MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO PLANNING COMMISSION
July 16, 2015

A meeting of the Louisville Metro Planning Commission was held on Thursday, July 16, 2015 at 1:00 p.m. at the Old Jail Building, located at 514 W. Liberty Street, Louisville, Kentucky.

Commission members present:
David Proffitt, Vice Chair
Jeff Brown
Robert Kirchdorfer
Chip White
Clifford Turner
Robert Peterson

Commission members absent:
Donnie Blake, Chair
Vince Jarboe
David Tomes

Staff Members present:
Joseph Reverman, Planning Supervisor
Brian Davis, Planning & Design Supervisor
John G. Carroll, Legal Counsel
David Wagner, Planner II
Christopher Brown, Planner II
Tammy Markert, Transportation Planning
Chris Cestaro, Management Assistant (minutes)

Others:
Pat Barry, MSD

The following matters were considered:

Approval of Minutes

No minutes to be approved.

Business Session

Case No. 15CUP1012

Request:	Noise Mitigation for Conditional Use Permit to allow a home for the infirm and aged in an R-4 Zoning District
Project Name:	Chamberlain Senior Care
Location:	5217 Chamberlain Lane
Owner:	Chamberlain, LLC 4800 Springdale Road Louisville, KY 40241-1023
Applicant:	Chamberlain Senior Care, LLC 4901 Hunt Road Suite 300 Cincinnati, OH 45242
Representative:	William Bardenwerper Bardenwerper, Talbott & Roberts, PLLC 1000 North Hurstbourne Parkway Louisville, KY 40223 Kent Gootee Mindel Scott & Associates 5151 Jefferson Blvd. Louisville, KY 40219
Jurisdiction:	Louisville Metro
Council District:	16 – Kelly Downard
Case Manager:	**Brian Davis, AICP, Planning Supervisor**

Agency Testimony:

00:06:57 Brian Davis presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.) Mr. Davis added that the Development Plan has already been approved by the Board of Zoning Adjustment (BOZA) – this noise mitigation would be added to that already-approved plan.

The following spoke in favor of the proposal:

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William Bardenwerper, Bardenwerper, Talbott & Roberts, PLLC, 1000 North Hurstbourne Parkway, Louisville, KY 40223

Kent Gootee, Mindel Scott & Associates, 5151 Jefferson Blvd, Louisville, KY 40219

Summary of testimony of those in favor:
00:10:47 William Bardenwerper, the applicant's representative, presented the applicant's case (see recording for detailed presentation.)

00:14:15 In response to a question from Commissioner White, Kent Gootee, an applicant's representative, discussed the location of the buildings relative to I-71.

00:19:49 Commissioner Proffitt asked Mr. Bardenwerper if the construction documents had been completed. Mr. Bardenwerper said no. Commissioner Proffitt suggested that "this list or any other measures and their STC ratings be applied to the documents, so that they [Building Permits] can see that you [the applicant] are meeting the requirements."

The following spoke in opposition to the proposal:
No one spoke.

The following spoke neither for nor against the proposal:
No one spoke.

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

Deliberation:
00:21:14 Commissioner's deliberation.

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

Business Session

Case No. 15CUP1012

00:09:38 On a motion by Commissioner White, seconded by Commissioner Peterson, the following resolution was adopted:

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

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the Noise Mitigation for Conditional Use Permit, **ON CONDITION** that, as long as the STC ratings are applied, that the material does not have to be exactly the same; also, that they be applied to the construction documents.

The vote was as follows:

YES: Commissioners Proffitt, Brown, Kirchdorfer, White, Turner, and Peterson.
NO: No one.
NOT PRESENT: Commissioners Blake, Jarboe, and Tomes.
ABSTAINING: No one.

Business Session

Norton Commons 07.16.15

NOTE: Information about this case can also be found under Case #W-17886-12

Request:	Noise Mitigation for Norton Commons
Representative:	Patrick Dominik Sabak Wilson & Lingo
Case Manager:	**Brian Davis, AICP, Planning Supervisor**

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

Agency Testimony:
00:23:03 Brian Davis presented the case (see recording for detailed presentation.) This is Noise Mitigation Study that was applied to the previous case on today's docket (Case No. 15CUP1012). He said the applicant wished to utilize the noise study that was performed for the Chamberlain Senior Care project, and apply it to apartments in the Norton Commons location.

00:24:35 In response to a question from Commissioner Proffitt, Mr. Davis said that the apartments have already been constructed; however, the applicants will go back and look at the materials used in the apartments to see if they qualify for the appropriate STC rating.

The following spoke in favor of the proposal:
No one spoke.

The following spoke in opposition to the proposal:
No one spoke.

The following spoke neither for nor against the proposal:
No one spoke.

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

Business Session

Norton Commons 07.16.15

Deliberation:
00:25:17 Commissioner's deliberation.

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

00:26:22 On a motion by Commissioner White, seconded by Commissioner Kirchdorfer, the following resolution was adopted:

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

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the use of the Noise Study for use on two additional parcels in the Norton Commons development.

The vote was as follows:

YES: Commissioners Proffitt, Brown, Kirchdorfer, White, Turner, and Peterson.
NO: No one.
NOT PRESENT: Commissioners Blake, Jarboe, Tomes, and Butler.
ABSTAINING: No one.

Planning Commission Minutes
July 16, 2015

Public Hearing

Case No. 15AREA1000

NOTE: This case will be CONTINUED to the July 30, 2015 Planning Commission public hearing.

Project Name:	Area Wide Change in Zoning from R-4 Single-Family Residential, M-1 Industrial, and M-2 Industrial to PEC (Planned Employment Center) and a Change in Form District from Neighborhood to Suburban Workplace.
Project Name:	Jeffersontown Commerce Park
Location:	Multiple Properties
Owner:	Multiple Owners
Applicant/Representative:	City of Jeffersontown Stephen Rusie, Representative 10416 Watterson Trail Louisville, KY 40299
Jurisdiction:	City of Jeffersontown
Council District:	11 – Kevin Kramer
Case Manager:	**David B. Wagner, Planner II**

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

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

Agency Testimony:

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00:27:26 Brian Davis, speaking on behalf of David Wagner, explained that the applicant did not publish the legal ad in time for today's hearing. Therefore, the case will be continued to a date certain of July 30, 2015.

00:27:57 On a motion by Commissioner White, seconded by Commissioner Jarboe, the following resolution was adopted:

RESOLVED, the Louisville Metro Planning Commission does hereby **CONTINUE** this case to the July 30, 2015 Planning Commission public hearing.

The vote was as follows:

YES: Commissioners Proffitt, Brown, Kirchdorfer, White, Turner, and Peterson.
NO: No one.
NOT PRESENT: Commissioners Blake, Jarboe, Tomes, and Butler.
ABSTAINING: No one.

Public Hearing

Case No. 15ZONE1004

Request::	Change in zoning from C-1 to EZ-1; change in form district from Neighborhood to Suburban Workplace; Land Development Code Waivers for pedestrian connectivity and outdoor amenity areas; and Detailed District Development Plan on 28.7 acres.
Project Name:	Louisville Industrial Center Building W
Location:	7830 National Turnpike
Owner:	Alesia G. Bishop, Trustee 7402 Independence Ct. Louisville, KY 40214 Randall K. George, Trustee 2413 Mahan Dr. Louisville, KY 40299-1727 Laura G. Band, Trustee 8609 Glenhope Drive Louisville, KY 40291
Applicant:	NAI Fortis Group/Clarion Partners, LLC 1717 McKinney Avenue Suite 1900 Dallas, TX 75202
Representative:	William Bardenwerper Bardenwerper, Talbott & Roberts PLLC 1000 North Hurstbourne Parkway Louisville, KY 40223
Engineer/Designer:	John Campbell Heritage Engineering 642 South 4th Street Suite 100 Louisville, KY 40202
Jurisdiction:	Louisville Metro
Council District:	13 – Vicki Aubrey Welch
Case Manager:	**Christopher Brown, Planner II**

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

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

Agency Testimony:
00:29:18 Christopher Brown presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.)

00:36:00 In response to a comment from Commissioner Kirchdorfer, Mr. Brown said that proposed Binding Element #5 will be changed to read "Develop Louisville" instead of "Codes and Regulations".

The following spoke in favor of the proposal:
William Bardenwerper, Bardenwerper, Talbott & Roberts PLLC, 1000 North Hurstbourne Parkway, Louisville, KY 40223

Bill Sanders, Heritage Engineering, 642 South 4th Street Suite 100, Louisville, KY 40202

Summary of testimony of those in favor:
00:36:30 William Bardenwerper, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.)

00:43:16 Bill Sanders, from Heritage Engineering, discussed screening, buffering, detention area, the connections to National Turnpike and Tolls Lane, parking, and landscaping. He explained why a connection will not be made to the residential neighborhood. Mr. Bardenwerper discussed drainage.

The following spoke in opposition to the proposal:
No one spoke.

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The following spoke neither for nor against the proposal:
No one spoke.

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

00:49:41 Commissioners' deliberation.

NOTE: The Commission took one vote on ALL the requests made in this case.

00:51:00 On a motion by Commissioner White, seconded by Commissioner Peterson, the following resolution was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the requested Waiver for the pedestrian connection will not adversely affect adjacent property owners since completed sidewalks will be provided along National Turnpike and Tolls Road with full pedestrian connections into the site; and

WHEREAS, the Commission further finds that Guideline 7, Policy 1 states that developments should be evaluated for their impact on the street and roadway system and to ensure that those who propose new developments bear or reasonably share in the costs of the public facilities and services made necessary by development. Guideline 9, Policy 1 states that new development should provide, where appropriate, for the movement of pedestrians, bicyclists and transit users with sidewalks along the streets of all developments where appropriate. The waiver will not violate specific guidelines of Cornerstone 2020 since full pedestrian connectivity will be provided from the ROWs along National Turnpike and Tolls Road in conjunction with the vehicular access points; and

WHEREAS, the Commission further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since the pedestrian connections being provided will allow full pedestrian, transit and cyclist access to the proposed development; and

WHEREAS, the Commission further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant since the additional pedestrian connection from Patrick Henry Road would interrupt the needed berming and buffering potentially creating a nuisance situation along the residential area to the north; and

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WHEREAS, the Commission further finds that the requested Waiver for the Amenity Area will not adversely affect adjacent property owners since the amenity area will only serve the privately owned subject site; and

WHEREAS, the Commission further finds that the waiver will not violate specific guidelines of Cornerstone 2020 since amenity areas will be provided on the site to accommodate the office use portions of the property; and

WHEREAS, the Commission further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since the site does not have sufficient spacing to provide outdoor amenity areas equaling ten percent of the entire structure and mix of uses; 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 by requiring additional amenity area beyond the amount requested as part of the development plan; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 1 – Community Form**. The community form district for this area is Suburban Neighborhood which is characterized by predominantly residential uses, but this large piece of vacant property, although surrounded on three sides with high density residential (apartment) uses, is really more in keeping with the workplace uses on large tracts of land located up and down National Turnpike in this area. The Suburban Workplace Form District is a form characterized by predominately industrial and office uses where buildings are set back from the street in a landscaped setting. Suburban Workplaces often contain a large scale use, as proposed in the case of this application for a large warehouse or light manufacturing building, and DPDS staff at the pre-application conference recommended a change to the Suburban Workplace Form District; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 2 – Centers. The Intents of this Guideline are to promote an efficient use of land and investment in existing infrastructure, to lower utility costs by reducing the need for extensions, to reduce commuting time and transportation-related air pollution, and to encourage commercial revitalization in developing areas; and

WHEREAS, the Commission further finds that this application complies with these Intents of this Guideline because National Turnpike is a wide arterial

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highway with adequate traffic-carrying capacity where utilities already exist to accommodate expansion of the business park type uses already proliferating across National Turnpike from this site. The property is surrounded by single apartment buildings and large apartment complexes which are surrounded by residential subdivisions. Because this larger area is already predominantly a Workplace Area which attracts large number of employees and because housing is also located, commuting times can be reduced and transportation-related air pollution is thus not exacerbated by this application. Those already traveling from distant locations to this larger Suburban Workplace Area will find more employment opportunities as a consequence of this proposed development, whereas those residing nearby will shorten their trips from home to work; and

WHEREAS, the Commission further finds that applicable Policies 1, 2, 4, 5, 7, 9, 11, 14, 15 and 16 of this Guideline all pertain to where activity centers are located and how they are designed. This application complies with these applicable Policies of this Guideline given that another warehouse/light industrial facility directly across National Turnpike from a large number of like kind (some older and some newer) facilities assures that the location of this one is appropriate; it keeps employment within an area where other workplace activities are located; many of the large industrial/warehouse manufacturing facilities in the area are older and whereas some are newer, this will be the newest, and the design shown in the PowerPoint presentation at the public hearing, which also demonstrates that this use and its design is appropriate for this center of workplace activity; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 3 – Compatibility**. The intents of this Guideline are to allow a mixture of land uses near each other as long as they are designed to be compatible with each other, to prohibit the location of sensitive land uses in areas where accepted standards for noise, lighting, odors or similar nuisances might be violated and to preserve the character of existing neighborhoods; and

WHEREAS, the Commission further finds that this application complies with the Intents of this Guideline based on the site plan accompanying this application as shown in the applicant's exhibit books; and

WHEREAS, the Commission further finds that applicable Policies 1, 2 and 4 of this Guideline pertain to the assurance of compatibility through design; the photographs included in the applicants public hearing exhibit book application demonstrate that the proposed plan shows how setback areas will be screened and buffered; setbacks will be adequate, along residential property lines where

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there will be berms as well landscaping and the potential for fencing as needed; and

WHEREAS, the Commission further finds that applicable Policies 5, 6, 7, 8 and 9 of this Guideline all pertain to the potential nuisances caused by odors, traffic, noise, lighting and aesthetics; these Policies can be further addressed through binding elements as may be called for; but the Land Development Code (LDC) specifically addresses issues such as lighting by requiring that it be directed down and away from residential properties; the LDC also addresses aesthetics by requiring buildings, including ones of this kind, be designed in ways to break up long expanses of non-descript facades; it is not anticipated that no odors will be involved with the warehouse or light industrial activities that are expected in these buildings; and all activities, except trucks coming and going (mostly during normal working hours) will occur within the proposed buildings; and

WHEREAS, the Commission further finds that applicable Policies 17, 18 and 19 of this Guideline pertain to the location of industries near other industries and the handling of hazardous materials; this application complies with these applicable Policies of this Guideline because, as stated, this proposed light industrial/warehouse facility is located in close proximity to others, and moreover hazardous materials are not anticipated at this site; and

WHEREAS, the Commission further finds that applicable Policies 21, 22, 23, 24 and 29 pertain to transitions, screening, buffering, setback and impacts from parking, loading and delivery; the site plan accompanying this application demonstrates the setbacks that are provided, requiring no waivers or variances, except for one certain sidewalk connection and also except for total amount of amenity space; a landscaped berm will be in included to protect residential properties to minimize the impacts of tractor trailers arriving and departing and while they load and unload; and other facilities of this kind, particularly those managed by the operator of this facility, experience tractor trailer arrivals and departures generally during normal business hours; and

WHEREAS, the Commission further finds that the proposal complies with the intents of **Guideline 6 – Economic Growth and Sustainability**. The Intents of this Guideline are to assure the availability of necessary land to facilitate industrial development, to reduce public and private costs for land development, and to ensure that regional scale workplaces and industrial land uses have access to people, goods and services and appropriate locations to conduct their businesses; and

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WHEREAS, the Commission further finds that this application complies with these Intents of this Guideline given that this area of National Turnpike is one where facilities of this same kind proliferate; many of them are older, whereas this one will be new and will assure adequate screening and buffering, good site and building design. The Jacobs Engineering Traffic Impact Study finds that National Turnpike has adequate traffic-carrying capacity; other essential infrastructure is located proximate to this site; Louisville has become a center for distribution facilities because of UPS, and it is also becoming increasingly attractive to light industrial because of a good workforce, affordable wage rates and low utility costs; and

WHEREAS, the Commission further finds that applicable Policies 1, 2, 3, 4, 5, 8 and 10 of this Guideline all pertain to preserving workplaces, assuring good access to them, locating industries proximate to transportation facilities and the redevelopment of older industrial areas; this application complies with all of these applicable Policies of this Guideline given that this property has remained vacant for many years and as said, this area is one where lots of facilities of this kind are already located; National Turnpike provides good access to the airport and to the Snyder Freeway and I-65 as well as to the Watterson Expressway and I-64; this particular operator of this facility is already managing facilities in the nearby business park and it has demolished some older buildings and replaced them with new ones; and this will be a new facility like the newest of the kind that it recently constructed; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guidelines 7, 8, and 9 – Circulation, Transportation Facility Design, and Alternative Forms of Transportation.** The Intents of these Guidelines are to assure the safe and proper functioning of street systems, to assure that roads such as National Turnpike do not exceed their carrying capacities, to ensure that internal and external circulations are safe, that transportation facilities have adequate carrying capacity and that alternative means of transportation are accommodated; and

WHEREAS, the Commission further finds that this application complies with the Intents of these Guidelines given that National Turnpike has adequate carrying capacity; it is a wide arterial highway that leads from the Snyder Freeway to the Watterson Expressway, providing access to I-65 and I-64 as well as the airport; and there are no issues with traffic congestion in or around these areas; and

WHEREAS, the Commission further finds that applicable Policies 1, 2, 3, 10, 11, 12, 13, 14, 16, 17 and 18 of **Guideline 17**; applicable Policies 7, 9, 10 and 11 of **Guideline 8**; and Policies 1, 2, 3 and 4 of **Guideline 9** all pertain to the specific

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issues that Metro Public Works and Transportation Planning expect to be addressed on the detailed district development plans filed with any given application; those agencies have their particular standards which elaborate more specifically as to these particular policies; this application complies with these applicable Policies of these Guidelines because Heritage Engineering has experience with the particular standards of these agencies, and accordingly Heritage has designed the DDDP with particular attention to issues of access, internal circulation, adequacy of parking, adequacy of loading and maneuvering, site design and alternative means of transportation to the extent applicable; Jacobs Engineering Group has performed a Traffic Impact Study, determining that this proposed project has not adverse impacts on nearby road systems; and these applicable transportation agencies have reviewed the DDDP and Traffic Impact Study in detail, and have given their preliminary stamp of approval, thus assuring compliance with these applicable Policies of these Guidelines; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 10 – Storm-water Management**. The Intents and applicable Policies 1, 3, 6, 7, 10 and 11 of this Guideline pertain to the issues of assuring that the hydraulic capacity of natural systems is accommodated so to ensure that drainage systems designs minimize damage to streams and nearby properties; and

WHEREAS, the Commission further finds that this application complies with these Intents and applicable Policies of this Guideline given that the DDDP has been designed to assure that drainage is captured by internal catch basins and delivered to a detention basin via installed storm pipes; post development rates of runoff cannot exceed predevelopment conditions, which is the purpose of the detention basin included within this DDDP; further, MSD must assure the adequacy of the storm-water management system, and it has given its stamp of preliminary approval the DDDP, thus demonstrating compliance with these applicable Policies of this Guideline; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guidelines 11 & 12 – Water and Air Quality**. The Intents and applicable Policies of these Guidelines seek to assure that water and air quality are protected; this application complies with the Intents and applicable Policies given that regulations have been promulgated by MSD and the Air Pollution Control District (APCD) as to water quality; also, the application must assure eventual compliance with MSD's soil erosion and sedimentation control plus water quality ordinances; and as to air quality, locating this facility in close proximity to workforce housing as well as to facilities of a like kind assures minimizing vehicle miles traveled, thus reducing impacts on air quality; and

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WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 13 – Landscape Character**. The Intents and applicable Policies 1, 2, 4 and 6 of this Guideline seek to assure that facilities of this or any kind provide adequate screening, buffering and landscaping to protect adjoining uses; and this application complies with these Intents and applicable Policies given that a berm with landscaping will be installed around some of the facility to protect nearby residential properties, whereas trees will be installed to also assure adequate screening; and

WHEREAS, the Commission further finds that the proposal respects the existing FEMA floodplain along the western property perimeter. 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 needed open space and amenity area will be provided on the site; and

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

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

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

RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the Change in Form District from Neighborhood to Suburban Workplace and the Change in zoning from C-1

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to EZ-1 be **APPROVED**; and does hereby **APPROVE** the Waiver from Chapter 5.9.2.a.b.i of the Land Development Code to not provide the required pedestrian connection from Patrick henry Road (Waiver #1) and Waiver from Chapter 5.12.2 of the Land Development Code to reduce the required outdoor amenities to 5,000 SF (Waiver #2) **AND** 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 of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.

2. The development shall not exceed 414,960 square feet of gross floor area.

3. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.

4 Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.

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

    a. The development plan must receive full construction approval from Louisville Metro Department of Develop LouisvilleConstruction Permits and Transportation Planning Review 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

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10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.

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 PA system audible beyond the property line or permitted on the site.

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 rendering as presented at the July 16th, 2015 Planning Commission meeting.

10. No idling of trucks shall take place within 200 feet of single-family residences. No overnight idling of trucks shall be permitted on-site.

The vote was as follows:

YES: Commissioners Proffitt, Brown, Kirchdorfer, White, Turner, and Peterson.
NO: No one.
NOT PRESENT: Commissioners Blake, Jarboe, and Tomes.
ABSTAINING: No one.

STANDING COMMITTEE REPORTS

Land Development and Transportation Committee
No report given.

Legal Review Committee
No report given.

Planning Committee
No report given.

Policy and Procedures Committee
No report given

Site Inspection Committee
No report given.

ADJOURNMENT

The meeting adjourned at approximately 2:00 p.m.

_____
Chairman

_____
Division Director