low intensity commercial use as well, which is cost effective. The proposal is for commercial use in a traditional neighborhood which will reduce trips and will support alternate transportation with sidewalks around the site. Transit stops are located along Humler St, as well as along Maple St to the north. The proposal is for commercial on a potentially mixed use site. The proposal does not include any additional curb cuts and will only use street parking. Utilities for the site are existing. The site has sidewalks and transit located in close proximity, and

WHEREAS, the Commission further finds that the proposal meets the Compatibility guideline because traffic impacts of this proposal are expected to be minimal and no mitigation is required. While this use is a non-residential expansion in a residential area, it is a low intensity commercial use and is proposing no changes to the site. APCD has no issues with the proposal. Any lighting on site will be in compliance with Land Development Code standards. The proposal is a higher intensity use located near commercial and industrial areas of higher intensity. The proposal will not be able to provide all of the required landscape buffer area along the western and southern property lines shared with residential uses, but there will be no changes to the site, and impacts appear to be minimal. The building is existing with no new construction proposed. Street parking will be utilized and there will be no loading areas adjacent to residential. There is no parking on site. Street parking will be used. Any proposed signage will be in compliance with Chapter 8 of the Land Development Code, and

WHEREAS, the Commission further finds that the proposal meets the Open Space guideline because the provision of open space for this proposal is not required by the LDC and is not appropriate for this site. As there is no new construction, any natural features of the site are being left intact, and

WHEREAS, the Commission further finds that the proposal meets the Natural Areas and Scenic and Historic Resources guideline because as there is no new construction, any natural features of the site are being left intact. The proposal is for the adaptive reuse of an existing structure. Soils are not an issue for the site, and

**PLANNING COMMISSION MINUTES
MARCH 15, 2018**

PUBLIC HEARING

CASE NUMBER 17ZONE1016

WHEREAS, the Commission further finds that the proposal meets the Economic Growth and Sustainability guideline because this site is within an established neighborhood with existing vehicular, pedestrian and transit infrastructure. This proposal does not anticipate generating large amounts of traffic and is in close proximity to a variety of uses, including commercial uses along the Broadway corridor approximately two blocks to the north, and

WHEREAS, the Commission further finds that the proposal meets the Circulation guideline because transportation has reviewed the proposal and no right-of-way dedication or improvement is required. This site is located in a traditional, urban neighborhood with a grid of streets and sidewalks and is also located on a transit line. This proposal does not constitute additional transportation facilities, as it is a small site. The proposal does not require right-of-way improvements, as pedestrian, vehicular and transit facilities are currently in place. The available street parking appears to be sufficient to the use. Cross access to adjacent site is not appropriate for this proposal, and

WHEREAS, the Commission further finds that the proposal meets the Transportation Facility Design guideline because access to the development is through public rights of way. A stub street is not necessary because the site is constrained by roadways. The existing roadways provide the appropriate linkages to other development, and

WHEREAS, the Commission further finds that the proposal meets the Bicycle, Pedestrian and Transit guideline because sidewalks are provided for transit users and pedestrians. Existing sidewalks are located along the street frontage, and

WHEREAS, the Commission further finds that the proposal meets the Flooding and Stormwater guideline because MSD has approved the proposal, and

WHEREAS, the Commission further finds that the proposal meets the Air Quality guideline because APCD has no issues with the proposal, and

WHEREAS, the Commission further finds that the proposal meets the Landscape Character guideline because natural corridors are not evident in or around the proposal, and

WHEREAS, the Commission further finds that the proposal meets the Infrastructure guideline because existing utilities serve the site. Water is available to the site. The health department has no issues with the proposal; now, therefore be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the change in zoning from R-6, Multi-Family Residential to OR-1, Office-Residential on .08 acres of property described in the attached legal description be **APPROVED**.

The vote was as follows:

YES: Brown, Lindsey, Carlson, Jarboe, Peterson, Smith, Lewis, and Ferguson
NOT PRESENT: Howard and Tomes

**PLANNING COMMISSION MINUTES
MARCH 15, 2018**

PUBLIC HEARING

CASE NUMBER 17ZONE1016

Waivers and Detailed District Development Plan

01:18:25 On a motion by Commissioner Brown, seconded by Commissioner Lindsey, the following resolution, based on the Standard of Review and Staff Analysis and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the waiver will not adversely affect adjacent property owners as the building is existing and there will be no change to the structure in the areas of the waiver request, 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 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 roadways through standards for buffers, landscape treatment, lighting and signs. These guidelines are not violated as there will be no physical changes to the exterior of the site to further screen or buffer from the adjacent properties, and

WHEREAS, the Commission further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the conditions are existing, 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 and would create an unnecessary hardship on the applicant as providing the full landscape buffer area would require the demolition of the existing structure, and

WHEREAS, the Commission further finds that Guideline 7 Policy 10 states that parking requirements should take into account the density and relative proximity of residences to businesses in the market area, the availability and use of alternative modes of transportation, and the character and pattern of the form district. Additional considerations including hours of operation and opportunities for shared parking may be factored on a site by site basis. Onsite parking standards should reflect the availability of on-street and public parking. The area is within the Traditional Form District well served by transit, pedestrian networks, and other alternative means of travel to and from the site. The character and pattern of the form district generally involve many businesses sharing on-street parking rather than providing large on-site parking areas, and

WHEREAS, the Commission further finds that the applicant made a good faith effort to provide as many parking spaces as possible on the site, on other property under the same ownership, or through joint use provisions as the site is existing with no available on site parking. The applicant was not able to count any street parking in their calculations due to the configuration of the lot next to an alley, although there is sufficient street parking on the same block as the proposed use, and

**PLANNING COMMISSION MINUTES
MARCH 15, 2018**

PUBLIC HEARING

CASE NUMBER 17ZONE1016

WHEREAS, the Commission further finds that the reduction requested is the smallest amount in order to accommodate the proposed use as the on-street parking adjacent cannot be counted due to the lot configuration next to an alley and the site is constrained with no location for parking, and

WHEREAS, the Commission further finds that adjacent or nearby properties will not be adversely affected as the street parking that will be utilized is located on a side street for the nearest residential properties that is currently underutilized, and

WHEREAS, the Commission further finds that as this use generates a very low parking demand and the area provides for good mobility choice, the requirements found in Table 9.1.2 do not accurately depict the parking needs of the subject site, and

WHEREAS, the Commission further finds that there is a surplus of on-street or public spaces in the area that can accommodate the generated parking demand, as all of the public streets in the area have on-street parking available, and

WHEREAS, the Commission further finds that LOJIC has not identified any natural resources on site and the applicant will be making no changes to the site to affect tree canopy, soils or any other natural resource, and

WHEREAS, the Commission further finds that provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community have been provided through the existing street network and sidewalks, and

WHEREAS, the Commission further finds that this development does not require open space, as it does not meet the threshold for open space or outdoor amenity requirements, 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, as the character of the existing structure will remain relatively the same, and

WHEREAS, the Commission further finds that this development generally conforms to the Comprehensive Plan and Land Development Code with only two waivers requested due to existing conditions; now, therefore be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE (1)** the waiver Section 10.2.4 to eliminate the required property perimeter Landscape Buffer Area along the southern and western property lines, **(2)** the waiver to use on-street parking spaces that are not directly adjacent or abutting the site, and **(3)** the detailed district development plan, **SUBJECT** to the following binding elements:

**PLANNING COMMISSION MINUTES
MARCH 15, 2018**

PUBLIC HEARING

CASE NUMBER 17ZONE1016

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
3. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
4. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, 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.
5. Prior to any site disturbance permit being issued and prior to any clearing, grading or issuance of a site disturbance permit, a site inspection shall be conducted by PDS staff to ensure proper placement of required tree protection fencing in accordance with the approved Tree Preservation Plan.
6. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
7. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
8. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
9. Hours of operation shall be no earlier than 7:00 a.m. and no later than 7:00 p.m.

**PLANNING COMMISSION MINUTES
MARCH 15, 2018**

PUBLIC HEARING

CASE NUMBER 17ZONE1016

The vote was as follows:

YES: Brown, Lindsey, Carlson, Jarboe, Peterson, Smith, Lewis, and Ferguson

NOT PRESENT: Howard and Tomes

**PLANNING COMMISSION MINUTES
MARCH 15, 2018**

PUBLIC HEARING

CASE NUMBER 17ZONE1066

Project Name: Against the Grain
Location: 719 Lynn Street
Owner(s): Sheriffs Lodge No. 25 Fraternal
Applicant: Against the Grain, LLC – Adam Watson
Representative(s): Against the Grain, LLC – Whitney Darnall
Project Area/Size: 2.7 acres
Jurisdiction: Louisville Metro
Council District: 15 – Marianne Butler
Case Manager: Joel P. Dock, Planner II

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

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

Agency Testimony:

01:20:10 Joel Dock discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Adam Watson, 2344 Valley Vista Road, Louisville, KY 40205
Mitchell Kersting, 231 N 19th St, Louisville, KY 40203
Melissa Roadcap, 719 Lynn Street, Louisville, KY 40217
Corey McAfee, 1718 S Preston Street, Louisville, KY 40217
Antz Wettig, 2100 S Preston Street, Louisville, KY 40217
Jon Wettig, 2100 S Preston Street, Louisville, KY 40217
John Ronayne, 2227 S Preston Street, Louisville, KY 40217
Nicholas Johnson, 2144 Crittenden Drive, Louisville, KY 40217

Summary of testimony of those in favor:

01:33:08 Applicant Adam Watson summarized the proposal and showed a presentation. He responded to questions from the Commissioners.

01:40:37 Architect Mitchell Kersting spoke about the development plan.

01:47:14 Melissa Roadcap read a statement on behalf of Tim Pike, President of FOP Lodge #25. He is in support of the request because the applicant plans to preserve the existing structure, and he feels the development will make a positive impact on the community.

**PLANNING COMMISSION MINUTES
MARCH 15, 2018**

PUBLIC HEARING

CASE NUMBER 17ZONE1066

01:48:22 Corey McAfee owns a home and a commercial building on S Preston Street and is in support of the proposal. He works for Sony Music Publishing and added that an 8ft. privacy fence would be ineffective as sound mitigation.

01:49:40 Jon and Antz Wettig are co-owners of Zanzabar, which is a bar/restaurant near the subject site. They stated they are in support of the request and are excited for Against the Grain to join the neighborhood. They think a wall would not be effective for sound mitigation and would provide a target for graffiti.

01:50:57 John Ronayne is the owner of Brewgrass Homebrew Supply, which is another small business located near the subject site. He is in support of the project, and he agrees that a fence is a bad idea for the property.

01:52:54 Nicholas Johnson is an environmental activist and feels that this project would fall in line with Louisville's environmental goals.

01:55:04 Mr. Watson responded to questions from the Commissioners. He and Mr. Dock discussed the 8' screening waiver, sound mitigation, and landscaping. Mr. Watson noted that the woven mesh screen to be provided along the chain link fence can still be tagged with graffiti, but it is easier and less expensive to replace.

The following spoke in opposition to this request:

Wayne Rentschler, 2062 S Shelby Street, Louisville, KY 40217

Summary of testimony of those in opposition:

02:12:40 Wayne Rentschler is a neighbor whose property is adjacent to the subject site. He stated that contrary to what was said by the applicant, there was only one meeting held within the community; others may have been conducted somewhere else. He is mainly concerned that nightly outdoor drinking and live music will be too noisy in a residential area.

Rebuttal:

02:19:54 Mr. Watson spoke in rebuttal. They feel like they are addressing the reasonable sound concerns of their neighbors and they cannot be successful if the neighbors are not supportive of their project. Mr. Watson stated that the upstairs space will be marketed as a wedding reception hall, but could be used for local stand-up groups, local historical societies, or local bands. Outdoor music will be performed in the outdoor recreation area and will be pointed towards the building.

02:22:40 In response to concerns from Commissioner Carlson regarding other future ownership, Mr. Dock referenced binding elements #2 and #9-14. These are not standard binding elements, and they were agreed upon by the applicant to satisfy concerns regarding the property being sold in the future.

**PLANNING COMMISSION MINUTES
MARCH 15, 2018**

PUBLIC HEARING

CASE NUMBER 17ZONE1066

Deliberation:

02:27:15

Commissioner Peterson feels that the rezoning seems appropriate for the proposed use, which fits with the character of the neighborhood. He recognizes that it is surrounded by residential, but concerns have been addressed with the fence and landscape screening. He would prefer an 8 ft., solid structure, but recognizes the potential for problems with that. The waivers are appropriate based on the existing parking lot. This will be good use of the area and good for the neighborhood.

Commissioner Smith is concerned with noise, but she understands that the proposal is in keeping with other establishments of this type in the neighborhood. She feels this is a good reuse of a private club being made available to the public. She feels that the rezoning is justified, but she would like to hear what the other Commissioners have to say.

Commissioner Brown does not think he can support the change in zoning to C-2 in the center of an R-5 area, especially with the uses and hours being proposed. 11:00 p.m. is too late for noise disturbance this close to residential without additional sound mitigation. He could support the request if they prohibited outdoor entertainment and amplified music and pulled back on the hours.

Vice Chair Lewis is also concerned for noise disturbance and the hours that outdoor music is being proposed in the center of a residential area. She has not heard enough evidence to justify the waiver to omit the requirement of the 8 ft. screen. She appreciates the proposal to reuse the property and structure, but neighbors shouldn't have to listen to music until midnight. She has mixed feelings about the rezoning.

Commissioner Lindsey is also uncomfortable with the change in zoning considering this is a traditional neighborhood and residential area. This would be a great plan in a different location. She is not comfortable with the hours of operation in this area.

Commissioner Ferguson is leaning more towards approval of the rezoning and waivers, but she does share concerns with the other Commissioners about the noise. She suggested that the Commissioners discuss these concerns further with the applicant. She appreciates what they are proposing with the existing fence and the proposed landscaping.

Commissioner Carlson agrees that this is not a good fit for the neighborhood at this time, but he could support the proposal if hours of operation are changed and if the applicant could further accommodate the neighbors' concerns. He feels the proposed fence would be just as attractive to spray painting as a privacy fence.

Chair Jarboe has mixed feelings about the proposal. He likes some of what is being proposed, but it is difficult for him to envision what the predominant use of this location will be. He feels that the hours of operation and the noise are inappropriate for the neighborhood. He has mixed feelings about granting a waiver for a chain link fence in place of a privacy fence.

**PLANNING COMMISSION MINUTES
MARCH 15, 2018**

PUBLIC HEARING

CASE NUMBER 17ZONE1066

02:39:10 There was further discussion between Mr. Dock and the Commissioners about the local noise ordinance, which regulates noise between 7:00 a.m. and to 9:00 p.m. Mr. Dock stated that the property is currently being used as a private proprietary club. Events such as concerts and wedding receptions can already be held on the property.

02:45:54 The Commissioners gave the applicant the option to defer the case to come up with something that complies more with the neighborhood. Mr. Watson stated that if they don't purchase the property, it can be sold to someone else and they could do many of the things discussed today that will bother the neighbors without having to come before the Planning Commission. He feels that Against the Grain is offering a better alternative that will allow them to succeed economically while providing something positive for the neighborhood. They are a small, local company trying to do something good with what is available to them. The sound ordinance already prohibits offensive sound. He could change the hours of operation, but he doesn't want to constrain their ability to provide a quality experience at other times. They would be liable for any violations made to the sound ordinance.

02:48:35 Commissioner Carlson and Commissioner Lindsay are still opposed. Commissioner Brown cannot support the zoning change without further mitigation and a change to the hours of operation. Vice Chair Lewis said there could still be a potential for noise disturbance even with a noise ordinance in place. Commissioner Smith stated that she is inclined to agree with most her fellow Commissioners after hearing their opinions.

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

Change in Zoning

02:50:40 On a motion by Commissioner Brown, seconded by Commissioner Lindsey, the following resolution, based on testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the character of the traditional neighborhood area in this R-5 zoning district would not be compatible with the proposed uses that go along with the C-2 and the hours of operation for the site; now, therefore be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the change in zoning from R-5 Single-Family Residential to C-2 Commercial on property described in the attached legal description be **DENIED**.

The vote was as follows:

YES: Brown, Lindsey, Carlson, Jarboe, Smith, and Lewis

NO: Peterson and Ferguson

NOT PRESENT: Howard and Tomes

**PLANNING COMMISSION MINUTES
MARCH 15, 2018**

PUBLIC HEARING

CASE NUMBER 17ZONE1045

Request:	R-4 to C-2 with Conditional Use Permit
Project Name:	Smyrna Village
Location:	8912 Smyrna Pkwy
Owner:	David Will
Applicant:	David Will
Representative:	BTM Engineering
Jurisdiction:	Louisville Metro
Council District:	23 – James Peden
Case Manager:	Laura L. Mattingly, AICP, Planner II

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

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

Agency Testimony:

02:54:26 Laura Mattingly discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

David Will, 5815 Round Hill Road, Louisville, KY 40222
John Addington, 3001 Taylor Springs Drive, Louisville, KY 40220

Summary of testimony of those in favor:

03:02:35 David Will summarized the applicant's proposal and showed a presentation. He responded to questions from the Commissioners.

03:10:11 Landscape architect John Addington spoke about the technical aspects of the development plan.

The following spoke in opposition to this request:

No one spoke.

Deliberation:

03:21:31 The Commissioners concur that the proposal is justified.

**PLANNING COMMISSION MINUTES
MARCH 15, 2018**

PUBLIC HEARING

CASE NUMBER 17ZONE1045

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

Change in Zoning from R-4 to C-2

00:00:00 On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution, based on the Cornerstone 2020 Checklist, the applicant's justification, and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Community Form guideline because this proposal includes a mix of restaurant and retail, as well as mini-storage. The proposal is located at the exchange of Smyrna Pkwy, a collector roadway and I-265, and

WHEREAS, the Commission further finds that the proposal meets the Centers guideline because the proposal includes new construction of commercial uses near a group of commercially zoned properties. The proposal is located in an area that is easily accessible by a sufficient population. The proposal utilizes the entire site and is cost effective due to existing infrastructure. The proposal includes a mix of uses and has provided sufficient pedestrian access. The proposal is not multi-story, although it does provide for a mix of uses that are easily accessible from one another. The proposal is designed to be multi-purpose and is as compact as site requirements will allow. The proposal shares two main entrances for all proposed uses and has sufficient vehicular and pedestrian crossover access between sites. The proposal is located near existing infrastructure and will make connections with existing utilities. A public sidewalk and pedestrian connections are proposed for the site. Transit does not run in this area but the site is designed to support transit at the time when TARC access is available, and

WHEREAS, the Commission further finds that the proposal meets the Compatibility guideline because building elevations appear to be compatible with nearby commercial development. This proposal is a non-residential expansion into a residential area, but the setbacks and buffers will be provided adjacent to the single family homes to the west and north. The proposal is providing the required screening for adjacent less intense uses. Transportation has approved this proposal and did not require any right of way dedication. Lighting will be in compliance with Land Development Code standards. The proposal is located along Smyrna Parkway and just outside of an area designated as an activity node in the Highview neighborhood plan. The buffers adjacent to the residences are provided. Setbacks and building heights are appropriate. All setbacks and buffer requirements adjacent to residential have been met with the exception of one variance for a small area of pavement encroachment which appears justified. The buffers provided are appropriate and mitigation has been provided where waivers are requested. A variance has been requested for larger signs but appear justified due to the topography and location of the site, and

**PLANNING COMMISSION MINUTES
MARCH 15, 2018**

PUBLIC HEARING

CASE NUMBER 17ZONE1045

WHEREAS, the Commission further finds that the proposal meets the Open Space guideline because the outdoor amenity requirements have been provided on site. The proposal is preserving tree canopy along the south and west property lines, and

WHEREAS, the Commission further finds that the proposal meets the Natural Areas and Scenic and Historic Resources guideline because the proposal appears to be preserving as much of the tree canopy as possible. LOJIC has not identified any wetlands on site, and

WHEREAS, the Commission further finds that the proposal meets the Economic Growth and Sustainability guideline because this proposal is located at the intersection of a collector and an expressway, and

WHEREAS, the Commission further finds that the proposal meets the Circulation guideline because transportation staff did not require dedication of right of way or other roadway improvements. The proposal has provided all appropriate pedestrian connections. The proposal is using an existing roadway and access is acceptable. Dedication of right-of-way is not required for this proposal. The proposal meets parking requirements. All appropriate cross over access has been provided, and

WHEREAS, the Commission further finds that the proposal meets the Transportation Facility Design guideline because access is from the major arterial just to the east. The proposal is using the existing roadway network, and

WHEREAS, the Commission further finds that the proposal meets the Bicycle, Pedestrian and Transit guideline because there are pedestrian connections provided from the public sidewalk and throughout the development and bike parking is provided, and

WHEREAS, the Commission further finds that the proposal meets the Flooding and Stormwater guideline because all MSD requirements have been met and onsite detention is proposed, and

WHEREAS, the Commission further finds that the proposal meets the Air Quality guideline because APCD had no issues with the proposal, and

WHEREAS, the Commission further finds that the proposal meets the Infrastructure guideline because this area is developed and served by utilities. There are existing water utilities and a fire hydrant located along the frontage road to the development. The proposal will hook up to existing sewage lines, and

WHEREAS, the Commission further finds that the proposal complies with Guideline 1, Community Form, since it provides a mixture of neighborhood serving uses for residents of the surrounding area. The development will be at a 1 story height consistent with the scale of the area and incorporate design elements to the structures to make them appropriate to the Neighborhood Form as specified within the Land Development Code. All buffering and setbacks will be incorporated into the development along the rear and side yards adjacent to existing single family uses to further ensure the development is at an appropriate scale and intensity for the Neighborhood Form. Full pedestrian, vehicular and cyclist connectivity will be

**PLANNING COMMISSION MINUTES
MARCH 15, 2018**

PUBLIC HEARING

CASE NUMBER 17ZONE1045

provided from Smyrna Parkway to the entrance of each of the uses with full connectivity also provided between each of the uses, and

WHEREAS, the Commission further finds that the proposed rezoning complies with Guideline 2, Centers, as specifically stated in Policy A.2 to develop non-residential and mixed uses only in designated activity centers. The site of the proposed development is at the intersection of Smyrna Parkway, a primary collector, and the Gene Snyder Freeway {1-265} near Manslick Road. This larger area is specifically identified within the Highview Neighborhood Plan Figure 3.4 as a Neighborhood Activity Center. The neighborhood plan which is considered as part of the Comprehensive Plan states that these areas would be commercially focused areas where development density would increase. The development is commercially focused with neighborhood serving uses that have sufficient population to support it. As stated above, the proposed location is at the intersection of a collector and higher level roadway in compliance with Policy A.9. The development which will create a new activity center in an area for designated activity centers has a compact pattern that allows connections between the uses. It has reduced curb cuts from the entry road and shared access between the lots. The shared access between lots will minimized the overall impervious area. The sidewalk network throughout the development will encourage appropriate pedestrian activity and promote accessibility by alternative modes of transportations. These elements of the development are in accordance with Policies A.5, 6, 13, 15 & 16, and

WHEREAS, the Commission further finds that the proposed rezoning complies with Guideline 3 of the Cornerstone 2020 Compressive Plan because the Neighborhood Form District identifies its intent to allow a mixture of land uses within neighborhoods as long as they are designed to be compatible with each other. The buildings will be providing a variety of materials and architectural animating features which will serve as a point of compatibility with the larger neighborhood area. All of these building elements will be in accordance with the Land Development Code. Significant setbacks and landscape buffer areas will be provided along the property boundaries adjacent to the single family homes to the west and north with screening located in these buffer areas to mitigate any impacts. The setbacks, buffers and screening will allow for appropriate transition from the existing residential to the proposed non-residential uses in accordance with Policy A.4. The single story height of the development is compatible with the existing properties located within the larger Neighborhood Form District. Lighting will be compliant with the Land Development Code to mitigate any adverse impacts of lighting from the proposed development on nearby properties. All site signage will be compatible with the form district pattern and the existing Gene Snyder Freeway signage ordinance, and

WHEREAS, the Commission further finds that the proposed rezoning and new development will be located within a specified activity center. It will have full accessibility to people with disabilities consistent with federal, state and local regulations. The parking areas for the development are not located adjacent to the existing residential areas to minimize their impacts. The extensive internal and perimeter landscaping will result in diminished impact of the parking, loading and delivery areas around the mixed use commercial development. The parking is designed to be safe and will utilize shared access points to reduce impervious surface areas and allow multi-modal access to the site. For the aforementioned reasons, the proposed development complies with Guideline 3 of the Comprehensive Plan, and

**PLANNING COMMISSION MINUTES
MARCH 15, 2018**

PUBLIC HEARING

CASE NUMBER 17ZONE1045

WHEREAS, the Commission further finds that open space and outdoor amenity areas are being provided throughout the development to provide open space that meets the needs of the community as a component of development. The open space design is compliant with the Land Development Code which follows from Policy A.4 to create open space design consistent with the pattern of development in the form district. The Neighborhood Form District specifies a mix of formal and less formal open space design. The proposal integrates natural features into the pattern of development by preserving tree canopy along the south, north and west property perimeters. Significant landscape buffers are proposed around the perimeter of the site that provides additional open space to integrate the development into the larger neighborhood. The site contains no environmental limitations, scenic or historic resources which would inhibit the proposed development. There are no identified hydric soils, severe, steep or unstable slopes that would create an impediment to the proposed rezoning and associated development. Accordingly, the proposed development meets Guidelines 4 & 5 of the Cornerstone 2020 Comprehensive Plan, and

WHEREAS, the Commission further finds that the rezoning is located along a primary collector at the intersection of the Gene Snyder Freeway. It has a nearby intersection of two primary collectors at Smyrna Parkway and East Manslick Road. The access to the site is utilizing an existing roadway known as KY State Road #6320 that functions as a frontage road parallel to Smyrna Parkway. There are only two curb cuts to facilitate safe vehicular access to the site. The proposal will contribute its proportional share of roadway improvements as identified by the traffic impact study, and

WHEREAS, the Commission further finds that sidewalks will be constructed within the right of way along KY State Road #6320 frontage to provide connections and access for all four lots where appropriate. The external and internal sidewalk network promotes bicycle and pedestrian use throughout the development. All appropriate cross over access and adequate parking will be provided to further promote safe vehicular access and support the mixture of uses. Bicycle amenities will be provided throughout the development in accordance with the Land Development Code. Therefore, the proposed rezoning and development comply with Guidelines 7, 8 & 9 of the Cornerstone 2020 Comprehensive Plan, and

WHEREAS, the Commission further finds that the subject site is located above the 100 year floodplain, does not contain steep slopes, unstable or hydric soils or any protect waterways and, as a result, there are no environmental constraints which would prevent commercial development of the property. The proposed development is located on a site that will enable proper stormwater handling and release management that will not adversely affect adjacent and downstream properties. There will be no increase in velocity at point of discharge at property line and no increase in drainage run-off to the right of way. On site detention will accommodate onsite drainage and mitigate any impacts of the proposed development to the watershed. The stormwater detention design will receive approval from MSD prior to construction. Post developed peak flows will be limited to pre-developed peak flows for the 2, 10 and 100 year storms or to the capacity of the downstream system. In addition, an Erosion Prevention and Sediment Control Plan utilizing best management practices will be implemented prior to construction. The project will meet all MS4 Water Quality Regulations established by

**PLANNING COMMISSION MINUTES
MARCH 15, 2018**

PUBLIC HEARING

CASE NUMBER 17ZONE1045

MSD with proper use of green best management practices. For above mentioned reasons, the proposed rezoning and development comply with Guidelines 10 & 11 of the Cornerstone 2020 Comprehensive Plan, and

WHEREAS, the Commission further finds that as previously demonstrated, the proposal represents a compact and efficient land use pattern. It utilizes the existing roadways and frontage road from Smyrna Parkway. The proposed development is a mix of uses with proper circulation and connectivity that will promote a reduction in vehicle travel on the site with an effort to increase pedestrian connectivity. These combined efforts will aid in reducing the air quality impacts of the development. The neighborhood serving uses proposed on the subject property comply with Guideline 12 of the Cornerstone 2020 Comprehensive Plan, and

WHEREAS, the Commission further finds that the proposed rezoning and development complies with Guideline 13 of Cornerstone 2020 of the Comprehensive Plan by meeting the majority of all landscape requirements of the Land Development Code. Significant landscape buffers will be provided along all property perimeters to ensure the surrounding single family residential uses are adequately buffered. Tree preservation best management practices will be followed within the identified tree canopy credit areas to the south, west and north perimeters that incorporate the native plant communities of the property. The overall tree canopy requirements for the four lots will be met. Interior landscaping will be installed within the vehicular use area to break up the parking areas and enhance the overall aesthetics of the site, and

WHEREAS, the Commission further finds that the proposal complies with Guidelines 14 & 15 of the Cornerstone 2020 Comprehensive Plan because the subject property will be served by existing utilities and infrastructure which have adequate carrying capacity to accommodate the proposed development. All necessary utilities are available to the site. The subject property has a fire hydrant located along the frontage road and existing water utilities that give it access to an adequate supply of potable water and water for fire-fighting purposes. Additional fire hydrants will be provided to comply with Kentucky Building Code requirements. The subject property is served by the Highview Fire Protection District and Louisville Metro Police Department; now, therefore be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the change in zoning from R-4 Single-Family Residential to C-2 Commercial on 10.66 acres of property described in the attached legal description be **APPROVED**.

The vote was as follows:

YES: Brown, Lindsey, Carlson, Jarboe, Peterson, Smith, Lewis, and Ferguson
NOT PRESENT: Howard and Tomes

Conditional Use Permit

**PLANNING COMMISSION MINUTES
MARCH 15, 2018**

PUBLIC HEARING

CASE NUMBER 17ZONE1045

03:24:58 On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution, based on the Standard of Review and Staff Analysis, the applicant's justification, and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the proposal for mini-warehouses does generally comply with the applicable Guidelines within Cornerstone 2020, as detailed in the Comprehensive Plan checklist, and

WHEREAS, the Commission further finds that the proposed Mini-Warehouses appear to be at a scale appropriate with the surrounding residential area, and will seemingly have limited impact on adjacent and nearby residential uses. The proposal provides appropriate transitions to adjacent residential uses through the use of landscape buffer yards, setbacks and screening. While relief is requested from the 30' setback, the design and mitigation measures proposed appear to provide good transitions for surrounding uses. Therefore, the proposal is compatible with surrounding uses and the general character of the area, and

WHEREAS, the Commission further finds that improvements to the site and right-of-way made necessary by the proposed development, such as transportation and drainage, have been adequately provided to serve the proposed use, and

WHEREAS, the Commission further finds that the proposal provides appropriate transitions to adjacent residential uses through the use of landscape buffer yards, setbacks and screening. Setbacks and building heights are compatible with nearby properties and meet form district requirements for the proposed zoning district, and

WHEREAS, the Commission further finds that the proposal provides 30 foot landscape buffer areas adjacent to residential zoning districts. The relief requested is adjacent to another commercial property and is facing the rear of the proposed retail building, and

WHEREAS, the Commission further finds that no outdoor storage areas are proposed on the development plan, and

WHEREAS, the Commission further finds that no toxic or hazardous materials will be stored on the property, and

WHEREAS, the Commission further finds that no retail or wholesale or distributing activities are proposed on the site, and

WHEREAS, the Commission further finds that all loading doors and vehicle maneuvering areas are facing the interior of the site, away from the exterior of the property, and

WHEREAS, the Commission further finds that all proposed structures are one story in height and do not exceed 15 feet in height, and

WHEREAS, the Commission further finds that the proposed freestanding sign conforms to size, height and style requirements of the Land Development Code, and

**PLANNING COMMISSION MINUTES
MARCH 15, 2018**

PUBLIC HEARING

CASE NUMBER 17ZONE1045

WHEREAS, the Commission further finds that the purpose and intent of the code requirements will be met with the proposed mini-storage conditional use permit area following the required building setbacks and landscape buffering with code required parking located along the frontage of the associated office space. The mini- storage area will be gated from the larger proposed retail/restaurant development, and

WHEREAS, the Commission further finds that the conditional use permit proposal is consistent with Guideline 1, Community Form, of Cornerstone 2020 by including a mix of uses within the neighborhood center that are at a scale appropriate for the nearby neighborhood. The proposal is also located at the exchange of Smyrna Parkway, a major arterial and the Gene Snyder Freeway (1-265). Guideline 3, Compatibility, Policies 4 & 5 discuss a non-residential expansion into an existing residential area and how if an expansion occurs mitigation measures can be used to decrease any potential adverse impacts. The intent of this guideline is being met with the setback and landscape buffer with screening areas surrounding the CUP portion of the larger site as well as the scale of the proposed mini-storage structures. These methods mitigate the potential adverse impacts on adjacent residential properties to the west and south while providing appropriate transitions, setbacks and building heights as further specified within Guideline 3, Compatibility, and Plan Elements A.21-23. Further Cornerstone 2020 compliance is demonstrated with the tree preservation proposed along the western and southern boundaries of the CUP area. This element of the development follows the plan elements and policies of Guideline 4, Open Space. Adequate parking will be provided on the site to support the use as highlighted within Guideline 7, Mobility & Transportation, Policy/Plan Element 10. Multi-modal connectivity is also provided to the CUP portion of the larger development with pedestrian and vehicular connectivity from Smyrna Parkway to the entrance of the mini-storage area demonstrating further compliance with Guideline 7, Mobility & Transportation. The existing and proposed utility infrastructure on the site will be in compliance with Guidelines 10 & 14, Stormwater & Community Facilities Infrastructure, and

WHEREAS, the Commission further finds that the proposed Mini-Warehouses is at a scale appropriate with the surrounding residential area, and will have a limited impact on adjacent and nearby residential uses. The proposal provides appropriate transitions to adjacent residential uses through the use of landscape buffer yards, setbacks and screening. Setbacks and building heights are compatible with nearby properties and meet form district requirements for the proposed zoning district; therefore, the proposal is compatible with surrounding uses and the general character of the area, and

WHEREAS, the Commission further finds that improvements to the site and right-of-way made necessary by the proposed development, such as transportation and drainage, will be adequately provided to serve the proposed use and the larger proposed mixed use development, and

WHEREAS, the Commission further finds that mini-warehouses may be allowed in the C-2 District where the premises abut on a roadway classified as a collector or major or minor arterial as designated in the Comprehensive Plan for all of Jefferson County, Kentucky, upon the granting of a Conditional Use Permit and compliance with the listed requirements, and

**PLANNING COMMISSION MINUTES
MARCH 15, 2018**

PUBLIC HEARING

CASE NUMBER 17ZONE1045

WHEREAS, the Commission further finds that the property will be landscaped adjacent to all residential uses to the west and south with the required 30' landscape buffer and screening, and

WHEREAS, the Commission further finds that the mini-storage area will have a 30' setback from both the west and south property lines abutting residential areas. These areas are completely reserved as landscape buffer areas to provide appropriate transitions between the uses, and

WHEREAS, the Commission further finds that all storage is provided within the proposed buildings of the CUP area, and

WHEREAS, the Commission further finds that there will be no storage of toxic or hazardous materials allowed on the property, and

WHEREAS, the Commission further finds that there will be no retail, wholesale sales or distributing activities on the CUP portion of the site. There will be only mini-storage located on the CUP area of the larger development, and

WHEREAS, the Commission further finds that the mini-storage structures proposed on the CUP portion of the larger development will not exceed the height restrictions, and

WHEREAS, the Commission further finds that multiple signs are being proposed as part of the larger mixed use development. The signage will follow the required Gene Snyder Freeway signage ordinance. Variances are being requested for other portions of the signage located along the Smyrna Parkway signage. Relief from the listed requirement is needed to follow the requested signage variance; now, therefore be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the Conditional Use Permit for mini-storage on 2.28 acres with relief for the 30' setback on the east property line of Lot 4.

The vote was as follows:

YES: Brown, Lindsey, Carlson, Jarboe, Peterson, Smith, Lewis, and Ferguson

NOT PRESENT: Howard and Tomes

Variances

03:25:32 On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution, based on the Standard of Review and Staff Analysis, the applicant's justification, and testimony heard today, was adopted:

**PLANNING COMMISSION MINUTES
MARCH 15, 2018**

PUBLIC HEARING

CASE NUMBER 17ZONE1045

WHEREAS, the Louisville Metro Planning Commission finds that the requested variance will not adversely affect the public health, safety or welfare as the building will be buffered where it is adjacent to residential, and

WHEREAS, the Commission further finds that the requested variance will not alter the essential character of the general vicinity as the proposed buildings near the access road from Smyrna Parkway meet front setback requirements and the development in this area has varied setbacks, and

WHEREAS, the Commission further finds that the requested variance will not cause a hazard or nuisance to the public as the building will be buffered where it is adjacent to residential and the building location does not affect visibility from public areas, and

WHEREAS, the Commission further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as a portion of the setback requirement has been met, and

WHEREAS, the Commission further finds that the requested variance does not arise from special circumstances which do not generally apply to land in the general vicinity or the same zone, and

WHEREAS, the Commission further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as the site layout would have to be substantially altered from the business's design due the typical suburban layout of parking, and

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

WHEREAS, the Commission further finds that the variance will not adversely affect the public health, safety or welfare as the proposed pavement only encroaches a small portion into the setback and an approximately 30' setback is still proposed in the area of encroachment, and

WHEREAS, the Commission further finds that the requested variance will not alter the essential character of the general vicinity as the building is within the setback and area of pavement encroachment is over 400' from the nearest structure on the abutting lot, and

WHEREAS, the Commission further finds that the requested variance will not cause a hazard or nuisance to the public as the proposed pavement and will be located over 400 feet from the adjacent house, and

WHEREAS, the Commission further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations because the pavement is encroaching into only a small portion of the required yard, and

**PLANNING COMMISSION MINUTES
MARCH 15, 2018**

PUBLIC HEARING

CASE NUMBER 17ZONE1045

WHEREAS, the Commission further finds that the requested variance does not arise from any special circumstances. The applicant is expanding into the required side yard with the proposed vehicle use area, and

WHEREAS, the Commission further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as the pavement width is needed in this location and in order to comply, the site would have to be redesigned significantly, and

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

WHEREAS, the Commission further finds that the requested variance will not adversely affect public health safety or welfare as the proposed signage will not affect visibility for drivers or pedestrians in the area, and

WHEREAS, the Commission further finds that the requested variance will not alter the essential character of the general vicinity as the proposed signage is located at a lower elevation than the roadway, as well as approximately 200 feet from Smyrna Parkway, and

WHEREAS, the Commission further finds that the requested variance will not cause a hazard or nuisance to the public as the proposed signage will not affect visibility from public areas, and

WHEREAS, the Commission further finds that the requested variance will not allow an unreasonable circumvention of zoning regulations as the increased height and area of the signage is being requested due to topography and roadway design, and

WHEREAS, the Commission further finds that the requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone as this site is setback farther than usual from the right of way due to the access road from Smyrna Parkway, and

WHEREAS, the Commission further finds that the strict application of the provisions of the regulation would deprive the applicant of reasonable use of the land as signage that complies with the Chapter 8 regulations would not be clearly visible from the right of way, and

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

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE (1)** the variance from Section 5.3.1.C.5 to allow primary retail building to exceed the maximum 150' setback, **(2)** the variance from Section 5.3.1.C.5 to allow pavement within a portion of the non-residential to residential 50' setback, and **(3)** the variance from Section 8.3.3.B.10.d to allow freestanding signs to be 120 square feet in area and 26 feet in height.

**PLANNING COMMISSION MINUTES
MARCH 15, 2018**

PUBLIC HEARING

CASE NUMBER 17ZONE1045

The vote was as follows:

YES: Brown, Lindsey, Carlson, Jarboe, Peterson, Smith, Lewis, and Ferguson

NOT PRESENT: Howard and Tomes

Waivers

03:26:20 On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution, based on the Standard of Review and Staff Analysis and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the waiver will not adversely affect adjacent property owners as the location of the sidewalk in question would not connect to any other street or give access to any other adjacent property owners, 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 for the movement of pedestrians, bicyclists and transit users with sidewalks along the streets of all developments where appropriate. These guidelines are not violated as sidewalks are provided along enough frontage to allow pedestrian access to the entire site and pedestrian connectivity is improved with this proposal, and

WHEREAS, the Commission further finds that the extent of waiver of the regulation is the minimum necessary to afford relief to the applicant as sidewalks are provided along the northern half of the site's frontage where it is most appropriate, and

WHEREAS, the Commission further finds that the waiver will not adversely affect adjacent property owners as plantings will instead be provided in the right-of-way adjacent to KY State Route 6320, and

WHEREAS, the Commission further finds that Guideline 3, Policy 9 calls for protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigation when appropriate. Guideline 3, Policies 21 and 22 call 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 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

**PLANNING COMMISSION MINUTES
MARCH 15, 2018**

PUBLIC HEARING

CASE NUMBER 17ZONE1045

different land uses within urbanized, suburban, and rural areas. The intent of landscape buffer areas is to create suitable transitions where varying forms of development adjoin, to minimize the negative impacts resulting from adjoining incompatible land uses, to decrease storm water runoff volumes and velocities associated with impervious surfaces, and to filter airborne and waterborne pollutants. The guidelines are not violated as the intent of Cornerstone 2020 will still be met with plantings provided in the right-of-way adjacent to the buffer, and

WHEREAS, the Commission further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the easement overlaps the entirety of the buffer and plantings will be provided in the right-of-way, and

WHEREAS, the Commission further finds that the applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived as all the required plantings and screening will still be provided in the right-of-way, and

WHEREAS, the Commission further finds that the waiver will not adversely affect adjacent property owners as 15' of buffer is still provided and the appropriate plantings will be provided along the frontage in the right of way, 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 and public areas from visual intrusions, for mitigation of parking areas so as not to negatively impact nearby residents and pedestrians, and for screening and buffering of parking areas adjacent to streets. 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 public rights-of way. The guidelines are not violated as the plantings that are proposed meet the intent of the Comprehensive Plan, and

WHEREAS, the Commission further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as 15' of buffer is all that can be provided after meeting parking, queuing and drive aisle width requirements, 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 as providing the full 30' buffer would cause issues with meeting other requirements, such as parking and queuing on site, and

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE (1)** the waiver from Section 5.8.1.B to omit a portion of sidewalk along Smyrna Pkwy, **ON CONDITION** that a sidewalk is provided along the frontage road from the northern edge of the subject site up to Smyrna Pkwy, **(2)** the waiver from Section 10.2.4.B.3 to allow utility easements to encroach more than 50% into the required Landscape Buffer Area along the frontage of Lots 1 and 2, and **(3)** the waiver from Section 10.3.5.A.1 to reduce the required 30' Parkway Buffer to 15' along a portion of Smyrna Pkwy.

**PLANNING COMMISSION MINUTES
MARCH 15, 2018**

PUBLIC HEARING

CASE NUMBER 17ZONE1045

The vote was as follows:

YES: Brown, Lindsey, Carlson, Jarboe, Peterson, Smith, Lewis, and Ferguson

NOT PRESENT: Howard and Tomes

Detailed District Development Plan

03:27:32 On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution, based on the Standard of Review and Staff Analysis and testimony heard today, 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, 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 plan has met open space requirements with 4,703 square feet of amenity areas, and

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

WHEREAS, the 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, and

WHEREAS, the Commission further finds that the development plan generally conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code; now, therefore be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the Detailed District Development Plan, **ON CONDITION** that the plan is updated to show the sidewalk extension along the frontage road up to Smyrna Pkwy, and **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

**PLANNING COMMISSION MINUTES
MARCH 15, 2018**

PUBLIC HEARING

CASE NUMBER 17ZONE1045

of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.

2. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
3. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
4. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, 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 legal instrument shall be recorded creating the property 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 the approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
 - e. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
5. Prior to any site disturbance permit being issued and prior to any clearing, grading or issuance of a site disturbance permit, a site inspection shall be conducted by PDS staff to ensure proper placement of required tree protection fencing in accordance with the approved Tree Preservation Plan.
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.

**PLANNING COMMISSION MINUTES
MARCH 15, 2018**

PUBLIC HEARING

CASE NUMBER 17ZONE1045

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 materials and design of proposed structures shall be substantially the same as depicted in the renderings as presented at the March 15, 2018 Planning Commission meeting.

The vote was as follows:

YES: Brown, Lindsey, Carlson, Jarboe, Peterson, Smith, Lewis, and Ferguson

NOT PRESENT: Howard and Tomes

**PLANNING COMMISSION MINUTES
MARCH 15, 2018**

PUBLIC HEARING

CASE NUMBER 16ZONE1049

Request:	R-5 to C-2
Project Name:	Team Automotive
Location:	2208 & 2210 Beargrass Avenue
Owner:	Cardinal One Properties
Applicant:	Cardinal One Properties
Representative:	Bruce Mattingly
Jurisdiction:	Louisville Metro
Council District:	10 – Pat Mulvihill
Case Manager:	Beth Jones, AICP, Planner II

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

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

Agency Testimony:

03:29:35 Beth Jones discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Bruce Mattingly, 4209 Bardstown Road, Louisville, KY 40218

Summary of testimony of those in favor:

03:43:32 Bruce Mattingly summarized the applicant's proposal and showed a presentation. He responded to questions from the Commissioners.

The following spoke in opposition to this request:

Steve Porter, 2406 Tucker Station Road, Louisville, KY 40299
Daniel Boone, 2214 Beargrass Avenue, Louisville, KY 40218
John Vanderhoff, 2211 Beargrass Avenue, Louisville, KY 40218
Benita Jolly, 2209 Beargrass Avenue, Louisville, KY 40218

Summary of testimony of those in opposition:

04:07:10 Steve Porter spoke on behalf of the neighbors across the street from the subject site who are in opposition to the request. The existing conditional use permit only allows storage of vehicles 114' into the property from the Bardstown Road side and requires the owner to maintain the property. There have been several violations on the property over the years for

**PLANNING COMMISSION MINUTES
MARCH 15, 2018**

PUBLIC HEARING

CASE NUMBER 16ZONE1049

the lack of upkeep of the fence and failure to remove trash from the property. The vacant portion of the lot offers a buffer between the car storage and surrounding residential. There was a case brought to the Board of Zoning Adjustment in 1981 that requested sales be added as a use. This was denied by BOZA, but Hertz employees are currently selling cars to clients from the property. Binding elements only restrict use to automotive-related uses which could allow more than just car sales to be conducted on the property.

04:25:20 Daniel Boone owns the property adjacent to the subject site. He has never subdivided or developed this property because he enjoys living next door to vacant land and likes having the tree buffer on the subject site. He would not have bought this property if it was next door to a car sales lot.

04:29:18 John Vanderhoff is a neighbor who is opposed to the project. He used to enjoy sitting on his front porch watching nature across the street. Now the lot is an eye sore, and he never sits on his front porch anymore.

04:30:49 Benita Jolly lives across the street from the subject site. She is concerned that her property value will severely decrease if the property is rezoned to be commercial.

04:32:29 Ms. Jones stated that the comment in the staff report about lighting was erroneously left in after revisions. She responded to questions from the Commissioners about violations on the property. She confirmed there have been violations for trash over the years, and the only use granted to the property was off-street parking in 1973.

Rebuttal:

04:38:28 Mr. Mattingly spoke in rebuttal. He provided the Commissioners with pictures of the fence and landscape screening that are in poor condition. There is nothing in the existing CUP that restricts the fence to its current location. He stated that he plans to construct a new privacy fence with landscaping only slightly closer to the adjacent lot. He stated he would provide a plan with lighting and landscaping when he gets to the appropriate place in the rezoning process. He feels his improvements to the property will increase the surrounding property values. He agreed to further restrict the uses listed in binding element 7.

Deliberation:

04:51:05 Commissioner Peterson has several reservations about this request. The neighbors make a good case about the rezoning negatively affecting the character of the neighborhood. The use would be restricted so much that C-2 seems too strong of a zoning class. He is not in favor of the zoning change and doesn't feel that it fits into the neighborhood.

Commissioner Smith is concerned that this is too drastic of a change in zoning for this area, and she doesn't feel the zoning is appropriate based on what she's heard today.

**PLANNING COMMISSION MINUTES
MARCH 15, 2018**

PUBLIC HEARING

CASE NUMBER 16ZONE1049

Commissioner Brown feels this would be an incompatible expansion into a residential area. He feels that the existing lots could be used in a more efficient way. Because there is an existing CUP, he does not feel that the owner would be deprived of use of his property. He does not think the CUP should encroach more than 114' feet into the residential area.

Vice Chair Lewis feels that the current use provided by the CUP is appropriate and the zoning does not need to be changed to C-2.

Commissioner Lindsey does not feel that the rezoning would be appropriate for this residential area. The CUP allows the applicant to still continue to park vehicles in the allotted space. There is nothing preventing him from maintaining his property as it is currently zoned—a change in zoning is not necessary to help him clean up, as that is already his responsibility.

Commissioner Ferguson appreciates what the owner is trying to do, but she agrees that there is cause for concern with the zoning change request and change in form district request.

Commissioner Carlson does not feel that the zoning change is justified. There has not been enough testimony to suggest that the request complies with the Comprehensive Plan. There have not been changes of an economic or social nature to justify the rezoning. The current zoning is appropriate for the area.

Chair Jarboe stated that he could have supported a rezoning if further restrictions were put in the binding elements, but he would not support a change in form district. Mr. Mattingly could have had a better argument if his property had been cleaned up and the fence had been replaced from the beginning. This would have shown that he cared for the neighbors' concerns as well.

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

Change in Zoning

04:58:03 On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution, based on testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the change in zoning would be an unjustified expansion of a non-residential use into a residential area; now, therefore be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the change in zoning from R-5 Residential Single-Family to C-2 Commercial on 0.603 acres of property described in the attached legal description be **DENIED**.

The vote was as follows:

**PLANNING COMMISSION MINUTES
MARCH 15, 2018**

PUBLIC HEARING

CASE NUMBER 16ZONE1049

YES: Brown, Lindsey, Carlson, Jarboe, Peterson, Smith, Lewis, and Ferguson

NOT PRESENT: Howard and Tomes

Change in Form District

04:59:08 On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution, based on testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that there is potential for non-residential uses in an established residential neighborhood; now, therefore be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the change in form district from Neighborhood to Suburban Marketplace Corridor be **DENIED**.

The vote was as follows:

YES: Brown, Lindsey, Carlson, Jarboe, Peterson, Smith, Lewis, and Ferguson

NOT PRESENT: Howard and Tomes

**PLANNING COMMISSION MINUTES
MARCH 15, 2018**

PUBLIC HEARING

CASE NUMBER 16ZONE1072

Project:	Name Greenbelt Warehouse
Location:	7001 Greenbelt Highway
Owner:	Eagle Point CD LLC
Applicant:	Eagle Point CD LLC
Representative:	Dinsmore & Shohl LLP
Jurisdiction:	Louisville Metro
Council District:	1 – Jessica Green
Case Manager:	Laura Mattingly, AICP, Planner II

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

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

Agency Testimony:

05:01:55 Laura Mattingly discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Clifford Ashburner, 101 S 5th Street, Suite 2500, Louisville, KY 40202
Kelli Jones, 608 S 3rd Street, Louisville, KY 40202

Summary of testimony of those in favor:

05:10:06 Clifford Ashburner summarized the applicant's proposal and showed a presentation. He responded to questions from the Commissioners.

05:25:40 Kelli Jones stated that tree planting depends on construction. Typically, they like to plant in spring or fall; summer plantings require more maintenance. Commissioner Carlson suggested planting as early as possible so that growth can begin sooner rather than later. Mr. Ashburner stated that they would like to plant trees when it's practical, which will be between the finishing of the swale and drive aisle and construction of the building.

The following spoke in opposition to this request:

James Chambers, 6012 Santa Fe Trail, Louisville, KY 40258
Betty Jarboe, 7306 Rutledge Road, Louisville, KY 40258

Summary of testimony of those in opposition:

**PLANNING COMMISSION MINUTES
MARCH 15, 2018**

PUBLIC HEARING

CASE NUMBER 16ZONE1072

05:29:34 James Chambers owns property adjacent to the subject site. He stated that other companies along Greenbelt Hwy. use an access road, but the applicant wants to build and access directly on Greenbelt. He feels this will negatively impact traffic. He is concerned about noise coming from additional trucks travelling on Greenbelt.

05:39:26 Betty Jarboe owns property south of the proposed development. The Mill Creek ponding basin flows behind her property, and several flooding incidents have occurred in the area. Water often reaches into her backyard. Even though MSD has approved the proposal, she is concerned about the affect construction might have on the ponding basin. She agrees with Mr. Chambers regarding noise concerns from traffic on Greenbelt.

05:45:54 Mr. Chambers expressed concerns for road improvements along Greenbelt in front of the proposed development.

Rebuttal:

05:47:20 Mr. Ashburner spoke in rebuttal. The median on Greenbelt will be modified. Traffic heading south will enter on the south side of the site. The building was moved in order to create more of a buffer to the north.

05:49:24 Kelli Jones stated they have acknowledged that there are jurisdictional wetlands on the site, and they will deal with this upon construction. They are preserving all of the intermittent stream and are impacting some of the ephemeral stream. There is minimal floodplain on the site.

05:51:51 Tony Kelly with MSD addressed concerns about flooding mitigation.

06:02:07 Mr. Ashburner addressed concern about the sound barrier along Greenbelt. He stated that the wall was promised to the neighborhood by KYTC and is not something the applicant is required to provide for this development. He responded to questions from the Commissioners.

Deliberation:

06:15:50 Commissioner Carlson stated he is concerned with compatibility with the adjacent neighborhood and sound mitigation.

Commissioners Ferguson, Lindsey, Lewis, Smith, and Peterson concur that the proposal is justified.

Commissioner Brown stated he would not support the proposal if it was a 24 hour operation given the proximity to residential. Commissioner Peterson agrees that the site should not remain open 24 hours a day.

06:24:11 Ms. Mattingly and Mr. Ashburner discussed revisions to binding elements with the Commissioners.

**PLANNING COMMISSION MINUTES
MARCH 15, 2018**

PUBLIC HEARING

CASE NUMBER 16ZONE1072

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

Change in Zoning

06:34:56 On a motion by Commissioner Brown, seconded by Commissioner Peterson, the following resolution, based on the Cornerstone 2020 Checklist and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Community Form guideline because the proposal incorporates landscaping, buffering and adequate setbacks in order to integrate into the pattern of development in the area. The proposal is located just east of Greenbelt Parkway with a major industrial area just to the west. Public sidewalks and pedestrian connections are proposed with a transit stop near the development, and

WHEREAS, the Commission further finds that the proposal meets the Compatibility guideline because building design standards will be met, with landscaping being provided along the frontage which will increase the compatibility of the structure itself. The proposal is expanding into a residential area but mitigates for such an expansion by providing more than the required buffers and screening (sound fence), preserving trees and gaining access from the adjacent major arterial road. The preservation of existing mature trees and new plantings within the buffer areas, the location of loading areas away from existing residential, as well as restrictions on the times of day trucks can idle adequately mitigates for potential odor or emissions. Access will be achieved from Greenbelt Highway, a major arterial, with truck traffic being directed to the south end of the site, away from the residential subdivision access to the north. Lighting will be directly downward and away from adjacent properties, as required in the Land Development Code. The proposal is located just east of a major industrial area and on a transit route. The buffers provided are wider than required in many areas of the site with existing and new trees providing screening from adjacent less intense uses. Setbacks and building height are appropriate. The proposed industrial use will be heavily screened from the adjacent residential area to the north with a 50' buffer, additional setback, and preserved mature trees. Setbacks are similar to those found in the industrial area to the west. Parking and loading areas are located away from the residential area to the north with adequate setbacks and buffers. Trucks will also be entering from the south end of the site to alleviate some truck traffic impacts on the residential area. The applicant has proposed the required 30' parkway buffer adjacent to Greenbelth Hwy. Signs will be in compliance with Land Development Code standards found in Chapter 8, and

WHEREAS, the Commission further finds that the proposal meets the Open Space guideline because a large tree canopy preservation area is proposed, as well as amenity areas for employees. Open space standards have been met for the use and the form district. The

**PLANNING COMMISSION MINUTES
MARCH 15, 2018**

PUBLIC HEARING

CASE NUMBER 16ZONE1072

proposal will be preserving 22% of the existing tree canopy and leaving the stream area undisturbed, and

WHEREAS, the Commission further finds that the proposal meets the Natural Areas and Scenic and Historic Resources guideline because the proposal will be preserving 22% of the existing tree canopy and leaving the stream area undisturbed. There are no historic buildings on site and this proposal is not in a historic area. The development is mostly avoiding the area of the site identified with hydric soils, and

WHEREAS, the Commission further finds that the proposal meets the Economic Growth and Sustainability guideline because the proposed use will provide opportunities for employment. The proposal is located adjacent to an existing industrial subdivision. This use is not retail and Greenbelt Hwy, a major arterial, appears to have capacity to accommodate the traffic generated from the use. The proposed industrial use predicts more than 100 employees and is located on a major arterial, and

WHEREAS, the Commission further finds that the proposal meets the Circulation guideline because all KTYC and transportation requirements have been met, with improvements to Greenbelt Hwy including the removal of the median and right turn lane at the southern entrance to the site. Sidewalks are provided and a transit stop is located within walking distance on Greenbelt Hwy. Transportation facilities are adequate and cross access is proposed to the property to the south at the time that the property is developed for non-residential use. Dedication of right of way was not required for this proposal. Parking requirements found in the LDC Section 9.2 have been met. Future cross access is proposed on the south side of the site to Riverport Drive, and

WHEREAS, the Commission further finds that the proposal meets the Transportation Facility Design guideline because access will be achieved from the adjacent major arterial road. The existing street network is not affected by this proposal, and

WHEREAS, the Commission further finds that the proposal meets the Bicycle, Pedestrian and Transit guideline because sidewalks and pedestrian connections are provided and increase connectivity to the existing transit stops on Greenbelt Hwy, and

WHEREAS, the Commission further finds that the proposal meets the Flooding and Stormwater guideline because MSD has approved the proposal and floodplain compensation has been provided at a 1:1 ratio, and

WHEREAS, the Commission further finds that the proposal meets the Air Quality guideline because APCD did not have any issues with the proposal, and

WHEREAS, the Commission further finds that the proposal meets the Landscape Character guideline because the preservation area on the east side of site appears to provide for habitat and migration, and

**PLANNING COMMISSION MINUTES
MARCH 15, 2018**

PUBLIC HEARING

CASE NUMBER 16ZONE1072

WHEREAS, the Commission further finds that the proposal meets the Infrastructure guideline because this area is fully developed and has adequate existing infrastructure for the proposal. There is existing infrastructure in place for potable water and fire-fighting purposes. MSD has approved the proposal; now, therefore be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the change in Zoning from R-4 Single-Family Residential to EZ-1 Enterprise Zone on 27.21 acres of property described in the attached legal description be **APPROVED**.

The vote was as follows:

YES: Brown, Lindsey, Carlson, Jarboe, Peterson, Smith, Lewis, and Ferguson
NOT PRESENT: Howard and Tomes

Change in Form District

06:35:40 On a motion by Commissioner Brown, seconded by Commissioner Smith, the following resolution, based on the Standard of Review and Staff Analysis and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the proposal is located on along Greenbelt Hwy, just to the east of a large industrial area. The site design includes the required 30' parkway buffer which provides buffering of the parking area and proposed building. A public sidewalk is proposed along the site frontage with pedestrian access to the building, which will increase pedestrian connectivity and transit access. Buffering adjacent to residential uses is as adequate to aide in transitions to the lower intensity use; now, therefore be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the change in Form District from Neighborhood to Suburban Workplace be **APPROVED**.

The vote was as follows:

YES: Brown, Lindsey, Carlson, Jarboe, Peterson, Smith, Lewis, and Ferguson
NOT PRESENT: Howard and Tomes

Waiver and Detailed District Development Plan

06:36:10 On a motion by Commissioner Brown, seconded by Commissioner Smith, the following resolution, based on the Standard of Review and Staff Analysis and testimony heard today, was adopted:

Waiver

**PLANNING COMMISSION MINUTES
MARCH 15, 2018**

PUBLIC HEARING

CASE NUMBER 16ZONE1072

WHEREAS, the Louisville Metro Planning Commission finds that the waiver will not adversely affect adjacent property owners as buffer widths are provided with preserved mature trees as well as new plantings that will provided screening, and

WHEREAS, the Commission further finds that Guideline 3, Policy 9 of Cornerstone 2020 calls for protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigation when appropriate. Guideline 3, Policies 21 and 22 call for appropriate transitions between uses that are substantially different in scale and intensity or density, and mitigation of 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 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 airborne and waterborne pollutants. These guidelines are not violated as buffer widths have been provided and the preservation of existing trees with the additional new plantings will screen the use from adjacent residential and provide adequate transitions between incompatible uses, meeting the intent of the Comprehensive Plan, and

WHEREAS, the Commission further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as all other buffering requirements are being met with the buffer width being exceeded on much of the site, and

WHEREAS, the Commission further finds that the applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived as providing the berm would require the removal of mature trees. The applicant has elected to instead preserve as many trees as possible on this forested site, and

Detailed District Development Plan

WHEREAS, the Commission further finds that this development site is currently heavily forested. The applicant has proposed to preserve as many trees as possible, including those along the perimeter that will be used for buffering and a 248,071 square foot protection area on the east side of the site. The development will also leave an existing intermittent stream and the associated buffer undisturbed, and

**PLANNING COMMISSION MINUTES
MARCH 15, 2018**

PUBLIC HEARING

CASE NUMBER 16ZONE1072

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 development meets the requirements for amenity area with an 18,000 square foot area proposed, and

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

WHEREAS, the 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; now, therefore be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE (1)** the waiver of Section 5.5.4.B.1 to not provide the 6' berm along all property lines and **(2)** the detailed district development plan, **ON CONDITION** that the applicant will provide a solid fence and enhanced landscaping as presented today's Planning Commission meeting, and **SUBJECT** to the following binding elements.

1. The site shall be maintained in accordance with all applicable sections of the Land Development Code (LDC) and agreed-upon binding elements unless amended pursuant to the LDC. Amendment of any binding element(s) shall be submitted to the Planning Commission or its designee for review and approval; any amendments not so referred shall not be valid.
2. No outdoor advertising signs, small freestanding signs, pennants, balloons or banners shall be permitted.
3. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
4. Before any permit is requested, including but not limited to permits for building, parking lot, change of use, site disturbance, alteration or demolition:

**PLANNING COMMISSION MINUTES
MARCH 15, 2018**

PUBLIC HEARING

CASE NUMBER 16ZONE1072

- 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 for any work within the state right-of-way.
 - c. A minor subdivision plat 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.
 - d. 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
 - e. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
5. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy unless specifically waived by the Planning Commission.
 6. The applicant, developer or property owner shall provide a copy of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development and/or use of this site and shall advise all parties of their content. 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. These binding elements shall run with the land and the owner(s) and occupant(s) of the property shall at all times be responsible for compliance with them.
 7. No overnight idling within 200 ft. of residential property lines. Signs shall be posted restricting idling and establishing a slow acceleration zone along the northern drive aisle.
 8. The materials and design of proposed structures shall be reviewed for Land Development Code compliance By Planning & Design Services staff prior to construction approval.
 9. Northern access shall not be used for truck traffic between the hours of 10:00 p.m. and 6:00 a.m.

The vote was as follows:

YES: Brown, Lindsey, Carlson, Jarboe, Peterson, Smith, Lewis, and Ferguson
NOT PRESENT: Howard and Tomes

**PLANNING COMMISSION MINUTES
MARCH 15, 2018**

PUBLIC HEARING

CASE NUMBER 17ZONE1049

Request: R-4 & C-1 to C-2 with Conditional Use Permit
Project Name: Williams Self Storage
Location: 4627 Bardstown Road
Owner: John & Shirley Maquire, Raymond & Florence Bischoff
Applicant: John Fox, Williams Properties
Representative: Clifford Ashburner, Dinsmore & Shohl, LLP
Jurisdiction: Louisville Metro
Council District: 22 – Robin Engel
Case Manager: Laura Mattingly, AICP, Planner II

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

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

Agency Testimony:

06:38:31 Laura Mattingly discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Clifford Ashburner, 101 S 5th Street, Suite 2500, Louisville, KY 40202

Summary of testimony of those in favor:

06:44:44 Clifford Ashburner summarized the applicant's proposal and showed a presentation. He responded to questions from the Commissioners.

The following spoke in opposition to this request:

John Adams, 8011 N Watterson Trail, Louisville, KY 40291

Summary of testimony of those in opposition:

06:54:12 John Adams lives adjacent to the subject site. He feels that the staff report is incorrect in stating that the rezoning is justified because there have been changes of an economic, physical, or social nature that have altered the character of the area. He feels that this proposal will alter the character of the neighborhood which should remain residential.

06:55:55 Chair Jarboe explained how the Commissioners use the Standard of Review and Staff Analysis from the staff report to as criteria for rezoning requests.

**PLANNING COMMISSION MINUTES
MARCH 15, 2018**

PUBLIC HEARING

CASE NUMBER 17ZONE1049

06:56:34 Mr. Adams continued and stated that the neighborhood is meant to be residential. He feels the waiver would allow the proposed structures to be too close to his home and other homes along Watterson Trail. He is concerned for his privacy, his property value, and how the landscaping will look when planted. He saw the owner's other facility in Bowling Green and thought the landscaping was aesthetically lacking.

Rebuttal:

06:58:46 Mr. Ashburner spoke in rebuttal. Activity on site will be conducted in the interior of the site and there will be a privacy fence around the turn-around area. Landscaping requirements are different in Louisville than in Bowling Green. Wrought iron fencing will be constructed in between the buildings.

Deliberation:

07:03:28 The Commissioners concur that the proposal is justified.

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

Change in Zoning

07:07:55 On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution, based on the Cornerstone 2020 Checklist and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Community Form guideline because this proposal is not a neighborhood center but is located near a mix of other commercial uses such as retail and restaurants along the Bardstown Road corridor. The proposal is located just off Bardstown Road, a major arterial, and

WHEREAS, the Commission further finds that the proposal meets the Centers guideline because the proposal utilizes the entire site with the exception of a tree preservation area and is cost effective due to existing infrastructure. The proposed development is single non-residential use but is located within a quarter of a mile from both single and multi-family, as well as mix of commercial uses. The proposal obtains access from Bardstown Road and will establish cross connectivity to the west when those properties are developed for non-residential use. The proposal will connect to existing utilities. A public sidewalk is not proposed along the frontage and extending to the Watterson Trail intersection, and

WHEREAS, the Commission further finds that the proposal meets the Compatibility guideline because building materials will be in character with nearby commercial properties. This proposal is a non-residential expansion into a residential area, but the setbacks and buffers that

**PLANNING COMMISSION MINUTES
MARCH 15, 2018**

PUBLIC HEARING

CASE NUMBER 17ZONE1049

will be provided adjacent to the single family homes appear to be sufficient. The proposal is providing the required screening for adjacent less intense uses, with the proposed buildings themselves serving as a buffer from activities on the subject site. The proposed use typically has a lower impact on traffic than other commercial developments and the access has been located at the farthest point from the Watterson Trail intersection. All site lighting will comply with Land Development Code standards. The proposal is located just north of Bardstown Road, a major transit corridor. The buffers adjacent to the residences appear to be adequate and the buildings are oriented to face the drive aisles within the site, providing buffering from loading on site. The site design and plantings appear to mitigate for the variance that has been requested for setbacks adjacent to residential. Building height is one story and appears to be compatible with both residential and commercial development nearby. The vehicle use area is located adjacent to the roadway and adequate buffering and screening has been provided adjacent to residential. Buffering and screening is adequate. Any proposed signage will comply with Chapter 8 of the Land Development Code, and

WHEREAS, the Commission further finds that the proposal meets the Open Space guideline because the amenity area requirement of 10% of the office area has been met with a small patio area. The proposal will require the removal of existing vegetation but 11,650 SF of existing tree canopy will be preserved and tree canopy requirements will be provided, and

WHEREAS, the Commission further finds that the proposal meets the Natural Areas and Scenic and Historic Resources guideline because the proposal will require the removal of existing vegetation but 11,650 SF of existing tree canopy will be preserved and tree canopy requirements will be provided. LOJIC has not identified any wetlands on site, and

WHEREAS, the Commission further finds that the proposal meets the Circulation guideline because transportation requirements have been met. Public sidewalks have been provided with a pedestrian connection to the office area. The proposal is using an existing roadway and access is acceptable. Transportation does not require any dedication of right of way at this time. Parking requirements have been met. A note has been placed on the plan stating that cross access will be established if the surrounding areas are ever re-developed for non-residential uses, and

WHEREAS, the Commission further finds that the proposal meets the Transportation Facility Design guideline because the proposal is using the existing roadway network. Access is from Bardstown Road, a major arterial, and

WHEREAS, the Commission further finds that the proposal meets the Bicycle, Pedestrian and Transit guideline because a pedestrian connection will be established from the proposed public sidewalk to the office and the site is located on a major transit route with TARC stops directly adjacent to the site, and

WHEREAS, the Commission further finds that the proposal meets the Flooding and Stormwater guideline because MSD has given preliminary approvals for the applicant's drainage plans, and

**PLANNING COMMISSION MINUTES
MARCH 15, 2018**

PUBLIC HEARING

CASE NUMBER 17ZONE1049

WHEREAS, the Commission further finds that the proposal meets the Air Quality guideline because APCD has no issues with the proposal, and

WHEREAS, the Commission further finds that the proposal meets the Infrastructure guideline because this area is developed and served by utilities. There are existing water utilities. The proposal will hook up to existing sewage lines; now, therefore be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the change in zoning from R-4, Single Family Residential and C-1, Commercial to C-2, Commercial on 4.89 acres of property described in the attached legal description be **APPROVED**.

The vote was as follows:

YES: Brown, Lindsey, Carlson, Jarboe, Peterson, Smith, Lewis, and Ferguson
NOT PRESENT: Howard and Tomes

Conditional Use Permit

07:08:30 On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution, based on the Standard of Review and Staff Analysis and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the proposal for mini-warehouses does generally comply with the applicable Guidelines within Cornerstone 2020, as detailed in the Comprehensive Plan checklist, and

WHEREAS, the Commission further finds that the proposed Mini-Warehouses appear to be at a scale appropriate with the surrounding residential area, and will seemingly have limited impact on adjacent and nearby residential uses. The proposal provides appropriate transitions to adjacent residential uses through the use of landscape buffer yards, setbacks and screening. While relief is requested from the 30' setback, the design and mitigation measures proposed appear to provide good transitions for surrounding uses. Therefore, the proposal is compatible with surrounding uses and the general character of the area, and

WHEREAS, the Commission further finds that improvements to the site and right-of-way made necessary by the proposed development, such as transportation and drainage, have been adequately provided to serve the proposed use, and

WHEREAS, the Commission further finds that the proposal provides appropriate transitions to adjacent residential uses through the use of landscape buffer yards, setbacks and screening. Setbacks and building heights are compatible with nearby properties due to the layout of buildings and the screening provided, and

**PLANNING COMMISSION MINUTES
MARCH 15, 2018**

PUBLIC HEARING

CASE NUMBER 17ZONE1049

WHEREAS, the Commission further finds that the proposal provides 16' to 25' foot landscape buffer areas adjacent to residential zoning districts. The larger buffer is provided adjacent to existing single family homes, and

WHEREAS, the Commission further finds that no outdoor storage areas are proposed on the development plan, and

WHEREAS, the Commission further finds that no toxic or hazardous materials will be stored on the property, and

WHEREAS, the Commission further finds that no retail or wholesale or distributing activities are proposed on the site, and

WHEREAS, the Commission further finds that all loading doors and vehicle maneuvering areas are facing the interior of the site, away from the exterior of the property, and

WHEREAS, the Commission further finds that all proposed structures are one story in height and do not exceed 15 feet in height, and

WHEREAS, the Commission further finds that the proposed freestanding sign will conform to size, height and style requirements of the Land Development Code; now, therefore be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the conditional use permit for mini-warehouse with relief for the 30' setback along the eastern and western property lines.

The vote was as follows:

YES: Brown, Lindsey, Carlson, Jarboe, Peterson, Smith, Lewis, and Ferguson
NOT PRESENT: Howard and Tomes

Variance, Waiver, and Detailed District Development Plan

07:08:58 On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution, based on the Standard of Review and Staff Analysis and testimony heard today, was adopted:

Variance

WHEREAS, the Louisville Metro Planning Commission finds that the variance will not adversely affect the public health, safety or welfare as the proposed buildings are setback at least 25' from existing single family structures with all drive areas and loading facing away from adjacent properties, and

**PLANNING COMMISSION MINUTES
MARCH 15, 2018**

PUBLIC HEARING

CASE NUMBER 17ZONE1049

WHEREAS, the Commission further finds that the requested variance will not alter the essential character of the general vicinity as the variance request will not affect views from the public right of way, and

WHEREAS, the Commission further finds that the requested variance will not cause a hazard or nuisance to the public as the proposed building encroachments will not affect visibility for drivers or pedestrians, and

WHEREAS, the Commission further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the site is constrained and the proposal allows for 16' to 28' setbacks from residential zones with all buildings facing the interior of the site, and

WHEREAS, the Commission further finds that the requested variance does not arise from any special circumstances. The applicant is expanding into the required side yard with the proposed buildings, and

WHEREAS, the Commission further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as the site would have to be significantly redesigned with fewer storage units in order to accommodate the required setbacks, and

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

Waiver

WHEREAS, the Commission further finds that the waiver will not adversely affect adjacent property owners as all planting and screening requirements will still be met and the structures themselves are oriented inward and act as additional buffer, 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 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 roadways through standards for buffers, landscape treatment, lighting and signs. These guidelines are not violated as the applicant has provided as much buffer as the site design will allow and all planting requirements will be met with the buildings themselves serving as a buffer from drive aisles; therefore the plan meets the intent of the Comprehensive Plan, and

WHEREAS, the Commission further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as all plantings and screening will still be met, and

**PLANNING COMMISSION MINUTES
MARCH 15, 2018**

PUBLIC HEARING

CASE NUMBER 17ZONE1049

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 and would create an unnecessary hardship on the applicant as it would require a major redesign of the site with fewer buildings, and

Detailed District Development Plan

WHEREAS, the Commission further finds that Karst Terrain was identified on this site. A geotechnical survey was completed for this site and the applicant will follow the recommendations contained in the report. 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 plan has provided a small amenity area for the office. No other open space is required, and

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

WHEREAS, the Commission further finds that the overall site design and land uses are compatible with the existing and future development of the area, as there is existing commercial development northwest, southeast and south of the site. Development patterns indicate the properties to the west will be developed for commercial in the future. Appropriate landscape buffering and screening will be provided to screen adjacent properties and roadways, and

WHEREAS, the Commission further finds that the development plan generally conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code; now, therefore be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE (1)** the variance from Section 5.3.1.C.5 to allow proposed structure to encroach into the 50' non-residential to residential setback along the eastern and western property lines, **(2)** the waiver of Section 10.2.4 to allow structures to encroach into the 35' property perimeter buffer areas along the eastern and western property lines, and **(3)** the 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

**PLANNING COMMISSION MINUTES
MARCH 15, 2018**

PUBLIC HEARING

CASE NUMBER 17ZONE1049

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. Site shall be used as self-storage units only. Any change in use will require approval by the full Planning Commission.

2. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
3. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
4. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, 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 minor plat or legal instrument shall be recorded creating the property 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 the approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
 - e. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
5. Prior to any site disturbance permit being issued and prior to any clearing, grading or issuance of a site disturbance permit, a site inspection shall be conducted by PDS staff to ensure proper placement of required tree protection fencing in accordance with the approved Tree Preservation Plan.
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.

**PLANNING COMMISSION MINUTES
MARCH 15, 2018**

PUBLIC HEARING

CASE NUMBER 17ZONE1049

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. Renderings of materials and design of proposed structures shall be reviewed by Planning & Design Services staff for compliance with Land Development Code requirements.
10. Upon development or redevelopment of the property adjacent to the subject property to the west (4609-4623 Bardstown Road, the "West Property") a unified access and circulation system shall be developed that will provide the subject property commercially reasonable access through the West Property to Bardstown Road, as determined by the parties in consultation with Louisville Metro Public Works and the Kentucky Transportation Cabinet. Upon the completion and opening of said access point, the existing access point on the subject property shall be closed. The property owner of the West Property and the owner of the subject property shall enter into a construction and maintenance agreement concerning the access, which shall be on commercially reasonable terms. This agreement shall be memorialized in an easement agreement that is approved by the Jefferson County Attorney's office.

The vote was as follows:

YES: Brown, Lindsey, Carlson, Jarboe, Peterson, Smith, Lewis, and Ferguson
NOT PRESENT: Howard and Tomes

**PLANNING COMMISSION MINUTES
MARCH 15, 2018**

STANDING COMMITTEE REPORTS

Land Development & Transportation Committee

No report given.

Site Inspection Committee

No report given.

Planning Committee

No report given.

Development Review Committee

No report given.

Policy & Procedures Committee

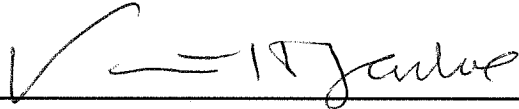
No report given.

CHAIRPERSON/DIRECTOR'S REPORT

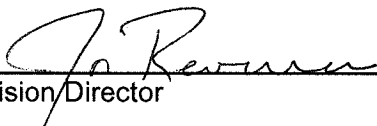
No report given

ADJOURNMENT

The meeting adjourned at approximately 8:15 p.m.



Chairman



Division Director