

**MINUTES OF THE MEETING  
OF THE  
LOUISVILLE METRO PLANNING COMMISSION  
MARCH 20, 2014**

A meeting of the Louisville Metro Planning Commission was held on Thursday, March 20, 2014 at 1:00 p.m. at the Mayors Gallery, 527 W. Jefferson Street, Louisville, Kentucky.

**Commission members present:**

Donnie Blake, Chair  
David Tomes (Left at 3:07 pm)  
Robert Kirchdorfer  
Robert Peterson  
Jeff Brown  
Vince Jarboe

**Commission members absent:**

David Proffitt  
Clifford Turner  
Chip White  
Tawana Hughes

**Staff Members present:**

Emily Liu, Director  
Joseph Reverman, Planning Supervisor  
Michael Hill, Planning Coordinator  
Jessica Wethington, Public Information Specialist  
Julia Williams, Planner II  
David Wagner, Planner II  
Matthew Doyle, Planner I  
Jonathan Baker, Legal Counsel  
John Carroll, Legal Counsel  
Tammy Markert, Transportation  
Chris Cestaro, Management Assistant (sign-ins)  
Rebecca Simmons, Management Assistant (minutes)

The following matters were considered:

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**Approval of Minutes**

**February 27, 2014 – 1:00 p.m. LD&T Committee Meeting**

On a motion by Commissioner Jarboe, the following resolution was adopted:

**RESOLVED**, that the Planning Commission does hereby **APPROVE** the minutes of its meeting conducted February 27, 2014 at 1:00 PM.

**The vote was as follows:**

**YES: Commissioners Kirchdorfer and Jarboe**

**NO: No one.**

**NOT PRESENT FOR THIS CASE: Commissioners Proffitt, Turner, White, and Hughes**

**ABSTAINING: Commissioners Blake, Tomes, Peterson, and Brown**

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**Public Hearing**

**CASE NO. 14AMEND1000**

**Project Name:** LDC Text Amendment – W-1 & W-2 Waterfront Districts  
**Applicant:** Louisville Metro Planning Commission  
**Jurisdiction:** Louisville Metro  
**Staff Case Manager:** **Michael Hill, AICP, Planning Coordinator**

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.)

**Request:**

Land Development Code Text Amendment (Section 2.6.4.A (W-1) & 2.6.5.A (W2))

**Agency Testimony:**

Michael Hill showed a PowerPoint presentation and reviewed the requests and case summary/background from the staff report. He showed a zoning map of current W-1 and W-2 zoning districts. He reviewed the proposed text amendments, staff analysis, and conclusions from the staff report.

John Carroll explained that one of the major reasons for the request is to help the River Park Place development on River Road. Also, the Waterfront Development Corporation funds the Waterfront Review Overlay District which has the approval of the location and design of any of the taverns to come.

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

No one.

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

No one.

**The following spoke neither for nor against the request:**

No one.

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**Public Hearing**

**CASE NO. 14AMEND1000**

**An audio/visual recording of the Planning Commission hearing related to this case is available in the Planning & Design Services offices. Please contact the Customer Service staff to view the recording or to obtain a copy. The recording of this hearing will be found on the CD of the March 20, 2014 public hearing proceedings.**

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

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the legislative body of the Louisville Metro Council that Land Development Code text amendment Case 14AMEND1000 be **APPROVED**.

**The vote was as follows:**

**YES: Commissioners Kirchdorfer, Jarboe, Blake, Tomes, Peterson, and Brown**

**NO: No one.**

**NOT PRESENT FOR THIS CASE: Commissioners Proffitt, Turner, White, and Hughes**

**ABSTAINING: No one.**

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**Public Hearing**

**CASE NO. 14AMEND1001**

**Project Name:** Development Code Text Amendment –  
Conditional Use Permit for Bed & Breakfast in  
R-E & R-1 Zoning Districts  
**Applicant:** City of Anchorage  
**Jurisdiction:** City of Anchorage  
**Staff Case Manager:** **Michael Hill, AICP, Planning Coordinator**

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.)

**Request:**

Development Code Text Amendment (Article 4, Section 4.2 & 4.3 & Article 15, Section 42)

**Agency Testimony:**

Michael Hill showed a PowerPoint presentation and reviewed the requests and case summary/background from the staff report. He also showed a zoning map of Anchorage and reviewed the proposed text amendments, staff analysis and conclusions from the staff report.

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

No one.

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

No one.

**The following spoke neither for nor against the request:**

No one.

**An audio/visual recording of the Planning Commission hearing related to this case is available in the Planning & Design Services offices. Please**

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**Public Hearing**

**CASE NO. 14AMEND1001**

**contact the Customer Service staff to view the recording or to obtain a copy. The recording of this hearing will be found on the CD of the March 20, 2014 public hearing proceedings.**

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

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the legislative body of the City of Anchorage that the Land Development Code text amendment Case 14AMEND1001 be **APPROVED**.

**The vote was as follows:**

**YES: Commissioners Kirchdorfer, Jarboe, Blake, Tomes, Peterson, and Brown**

**NO: No one.**

**NOT PRESENT FOR THIS CASE: Commissioners Proffitt, Turner, White, and Hughes**

**ABSTAINING: No one.**

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**Public Hearing**

**CASE NO. 13SUBDIV1000**

***Commissioner Blake recused himself and left the hearing. Commissioner Tomes was named Chair.***

**Project Name:** Glenmary Conservation Subdivision

**Location:** 10200 Glenmary Farm Drive

**Owner/Applicant:** Par Golf, LLC  
Maria Purcell, Representative  
10200 Glenmary Farm Drive  
Louisville, KY 40291

**Representative:** William Bardenwerper  
Bardenwerper, Talbott & Roberts PLLC  
1000 North Hurstbourne Parkway Suite 200  
Louisville, KY 40223

**Architect/Engineer:** David Mindel  
Mindel, Scott & Associates  
5151 Jefferson Boulevard  
Louisville, KY 40219

**Jurisdiction:** Louisville Metro  
**Council District:** 22 – Robin Engel

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

Julia Williams explained that this case is to be continued to the May 15, 2014 Planning Commission public hearing. It was decided that notice would be resent due to the location of that hearing being uncertain at the time.

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

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **CONTINUE** Case .13SUBDIV1000 to the May 15, 2014 Planning Commission public hearing.

**The vote was as follows:**

**YES: Commissioners Kirchdorfer, Jarboe, Tomes, Peterson, and Brown**  
**NO: No one.**

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**Public Hearing**

**CASE NO. 13SUBDIV1000**

**NOT PRESENT FOR THIS CASE: Commissioners Blake, Proffitt, Turner, White, and Hughes**

**ABSTAINING: No one.**

**An audio/visual recording of the Planning Commission hearing related to this case is available in the Planning & Design Services offices. Please contact the Customer Service staff to view the recording or to obtain a copy. The recording of this hearing will be found on the CD of the March 20, 2014 public hearing proceedings.**



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**Public Hearing**

**CASE NOS. 19173, 19174, 19219**

**Project Name:** Par Golf Minor Plat

**Location:** 10200 Glenmary Farm Drive

**Owner/Applicant:** Par Golf, LLC  
Maria Purcell, Representative  
10200 Glenmary Farm Drive  
Louisville, KY 40291

**Representative:** William Bardenwerper  
Bardenwerper, Talbott & Roberts PLLC  
1000 North Hurstbourne Parkway Suite 200  
Louisville, KY 40223

**Architect/Engineer:** David Mindel  
Mindel, Scott & Associates  
5151 Jefferson Boulevard  
Louisville, KY 40219

**Jurisdiction:** Louisville Metro  
**Council District:** 22 – Robin Engel

**Case Manager:** **Matthew R. Doyle, Planner I**

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

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

**Request:**  
Amendment to Record Plat

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**Project Name:** Par Golf Minor Plat

**Location:** Parcel 2580-0437-0000 (Colonel Hancock Drive)

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**Public Hearing**

**CASE NOS. 19173, 19174, 19219**

**Owner/Applicant:** Par Golf, LLC  
Maria Purcell, Representative  
10200 Glenmary Farm Drive  
Louisville, KY 40291

**Representative:** William Bardenwerper  
Bardenwerper, Talbott & Roberts PLLC  
1000 North Hurstbourne Parkway Suite 200  
Louisville, KY 40223

**Architect/Engineer:** David Mindel  
Mindel, Scott & Associates  
5151 Jefferson Boulevard  
Louisville, KY 40219

**Jurisdiction:** Louisville Metro  
**Council District:** 22 – Robin Engel

**Case Manager:** **Matthew R. Doyle, Planner I**

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

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

**Request:**  
Amendment to Record Plat

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**Project Name:** Par Golf Minor Plat

**Location:** Parcel 2535-000A-0000 (Colonel Hancock Drive)

**Owner/Applicant:** Par Golf, LLC

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**Public Hearing**

**CASE NOS. 19173, 19174, 19219**

Maria Purcell, Representative  
10200 Glenmary Farm Drive  
Louisville, KY 40291

**Representative:** William Bardenwerper  
Bardenwerper, Talbott & Roberts PLLC  
1000 North Hurstbourne Parkway Suite 200  
Louisville, KY 40223

**Architect/Engineer:** David Mindel  
Mindel, Scott & Associates  
5151 Jefferson Boulevard  
Louisville, KY 40219

**Jurisdiction:** Louisville Metro  
**Council District:** 22 – Robin Engel

**Case Manager:** **Matthew R. Doyle, Planner I**

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

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

**Request:**  
Amendment to Record Plat

**Deliberation**

Commissioner Tomes pointed out that the record is closed and testimony has already been heard for these cases. He pointed out that Donald L. Cox and Bill Bardenwerper have submitted letters pertaining to the case and asked legal counsel if the commission should consider these.

John Carroll, legal counsel, stated that the letters should be accepted into the record but not discussed at this hearing.

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**Public Hearing**

**CASE NOS. 19173, 19174, 19219**

**An audio/visual recording of the Planning Commission hearing related to this case is available in the Planning & Design Services offices. Please contact the Customer Service staff to view the recording or to obtain a copy. The recording of this hearing will be found on the CD of the March 20, 2014 public hearing proceedings.**

On a motion by Commissioner Brown, the following resolution was adopted.

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** the amendments to record plats for Cases 19173, 19174, and 19219.

**The vote was as follows:**

**YES: Commissioners Kirchdorfer, Jarboe, Tomes, Peterson, and Brown**

**NO: No one.**

**NOT PRESENT FOR THIS CASE: Commissioners Blake, Proffitt, Turner, White, and Hughes**

**ABSTAINING: No one.**

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**Public Hearing**

**CASE NO. 13DEVPLAN1128**

***Commissioner Blake returned to the hearing and resumed his position as Chair.***

**Project Name:** McDonald's  
3420 Indian Lake Dr. and 10600 Westport Rd.

**Owner:** Indian Springs, LLC  
3408 Indian Lake Drive  
Louisville, KY 40241

**Applicant:** CHOP Partners II, LLC  
13307 Magisterial Drive  
Louisville, KY 40223

**Representative:** Bardenwerper, Talbott & Roberts  
1000 N Hurstbourne Pkwy  
Louisville, KY 40223

**Jurisdiction:** Louisville Metro  
**Council District:** 17 – Glen Stuckel

**Staff Case Manager:** **David B. Wagner, Planner II**

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

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

**Request:**

Revised Detailed District Development Plan and Amendment to Binding Elements for a proposed McDonald's Restaurant

**Agency Testimony:**

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**CASE NO. 13DEVPLAN1128**

David Wagner showed a PowerPoint presentation and reviewed the requests and case summary/background from the staff report. He showed zoning and aerial maps and reviewed the surrounding zoning and land uses. Mr. Wagner then showed a series of photos of the site and surrounding areas. He then reviewed the applicant's development plan and staff analysis/conclusions and technical review from the staff report. He addressed the proposed binding elements on page 9 of the staff report and explained that 3.e. can be removed.

Commissioner Brown asked about the binding element addressing signage at Indian Lake Drive being stricken. Mr. Wagner explained that it will be removed because the site does not front on Indian Lake Drive.

In response to Commissioner Blake's question, Tammy Markert, with Transportation Planning, explained that the intersection and area was looked at and it was decided that the road improvements were not needed.

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

Nick Pregliasco, Bardenwerper Talbott & Roberts, 1000 N Hurstbourne Pkwy, Louisville, KY 40223

Greg Oakley, 13307 Magisterial Drive, Louisville, KY 40223

Joe Watson, 65 Aberdeen Drive, Glasgow, KY 42141

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

Nick Pregliasco, attorney representing the applicant, showed a PowerPoint presentation and reviewed a map of the property and discussed the zoning and uses in the area. He also reviewed an aerial photo of the site and the previously approved plan and the proposed revised development plan. Mr. Pregliasco showed the location for the proposed McDonald's location and reviewed the proposed driveway, ordering lanes, and building design. He showed elevations for the McDonald's and reviewed the traffic study, as well as the minutes from the approval of the ALDI and neighboring hotel site.

Greg Oakley, Hollenbach and Oakley, reviewed the proposed connection and said he would be happy to work with staff on construction drawings if there is an easier route.

Joe Watson was called but chose not to speak.

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In response to Commissioner Peterson's question, Mr. Oakley explained that there will be a full turning lane added to turn in left off of Westport Road.

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

No one.

**The following spoke neither for nor against the request:**

Steve Porter, 2406 Tucker Station Road, Louisville, KY 40299

**Summary of testimony of those who spoke neither for nor against:**

Steve Porter, attorney representing Indian Springs Community Association, explained that he assumed original 22 binding element stay enforced. He addressed two binding elements in the proposed binding elements being stricken for this site and asked whether the binding elements apply. (Original binding elements # 3 and #15 regarding signage.)

Mr. Wagner asked whether the applicant would agree to keep the binding elements. Mr. Oakley discussed the proposed sign height and said compliance with the original binding element will depend upon from where the height is being measured.

Jonathan Baker explained that the Land Development Code will apply regardless.

Mr. Porter raised a question about striking the binding element restricting signage from the intersection at Indian Lake Drive. He said the neighborhood does not want a sign at that intersection.

Mr. Oakley said he did not have any rights to put a sign there and said a sign is not needed there.

Mr. Porter stated he wanted to ensure that the original 22 binding elements still applied to the McDonald's site. Mr. Baker explained that any binding element that stays on the general plan that applies to both properties will still apply to the subject site.

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Mr. Pregliasco addressed proposed binding element 3.e. and said he wanted to make it clear that it will be deleted. Commissioner Blake confirmed.

Mr. Pregliasco also confirmed that the applicant would agree to keeping the proposed stricken binding element #15 regarding signage at Indian Lake Drive.

Commissioner Blake asked about the issue of full access on Westport Road. Mr. Wagner explained that the original rezoning plan does have a left and right turn road on Westport Road and Kentucky Transportation Cabinet (KTC) approved it. He said a right-in/right-out was not approved with the original rezoning.

Mr. Porter stated that the neighborhood association agrees and wants that to be a full intersection.

**Deliberation**

Commissioner Kirchdorfer said he did not have any problems with the plan. He addressed comments about the sidewalk and said he could see why they located it on the side they did.

Commissioner Peterson said the commercial use is appropriate. He said he hoped traffic is not a nightmare and recognized that KIPDA has issued approval.

Commissioner Tomes recognized that this proposal has gone smoother than before and that he is supportive of the plan.

Commissioner Brown said his concern is parking along Westport Road and the proximity to the building entrance. He said this could be potential for problems. He said there needs to be some clean up at the intersection. He said there is room to work on cleaning it up.

In response to the commissioners' question about why this case was being heard before the full commission, Mr. Wagner explained that a binding element required that the plan come before the Planning Commission for this lot. Mr. Wagner also addressed Commissioner Brown's comments by explaining that the applicant is ok with conditionally approving that the applicant will work with staff on pedestrian access and parking spaces to the building. Commissioner Brown also recommended that the intersection be addressed as well.

Commissioner Blake raised concern about approval being too open-ended. Mr. Baker said it may be helpful to carve out a time limit in which staff and the



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applicant review the discussed items and come back to the commission for review.

Commissioner Brown addressed the site plan and reviewed issues with the entrance and potential for the neighbors using this site as secondary access to Westport Road.

Mr. Pregliasco explained that with the purchase by ALDI there was declaration of easements that defined the driving aisles on the overall site. He said the driving aisles would not be able to be changed.

Commissioner Brown said the issue of the access between the intersection and the parking needs to be resolved because it is uncontrolled.

Mr. Oakley suggested striping and signage controls.

Commissioner Blake stated that the issues have been narrowed down to drive-through traffic flow and pedestrian connection.

Commissioner Jarboe said the issues have been addressed and everything is where it needs to be for approval.

**An audio/visual recording of the Planning Commission hearing related to this case is available in the Planning & Design Services offices. Please contact the Customer Service staff to view the recording or to obtain a copy. The recording of this hearing will be found on the CD of the March 20, 2014 public hearing proceedings.**

On a motion by Commissioner Brown, the following resolution was adopted.

**WHEREAS**, the Louisville Metro Planning Commission finds that Little Goose Creek is to the west of the property but the 100' stream buffer only crosses the property at the corners of the west side lot line. The required tree canopy coverage and landscaping will be provided on the site; and

**WHEREAS**, the Louisville Metro Planning Commission further finds that provisions for safe and efficient vehicular and pedestrian transportation around the development has been provided by cross-over agreement with Aldi's and Westport Road. The applicant has provided a connection between the building and the public sidewalk along Westport Road, yet PDS and Transportation staff would prefer a better pedestrian connection from the parking spaces that parallel

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Westport Road to the building. Metro Public Works has approved the preliminary development plan but would like to discuss pedestrian connectivity; and

**WHEREAS**, the Louisville Metro Planning Commission further finds that open Space is not required for this proposal; and

**WHEREAS**, the Louisville Metro Planning 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 Louisville Metro Planning Commission further finds that the overall site design and land uses are compatible with the existing and future development of the area. Landscaping will be provided to screen adjacent properties and roadways; and

**WHEREAS**, the Louisville Metro Planning Commission further finds that the development plan appears to conform to the intent of 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 Revised Detailed District Development Plan for Case 13DEVPLAN1128 **ON CONDITION** that the applicant clarifies traffic control and pedestrian connectivity without relocating the access drive between the two sites and **SUBJECT** to the following binding elements.

**Binding Elements for McDonald's Site Only**

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 25,583 square feet of gross floor area, including 9,775 square feet of gross floor area on Lot 1 and 15,808 square feet of gross floor area on Lot 2.~~

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2. Signs shall be in accordance with Chapter 8 – business signs per lot with dimensions of (**80** square feet in area and **10** feet in height) are permitted.
3. No outdoor advertising signs (billboards), small freestanding (temporary) signs, pennants, balloons, or banners shall be permitted on the site.
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 *Louisville Metro Department of Inspections, Permits and Licenses, Louisville Metro Public Works, and the Metropolitan Sewer District.*
  - b. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
  - c. A reciprocal access and crossover easement agreement in a form acceptable to Planning Commission legal counsel shall be secured from the adjoining property owner and recorded prior to construction approval. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services.
  - d. 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.
  - e. ~~A contribution of \$46,000 shall be made to the Frey's Hill/Westport Road intersection improvement project at the time of its funding for construction. The contribution shall be paid within 60 days of request by Director of Metro Public Works or the Kentucky Transportation Cabinet.~~
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 materials and design of existing/proposed structures shall be substantially the same as depicted in the photos/rendering as presented at the January 31, 2012 March 20, 2014 Planning Commission public hearing.
7. The following uses shall be prohibited:
  - a. dry cleaning establishment, provided, the foregoing restriction shall not include an establishment for dry cleaning drop-off and pick-up only, with no cleaning services being performed at the subject property;
  - b. a pet store;
  - c. auto repair shop;

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- d. gasoline station;
  - e. adult book store;
  - f. bingo parlor;
  - g. a school, academy or learning center having more than twenty students at any one time;
  - h. a video game parlor or amusement arcade;
  - i. a business which would emit or produce noxious fumes or gases or loud noises;
  - j. a mortuary;
  - k. an establishment selling or exhibiting pornographic materials;
  - l. a nightclub, discotheque or dance hall;
  - m. a lot for the sale of used motor vehicles;
  - n. a pool or billiard hall (unless operated as part of a large scale family recreation or entertainment facility);
  - o. a use or operation which is generally considered to be an environmental risk to any portion of the Property or surrounding properties;
  - p. a store dedicated to the sale of tobacco products;
  - q. Automobile rental agencies
  - r. Boarding and lodging houses
  - s. Bowling alleys
  - t. Car washes
  - u. Extended stay lodging
  - v. Funeral homes
  - w. Hotels and motels
  - x. Retail nurseries
  - y. Pawn shop
  - z. Tents, air structures and other temporary structures
  - aa. Establishments holding a retail malt beverage license, but that do not allow consumption on the premises;
9. ~~Hours of operation for Lot 2 shall be limited to 9 AM to 9 PM.~~
8. All exterior lighting shall comply with the lighting provisions as outlined in the Land Development Code.
9. No trash pick-up, exterior construction, deliveries, loading or parking lot cleaning (except ice or snow removal) shall occur between 10 PM and 7 AM.
10. No storage shall be allowed on exterior of site on ground or in containers after construction has been completed.
11. No trucks or delivery vehicles shall be parked overnight on the site after construction has been completed.
12. No truck or delivery access shall be allowed to or from Indian Lake Drive.

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13. No signage shall be allowed at the Indian Lake Drive intersection.
14. No lighted attached signage shall be allowed on the south elevations of any building.
15. The existing four-board fence and the stone entrance walls along Indian Lake Drive and Westport Road shall be preserved.
16. The mature trees and vegetation at the southwest corner of Westport Road and Indian Lake Drive shall be preserved.
17. No construction traffic shall be allowed to use Indian Lake Drive.
- ~~20. The applicant will prepare a detailed development plan and building elevation for Lot 1 for review and approval by the Planning Commission prior to issuance of a building permit.~~
18. No future changes to the Binding Elements shall occur without a Public Hearing before the Louisville Metro Planning Commission.
- ~~22. The final location of the golf cart crossing south of the access drive on Indian Lake Drive shall be subject to the approval of Metro Public Works and the local Fire Department. Signage and/or other traffic control devices (except flashing lights) shall be installed per the requirements of Metro Public Works, which shall receive input from the Indian Springs Community Association prior to construction approval.~~

**The vote was as follows:**

**YES: Commissioners Kirchdorfer, Jarboe, Blake, Tomes, Peterson, and Brown**

**NO: No one.**

**NOT PRESENT FOR THIS CASE: Commissioners Proffitt, Turner, White, and Hughes**

**ABSTAINING: No one.**

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**Public Hearing**

**CASE NO. 13ZONE1009**

**Project Name:** Dandridge Office and Housing Development  
920 Dandridge Ave. and 900-904 Charles St.

**Owner:** T.C. Peters Construction  
808 East Market Street  
Louisville, KY 40206

**Applicant:** Architectural Artisans, Inc.  
748 East Market Street  
Louisville, KY 40202

**Representative:** Architectural Artisans, Inc.  
**Jurisdiction:** Louisville Metro  
**Council District:** 10 – Jim King

**Staff Case Manager:** **David B. Wagner, Planner II**

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

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

**Request:**

Change in Zoning from M-2, Industrial to C-1, Commercial, Revised Detailed District Development Plan, Waivers and Amendment to Binding Elements

**Agency Testimony:**

David Wagner showed a PowerPoint presentation and reviewed the requests and case summary/background from the staff report. He showed zoning and aerial maps and reviewed the surrounding zoning and land uses. Mr. Wagner then showed a series of photos of the site and surrounding areas. He reviewed the applicant's development plan and the technical review, staff analysis, and conclusions from the staff report. Mr. Wagner added that he received a letter just prior to the hearing from Steve Magre of GermanParistown Neighborhood Association stating the board's support for the proposal.

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

Carter Scott, Architectural Artisans, 748 East Market Street, Louisville, KY 40202

Steve Magre, 1122 Rammers Avenue, Louisville, KY 40204

Mike Morris, 947 Goss Avenue, Louisville, KY 40217

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

Carter Scott, representative of the applicant, explained that the reason C-1 was being requested is because the original tenant of the office building was a daycare. He said the daycare user backed out as the applicant was already on the path to request C-1 zoning. He said it is desired to provide the best use for the neighborhood. He said completing the street frontage is a great way to mitigate the lack of private yard.

Steve Magre expressed the GermanParistown Neighborhood Association's support for the approval of the rezoning. He spoke about the work that is being done to work on preparing a general plan that will make changes along the railroad corridor. He said this property is close enough to be considered adjacent to railroad tracks, as well as what is happening at the Underhill's project and the MSD water basin project on Breckinridge Street. Mr. Magre explained that this project would be helpful to the neighborhood. He pointed out that the request is a downzoning and anytime an urban neighborhood pursues a downzoning, it is a good thing. He said he hoped that the developer would work with the neighborhood with regard to design and planning for the site.

Mike Morris spoke in support of the proposal.

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

Chris Thornton, 910 Charles Street, Louisville, KY 40203

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

Chris Thornton raised concerns about drainage, traffic, lighting, and property values declining due to the proposal. He stated that the buffer would be adequate for the commercial near the residential.

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Commissioner Blake pointed out that the request is a down-zoning and a more intense use would be allowed under its current rezoning.

**The following spoke neither for nor against the request:**

No one.

**Rebuttal:**

Mr. Scott addressed comments from Mr. Magre about the design of the project and said the developer will not be tied to a project that will cheapen his image. He said the neighborhood is behind the design of the proposal. He said MSD has preliminarily approved the drainage of the site. Mr. Scott also pointed out that a wood fence and plantings will screen and buffer from the surrounding properties. He said the evenings will not have a nuisance and noise in the parking area because of the hours of operation. Mr. Scott then showed renderings for the proposal.

Commissioner Kirchdorfer asked about the existing chain-link fence. Mr. Scott said the fence will not remain.

Commissioner Brown asked if the neighborhood association will have some say in what the finishes are on the exterior of the residential units.

**Deliberation**

Commissioner Jarboe said this case came before LD&T Committee and there were good conversations about the proposal. He said the downzoning and flexibility were discussed. He spoke about discussions about drainage and MSDs involvement. He said the rezoning is appropriate.

Commissioner Brown said he wanted to make sure the applicant works with the neighborhood on the traditional alternative design requirement.

Commissioner Tomes said he was swayed by Mr. Magre's testimony. He said it is good to see neighborhood groups in agreement. He recognized the projects in the area.

Commissioner Peterson spoke about the revitalization of the neighborhood and spoke in support of the proposal.



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Commissioner Kirchdorfer said he liked the design of the proposal and that the rezoning is appropriate.

Commissioner Blake agreed with all comments and said a downzoning in a situation such as this is always positive.

**An audio/visual recording of the Planning Commission hearing related to this case is available in the Planning & Design Services offices. Please contact the Customer Service staff to view the recording or to obtain a copy. The recording of this hearing will be found on the CD of the March 20, 2014 public hearing proceedings.**

**Zoning**

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

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal complies with Comprehensive Plan Guideline 1 – Community Form because the proposal maintains the existing grid street pattern and alley access which is consistent with adjacent development. The proposal supports access to public transportation as it is within walking distance of a bus route. The proposal includes parking areas that will be behind the existing and proposed buildings. Although the LBA along the southeast lot line is decreased to 3', the chain link fence will be replaced with an 8' wooden privacy fence and landscaping will be provided. The existing building that will become the office has no setback and the building proposed for the single dwelling and the duplexes will meet the infill standards for existing dwellings along Charles Street by utilizing the Traditional Neighborhood Design Alternative standards; and

**WHEREAS**, the Louisville Metro Planning Commission further finds that the proposal complies with Comprehensive Plan Guideline 3 – Compatibility because APCD has approved the proposal. Transportation Review has approved the proposal. The proposal must meet all lighting regulations. Although the LBA along the southeast lot line is decreased to 3', the chain link fence will be replaced with an 8' wooden privacy fence and landscaping will be provided. The proposal meets height and setback requirements for the zoning and form district. The existing building that will become the office has no setback and the building proposed for the single dwelling and the duplexes will meet the infill standards for existing dwellings along Charles Street. This buffering will help minimize adverse impacts to the residences to the southeast from the proposed parking area. The parking area will be accessed from Dandridge Avenue and the rear alley and is

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situated behind the office and residences. The proposal must meet all sign regulations; and

**WHEREAS**, the Louisville Metro Planning Commission further finds that the proposal complies with Comprehensive Plan Guideline 5 - Natural Areas and Scenic and Historic Resources because Historic Preservation has approved the proposal with a recommendation. The development does not have any environmental constraints; and

**WHEREAS**, the Louisville Metro Planning Commission further finds that the proposal complies with Comprehensive Plan Guideline 6 - Economic Growth and Sustainability because the proposed uses (office and residential) meet the needs of the local workplaces and their employees. The proposal is not for industrial use. The proposal could be a retail commercial development but is located between industrial and residential uses, acting as a buffer between the two. It does not generate large amounts of traffic and will not adversely affect adjacent areas as it is consistent with the residential pattern in the area. The site could currently be used for industrial purposes and this down zoning actually protects the neighboring areas from high intensity industrial uses; and

**WHEREAS**, the Louisville Metro Planning Commission further finds that the proposal complies with Comprehensive Plan Guideline 7 – Circulation because The proposal will contribute its proportional share of the cost of roadway improvements and other services and public facilities as required. The proposal promotes multiple types of transportation through sidewalks, proximity to a bus route, and bicycle facilities are not required. The proposal includes adequate parking spaces to support the use. Transportation Review has approved the proposal. The proposal's transportation facilities are compatible with and support access to surrounding land uses as they continue the pattern of site access by utilizing local streets and rear alleys; and

**WHEREAS**, the Louisville Metro Planning Commission further finds that the proposal complies with Comprehensive Plan Guideline 8 - Transportation Facility Design because the proposal's transportation facilities are compatible with and support access to surrounding land uses as they continue the pattern of site access by utilizing local streets and rear alleys; and

**WHEREAS**, the Louisville Metro Planning Commission further finds that the proposal complies with Comprehensive Plan Guideline 9 - Bicycle, Pedestrian and Transit because the proposal's transportation facilities are compatible with and support access to surrounding land uses as they continue the pattern of site

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access by utilizing local streets and rear alleys. The site can be accessed by all modes of transportation; and

**WHEREAS**, the Louisville Metro Planning Commission further finds that the proposal complies with Comprehensive Plan Guideline 10 - Flooding and Stormwater because MSD has approved the proposal; and

**WHEREAS**, the Louisville Metro Planning Commission further finds that the proposal complies with Comprehensive Plan Guideline 12- Air Quality because the APCD has approved the proposal; and

**WHEREAS**, the Louisville Metro Planning Commission further finds that the proposal complies with Comprehensive Plan Guideline 14 – Infrastructure because MSD has approved the proposal. The proposal has access to an adequate supply of potable water and water for fire-fighting purposes. The proposal is located in an area served by existing utilities or planned for utilities; now, therefore be it

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the legislative body of the Louisville Metro Council that the rezoning from M-2 to C-1 for Case 13ZONE1009 be **APPROVED** on property described in the legal description.

**The vote was as follows:**

**YES: Commissioners Kirchdorfer, Jarboe, Blake, Tomes, Peterson, and Brown**

**NO: No one.**

**NOT PRESENT FOR THIS CASE: Commissioners Proffitt, Turner, White, and Hughes**

**ABSTAINING: No one.**

**Waiver**

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

**WHEREAS**, the Louisville Metro Planning Commission finds that the waiver will not adversely affect adjacent property owners because the existing chain link fence along the southeast property line will be replaced with an 8' wooden privacy fence and some landscaping will be provided. This will be an

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improvement and help protect the adjoining residents from any nuisances caused by the proposed parking area; and

**WHEREAS**, the Louisville Metro Planning Commission further finds that the waiver will not violate the Comprehensive Plan as required plantings and screening will still be provided and an underutilized property will be redeveloped instead of remaining unused; and

**WHEREAS**, the Louisville Metro Planning Commission further finds that the extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because this applicant/developer is not requesting a total waiver of this LBA but only a partial one. The pattern along Charles Street includes narrow side yards between residences and the proposed parking area will not be next to existing houses; and

**WHEREAS**, the Louisville Metro Planning Commission further finds that strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant because it would not allow the proposal to be developed similarly to the existing building pattern along Charles Street; and

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** the Waiver to reduce the required 15' Landscape Buffer Area (LBA) along the southeast lot line to 3' [Land Development Code (LDC) Section 10.2.4] on property described in the legal description.

**The vote was as follows:**

**YES: Commissioners Kirchdorfer, Jarboe, Blake, Tomes, Peterson, and Brown**

**NO: No one.**

**NOT PRESENT FOR THIS CASE: Commissioners Proffitt, Turner, White, and Hughes**

**ABSTAINING: No one.**

**Revised Detailed District Development Plan**

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

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**WHEREAS**, the Louisville Metro Planning Commission finds, based on the staff report, testimony and evidence, that the proposal conserves natural resources that currently exist on the site, including the existing tree canopy coverage; and

**WHEREAS**, the Louisville Metro Planning Commission further finds that Transportation Review has approved the proposal's transportation facilities; and

**WHEREAS**, the Louisville Metro Planning Commission further finds that open space is not required for this proposal; and

**WHEREAS**, the Louisville Metro Planning Commission further finds that MSD has approved the drainage facilities for the site; and

**WHEREAS**, the Louisville Metro Planning Commission further finds that the proposal is compatible with the surrounding area as it is completing the street wall along Charles Street by using infill residential development and the commercial use is a buffer between the industrial and residential uses nearby. The location of all buildings, parking, screening, and landscaping all follow the development pattern in the area; and

**WHEREAS**, the Louisville Metro Planning Commission further finds that the proposal conforms with the Comprehensive Plan and Land Development Code as stated above in the Comprehensive Plan analysis; now, therefore be it

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** the Revised Detailed District Development Plan on property described in the legal description **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 for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.

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3. 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 Inspections, Permits and Licenses, Louisville Metro Public Works and the Metropolitan Sewer District.
  - b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
  - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
  - d. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
4. 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.
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 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.
7. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the March 20, 2014 Planning Commission meeting.

**The vote was as follows:**

**YES: Commissioners Kirchdorfer, Jarboe, Blake, Tomes, Peterson, and Brown**

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**NO: No one.**

**NOT PRESENT FOR THIS CASE: Commissioners Proffitt, Turner, White,  
and Hughes**

**ABSTAINING: No one.**

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**Approval of Minutes**

**March 6, 2014 – 1:00 p.m. Planning Commission Regular Meeting**

On a motion by Commissioner Tomes, the following resolution was adopted:

**RESOLVED**, that the Planning Commission does hereby **APPROVE** the minutes of its meeting conducted March 6, 2014 **SUBJECT** to the following changes.

**Page 34:**

2. The development shall not exceed **310,949** square feet of gross floor area.
  
7. Use of Lot 24 shall not cause sound levels to exceed the existing average decibel level (A-weighted) as measured over a 24-hour period (24-hour **Leq**) at the south and west property lines of Lot 24. A base line study shall be submitted within 30 days of the March 6, 2014 Planning Commission public hearing. A study to demonstrate compliance shall be submitted within 60 days of opening of the facility.

**Page 39:**

Add the following binding element.)

9. **The intersection of Plantside Dr. and Blankenbaker Pkwy shall be remarked and signalized for split-phase operation and a dedicated right turn lane, as recommended in the traffic study prepared by URS dated 02/25/2014, prior to the issuance of a certification of occupancy for Lot 23 or Lot 24.**

The vote was as follows:

**YES: Commissioners Jarboe, Brown, Tomes, Blake, Peterson, and Kirchdorfer**

**NO: No one.**

**NOT PRESENT FOR THIS CASE: Commissioners Proffitt, Turner, White, and Hughes**

**ABSTAINING: No one.**



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**CASE NO. 13ZONE1014**

***Commissioner Tomes left the hearing.***

**Project Name:** Eiderdown  
979/983 Goss Avenue

**Owner/ Applicant:** Nineeightthree LLC  
2584 East Burnett Avenue  
Louisville, KY 40217

**Representative:** James Gunnoe  
2584 East Burnett Avenue  
Louisville, KY 40217

Alan O. Bryant  
1905 Lynn Way  
Louisville, KY 40222

**Jurisdiction:** Louisville Metro  
**Council District:** 10 – Jim King

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

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

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

**Request:**

Change in zoning from R-6 to C-2, a Variance to permit encroachments into a 5' side yard setback, and Landscape Waivers

**Agency Testimony:**

Julia Williams showed a PowerPoint presentation and reviewed the requests and case summary/background from the staff report. She showed zoning and aerial maps and reviewed the surrounding zoning and land uses. Ms. Williams then

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showed a series of photos of the site and surrounding areas. She showed the applicant's development plan and a waivers and variances exhibit. She reviewed the applicable policies and staff analysis and conclusions from the staff report. Ms. Williams then discussed a letter received from Debra Harlan asking that the applicant consider using pervious pavement and work with an arborist to plant one or two trees in the neighborhood. Ms. Harlan also requested that any lighting be shielded from residential. Ms. Williams also referred to a letter received from Steve Magre indicating the German/Paristown Neighborhood Association's support with some suggested restricted uses. She said the restricted uses were reflected in the proposed binding elements in the staff report.

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

Alan O. Bryant, 1905 Lynn Way, Louisville, KY 40222

James Gunnoe, 2584 E. Burnett Ave, Louisville, KY 40217

Mike Morris, 947 Goss Ave, Louisville, KY 40217

Steve Magre, 1122 Rammers Ave, Louisville, KY

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

Alan Bryant, attorney representing of the applicant, explained that the primary purpose of this request is so the applicant can obtain a liquor license to serve liquor by the drink. He said the restaurant has been open over three years. He said a good restaurant is an enhancement to the neighborhood.

Mike Morris spoke about his support of the proposal and recognized the owners as excellent neighbors. He also stated that Steve Magre also submitted a letter in support.

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

No one.

**The following spoke neither for nor against the request:**

No one.

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**Deliberation**

Commissioner Kirchdorfer said that the applicant had nonconforming rights before. He spoke about the local establishments in the area and said the use is a good fit for the neighborhood.

Commissioner Peterson said it is a nice enhancement to the neighborhood.

Commissioner Brown said he is in support of the rezoning and it is a good fit for the corner. He raised some concern about outdoor dining being so close to the residents and recognized a binding element to address this concern.

Commissioner Jarboe said the zoning is appropriate and the waivers are not out of line.

Commissioner Blake spoke about the case being heard before the LD&T Committee and said there was a lot of support for the rezoning. He said it is nice to see the Goss Avenue area develop.

**An audio/visual recording of the Planning Commission hearing related to this case is available in the Planning & Design Services offices. Please contact the Customer Service staff to view the recording or to obtain a copy. The recording of this hearing will be found on the CD of the March 20, 2014 public hearing proceedings.**

**Zoning**

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

**WHEREAS**, the Louisville Metro Planning Commission finds, based on the staff report and testimony provided, that the proposal complies with Comprehensive Plan Guideline 1 – Community Form because the proposal does not interfere with the current layout of streets, alleys, or sidewalks. The proposal is located in an existing commercial node that includes a mix of uses. C-2 permits other commercial uses that are currently permitted next door. The proposal is located in an existing commercial and residential area. The proposal will not affect public open space in the area. The proposal is for the preservation/renovation of an existing structure that is consistent with the overall look and history of the adjacent neighborhood; and

**WHEREAS**, the Louisville Metro Planning Commission further finds that the proposal complies with Comprehensive Plan Guideline 2 – Centers because the

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proposal will create a new center. The proposal includes a small portion of new construction but is mainly the reuse of an existing structure for commercial use. The proposal is located in a relatively dense area and along a minor arterial. The classification of Goss Avenue as a minor arterial indicates that there is enough traffic and population around the area to support C-2. The proposal is for a small lot within an existing commercial node. No additional infrastructure is necessary with this proposal. The proposal is creating a new center where commercial has existing for over a century. It is adjacent to compatible high density and intensity zoning. The proposal is for mixed use. The site is accessible by all types of people and forms of transportation. Transit is not available along this portion of Goss. The proposal is utilizing existing utilities for the development. On-site parking is proposed at the rear of the site where it typically would be located within the TN form district; and

**WHEREAS**, the Louisville Metro Planning Commission further finds that the proposal complies with Comprehensive Plan Guideline 3 – Compatibility because No new building is proposed. No new signage is proposed. APCD has approved the proposal. Transportation Planning has determined that there would not be an adverse impact of traffic in the area. Lighting will meet LDC requirements. The proposal is for a high intensity commercial zoning district not located along a transit corridor but is located in an existing activity node where a commercial use has been present in the structure for at least a century. The proposal provides some buffering between adjacent residentially used properties. The screening requirements between the uses will be met. The proposal mitigates the impact of the existing development by providing the required screening along the perimeter as well as within the ROW for the VUA screening. The proposal is mainly utilizing an existing structure that meets form district standards. The proposal mitigates the impact of the existing development by providing the required screening along the perimeter as well as within the ROW for the VUA screening. Because the site is adjacent to existing C-2 zoning. The proposal is not a non-residential expansion into an existing residential area; and

**WHEREAS**, the Louisville Metro Planning Commission further finds that the proposal complies with Comprehensive Plan Guideline 4 – Open Space because open space areas are provided between the sidewalk and the existing building. The proposal is not located in an area where there are natural features evident; and

**WHEREAS**, the Louisville Metro Planning Commission further finds that the proposal complies with Comprehensive Plan Guideline 5 - Natural Areas and Scenic and Historic Resources because the proposal is not located in an area where there are natural features evident. Soils are not an issue with the

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proposal. The proposal is for the preservation and re-use of an existing structure; and

**WHEREAS**, the Louisville Metro Planning Commission further finds that the proposal complies with Comprehensive Plan Guideline 6 - Economic Growth and Sustainability because access is not an issue with the proposal. The proposed C-2 zoning will be located in an existing activity node that has been present in the neighborhood for at least a century; and

**WHEREAS**, the Louisville Metro Planning Commission further finds that the proposal complies with Comprehensive Plan Guideline 7 – Circulation because roadway improvements are not required with the proposal. The existing facilities around the site promote alternate transportation. No new roads are proposed. Access will be from existing streets. No additional ROW needs to be dedicated. The proposal is surrounded on two sides by residential. Cross access is not necessary. The minimum requirement for parking is being provided; and

**WHEREAS**, the Louisville Metro Planning Commission further finds that the proposal complies with Comprehensive Plan Guideline 8 - Transportation Facility Design because the proposal is surrounded on three sides by right of way. Cross access is not necessary. Access to the development is by public roadways. The proposal is surrounded on two sides by residential. Cross access is not necessary; and

**WHEREAS**, the Louisville Metro Planning Commission further finds that the proposal complies with Comprehensive Plan Guideline 9 - Bicycle, Pedestrian and Transit because the existing facilities around the site promote alternate transportation; and

**WHEREAS**, the Louisville Metro Planning Commission further finds that the proposal complies with Comprehensive Plan Guideline 10 - Flooding and Stormwater because MSD has preliminarily approved the proposal; and

**WHEREAS**, the Louisville Metro Planning Commission further finds that the proposal complies with Comprehensive Plan Guideline 12 - Air Quality because APCD has approved the proposal; and

**WHEREAS**, the Louisville Metro Planning Commission further finds that the proposal complies with Comprehensive Plan Guideline 13 - Landscape Character because the proposal does not have any existing natural features and is not located in an area where natural corridors are evident; and

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**WHEREAS**, the Louisville Metro Planning Commission further finds that the proposal complies with Comprehensive Plan Guideline 14 – Infrastructure because existing utilities will serve the site. The Health Department has not indicated any issues with the proposal. The proposal is located in an area with adequate water supply; now, therefore be it

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the legislative body of the Louisville Metro Council that the change in zoning from R-6 to C-2 be **APPROVED** on property described in the legal description.

**The vote was as follows:**

**YES: Commissioners Jarboe, Brown, Blake, Peterson, and Kirchdorfer**

**NO: No one.**

**NOT PRESENT FOR THIS CASE: Commissioners Tomes, Proffitt, Turner, White, and Hughes**

**ABSTAINING: No one.**

**Variance**

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

**WHEREAS**, the Louisville Metro Planning Commission finds, based on the staff report and testimony provided, that allowing encroachments into the 5' side yard will not affect the public because the encroachments will be screened by a proposed 6' wood fence; and

**WHEREAS**, the Louisville Metro Planning Commission further finds that due to the screening and the 5' side yard being adjacent to another C-2 zoned property and the rear of an R-6 zoned property the character of the area will not be altered. The rear of most properties in the area is an accessory structure area and where an alley is available the rear of properties in the area are a parking area; and

**WHEREAS**, the Louisville Metro Planning Commission further finds that the variance will not affect the public because it does not encroach into the public realm. A portion of the variance is to allow parking to encroach into the setback which will allow visitors to the business to not have to park in what otherwise may be a parking space for an adjacent residence; and

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**WHEREAS**, the Louisville Metro Planning Commission further finds that because the encroachments are no more closer to the property line in which the variance is sought than the existing structure and because the encroachments will be screened by a 6' wood fence, the variance is not unreasonable; and

**WHEREAS**, the Louisville Metro Planning Commission further finds that the site is unique in its history of non-conforming commercial which generally doesn't apply to all the land in the area. Due to the nature and history of the building being commercial encroachments into the side yards would be evident throughout the area where a non-conforming structure is located adjacent to residential zoning; and

**WHEREAS**, the Louisville Metro Planning Commission further finds that the hardship on the applicant would be to not have off street parking available for the customers of the business. Parking would be utilized on street and within the neighborhood which could be seen as a hardship on the neighborhood. A parking waiver would also be necessary which could also be seen as a hardship on the applicant due to the requirements for achieving a waiver; and

**WHEREAS**, the Louisville Metro Planning Commission further finds that the applicant purchased a non-conforming commercial building that had no existing off street parking. The site would not have been able to meet parking regulations within the prior zoning regulations. The variance arises from the applicant wanting to relieve perceived or real parking issues that may or may not occur within the area; now, therefore be it

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** the Variance from Table 5.2.2 to permit encroachments into the 5' side yard setback on property described in the legal description.

**The vote was as follows:**

**YES: Commissioners Jarboe, Brown, Blake, Peterson, and Kirchdorfer**

**NO: No one.**

**NOT PRESENT FOR THIS CASE: Commissioners Tomes, Proffitt, Turner, White, and Hughes**

**ABSTAINING: No one.**

**Waivers**

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

Waiver #1

Chapter 10.2.4 to reduce the 15' LBA along the northeast property line to 5'.

**WHEREAS**, the Louisville Metro Planning Commission finds, based on the staff report and testimony provided, that the proposal will not affect adjacent property owners because the site will be screened and planted per Chapter 10. The waiver will not violate Cornerstone 2020 because the planting and screening requirements will still be met.

**WHEREAS**, the Louisville Metro Planning Commission further finds that the waiver is necessary so that the applicant can provide some on-site parking for the site instead of having customers compete with residences for parking; and

**WHEREAS**, the Louisville Metro Planning Commission further finds that an unnecessary hardship would be created on the applicant because the existing use requires a certain number of parking spaces and the applicant is attempting to achieve the minimum amount of parking required for the site on the site instead of placing the burden on existing residences with on street parking, and

Waiver #2

Chapter 10.2.4 to eliminate the 15' LBA along the northwest property line where the site is adjacent to R-6.

**WHEREAS**, the Louisville Metro Planning Commission further finds that the proposal will not affect adjacent property owners because the site will be screened per Chapter 10; and

**WHEREAS**, the Louisville Metro Planning Commission further finds that the waiver will not violate Cornerstone 2020 because the screening requirements will still be met; and

**WHEREAS**, the Louisville Metro Planning Commission further finds that the waiver is necessary so that the applicant can provide some on-site parking for the site instead of having customers compete with residences for parking; and

**WHEREAS**, the Louisville Metro Planning Commission further finds that an unnecessary hardship would be created on the applicant because the existing use requires a certain number of parking spaces and the applicant is attempting to achieve the minimum amount of parking required for the site on the site instead of placing the burden on existing residences with on street parking; and



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Waiver #3

Chapter 10.2.9 to permit encroachments into the 5' LBA where the site is adjacent to a non-residential zoned lot with 1st floor residential use.

**WHEREAS**, the Louisville Metro Planning Commission further finds that the proposal will not affect adjacent property owners because the site will be screened and planted per Chapter 10; and

**WHEREAS**, the Louisville Metro Planning Commission further finds that the waiver will not violate Cornerstone 2020 because the planting and screening requirements will still be met; and

**WHEREAS**, the Louisville Metro Planning Commission further finds that the waiver is necessary so that the applicant can provide some on-site parking for the site instead of having customers compete with residences for parking; and

**WHEREAS**, the Louisville Metro Planning Commission further finds that an unnecessary hardship would be created on the applicant because the existing use requires a certain number of parking spaces and the applicant is attempting to achieve the minimum amount of parking required for the site on the site instead of placing the burden on existing residences with on street parking; and

Waiver #4

Chapter 10.2.9 to eliminate the required 5' LBA along Krieger Street.

**WHEREAS**, the Louisville Metro Planning Commission further finds that the proposal will not affect adjacent property owners because the site will be screened and planted within the right of way per chapter 10; and

**WHEREAS**, the Louisville Metro Planning Commission further finds that the proposal will not affect adjacent property owners because the site will be screened and planted within the right of way per chapter 10; and

**WHEREAS**, the Louisville Metro Planning Commission further finds that the waiver is necessary so that the applicant can provide some on-site parking for the site instead of having customers compete with residences for parking; and

**WHEREAS**, the Louisville Metro Planning Commission further finds that an unnecessary hardship would be created on the applicant because the existing use requires a certain number of parking spaces and the applicant is attempting to achieve the minimum amount of parking required for the site on the site

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instead of placing the burden on existing residences with on street parking; now, therefore be it

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** the following Landscape Waivers on property described in the legal description.

1. Chapter 10.2.4 to reduce the 15' LBA along the northeast property line to 5'.
2. Chapter 10.2.4 to eliminate the 15' LBA along the northwest property line where the site is adjacent to R-6.
3. Chapter 10.2.9 to permit encroachments into the 5' LBA where the site is adjacent to a non-residential zoned lot with 1<sup>st</sup> floor residential use.
4. Chapter 10.2.9 to eliminate the required 5' LBA along Krieger Street.

**The vote was as follows:**

**YES: Commissioners Jarboe, Brown, Blake, Peterson, and Kirchdorfer**

**NO: No one.**

**NOT PRESENT FOR THIS CASE: Commissioners Tomes, Proffitt, Turner, White, and Hughes**

**ABSTAINING: No one.**

**Development Plan**

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

**WHEREAS**, the Louisville Metro Planning Commission finds, based on the staff report and testimony provided, that the proposal preserves a century-plus old commercial structure and adjacent house that have historical context within the National Register eligible district; and

**WHEREAS**, the Louisville Metro Planning Commission further finds that off street parking is being provided to avoid competition with adjacent residences and the existing sidewalk is being used for pedestrian connectivity in the area; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the buffer yards indicated on the plan will be used for the planting and screening of the site from the adjacent residential zone and used properties; and

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**WHEREAS**, the Louisville Metro Planning Commission finds that MSD has preliminarily approved the proposal; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the existing commercial structure and preservation of the adjacent existing home are compatible with the area because the screening requirements are being met. The site would not otherwise have to provide the screening without the expansion of parking in the rear of the property. Parking being provided in the rear of the property is consistent with the traditional form and is evident at the rear of properties throughout the area but mainly where an alley is present; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the development plan complies with both the Comprehensive Plan and LDC because the applicant is providing the screening materials required for the LBAs which ensure the compatibility of the site with the adjacent residentially used and zoned properties; now, therefore be it

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** the District Development Plan on property described in the legal description **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 9,694 square feet of gross floor area.
3. The following uses shall not be permitted on site: boarding and lodging houses, community residences, community service facility, day care centers, nurseries, kindergartens, extended stay lodging, pawn shop, residential care facilities, transitional housing, homeless shelter, and fraternities and sororities. Notice of a request to amend this binding element shall be given in accordance with the Planning Commission's policies and procedures. A committee of the Planning Commission may require a public hearing on the request to amend this binding element.

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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 Inspections, Permits and Licenses, Louisville Metro Public Works and the Metropolitan Sewer District.
  - b. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a parking lot or building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
6. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
7. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
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. No outdoor consumption of alcohol on the site past midnight on weeknights (Sunday-Thursday) and no outdoor consumption on the site past 1am on weekends (Friday and Saturday).

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**The vote was as follows:**

**YES: Commissioners Jarboe, Brown, Blake, Peterson, and Kirchdorfer**

**NO: No one.**

**NOT PRESENT FOR THIS CASE: Commissioners Tomes, Proffitt, Turner,  
White, and Hughes**

**ABSTAINING: No one.**

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**Special Report:**

Steve Porter spoke about the details and status of two bills before the state senate: Senate Bill 144 and Senate Bill 181.

**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 3:34 p.m.

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**Chairman**

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**Division Director**