

PLANNING COMMISSION MINUTES
April 18, 2019

PUBLIC HEARING

CASE NO. 18ZONE1080

***NOTE: Commissioner Brown returned to the hearing and heard and voted on this and the remainder of the cases.**

Request: Change in zoning from C-2 and OR-2 to EZ-1 and change in form district from Traditional Neighborhood to Traditional Workplace, with associated Development Plan, Variances and Waivers.

Project Name: Midwest Sprinkler Storage Building
Location: 1375 South Preston Street
Owner: Midwest Sprinkler Corporation
Applicant: Midwest Sprinkler Corporation
Representative: Frost Brown Todd
Jurisdiction: Louisville Metro
Council District: 4 – Barbara Sexton Smith

Case Manager: Dante St. Germain, AICP, Planner II

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

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

Agency Testimony:

01:51:45 Dante St. Germain presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.)

The following spoke in support of this request:

Tanner Nichols, Frost Brown Todd, 400 West Market Street Suite 3200, Louisville, KY 40202

Jack Canady, 1420 South Jackson Street, Louisville, KY 40208 (signed in but did not speak)

Summary of testimony of those in support:

01:59:42 Tanner Nichols, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.) He said the applicant would agree to put up a privacy fence between two properties,

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and also allow a public mural to be painted along one wall of the building, as discussed during a neighborhood meeting with Shelby Park Neighborhood Association.

The following spoke in opposition to this request:

No one spoke.

Deliberation:

02:07:34 Commissioners' 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.

Change in form district

02:09:42 On a motion by Commissioner Howard, seconded by Commissioner Peterson, the following resolution based on the Standard of Review and Staff Analysis, the applicant's justification, and the evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets **Community Form: Goal 1** because the proposed zoning district change is not an expansion into an existing residential area, as the only abutting property is vacant. The nearest residentially used properties are across Woodbine Street to the north, and those properties are already adjacent to industry to their east; the subject site is located on major transit corridors, and in an existing industrial activity center. Adequate infrastructure exists to support the uses allowed by the proposed zoning district; the applicant proposes to change the form district to Traditional Workplace to comply with form district guidelines; disadvantaged populations are not disproportionately impacted by the proposal; the proposal does not include any potential impacts to air or water; the site has direct access to two minor arterial roads; the proposal includes a privacy fence to the north which will help to mitigate any adverse impacts from noise on the nearest residential residences, which are located across Woodbine Street; no junkyards, landfills, quarries, or similar uses are included in the proposal; the Commission further finds the Proposal conforms to the Community Form Plan Element 4.1. The TW form district applies to older established industrial and employment areas that contain primarily small-to-medium scale industrial and employment uses. The uses in a TW form district are often integrated with or adjacent to residential neighborhoods. The TW form district should be served by public transportation and parking should be

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encouraged mostly off-street and behind buildings. Flexible and creative site design should be encouraged in the redevelopment in a TW form district. The proposed rezoning from OR2/C2 to EZI is appropriate for the site and is in compliance with the intent of the newly proposed TW form district. The Storage Building is of a design appropriate in mass, scale and style to the buildings in the neighborhood. The project is the kind of improvement that is encouraged by Plan 2040 and allows for the expansion of an existing business. It conforms to the intent of the Community Form Plan Element because it promotes the prosperity of the neighborhood. The zoning change and new Storage Building is also adaptive infill development which is a clear objective of the Community Form Plan Element. The new use allows for the expansion of a business that is located near the major transportation corridor or 1-65. The site encourages the expanded industry to be located in a new workplace form district and in an area already served by existing infrastructure. Finally, Goal 5 of the Community Form Plan Element is to integrate art and the specific objective is to have art infused into the build environment. The applicant has met with a member of the neighborhood association and plans to allow appropriate murals to be painted on the wall ls of buildings at the property; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Community Form: Goal 2** because the proposed zoning district of EZ-1 is compatible with the proposed zoning district of Traditional Workplace. The proposal would expand an existing activity center in an appropriate location, as there is adequate infrastructure and adequate buffering to the nearest residences; the proposal is for an industrial zoning district; the proposed zoning district would permit a more compact pattern of development, as the subject site is currently unutilized and the applicant proposes to develop it; the proposal would expand an existing industrial zoning district into an unutilized parcel. The proposal would require fewer vehicle trips by permitting the applicant to store finished products on site; the proposal is for an industrial zoning district that would disallow almost all residential uses; the applicant proposes to preserve the two existing buildings on the property, which under the proposed zoning district could be used for commercial purposes in the future; the proposal does not include an underutilized parking lot; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Community Form: Goal 3** because no natural features are evident on the site. The required tree canopy will be provided; no wet or highly permeable soils, or severe, steep or unstable slops are evident on the site; the subject site is not located in the Ohio River Corridor; and the site is not located in a flood-prone area or in an area vulnerable to sinkholes or landslides; and

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WHEREAS, the Commission further finds that the proposal meets the intents of **Community Form: Goal 4** because the existing structures on the site are proposed to be preserved; no distinctive cultural features are evident on the site; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the proposed **Change in form district** from Traditional Neighborhood to Traditional Workplace be **APPROVED**.

The vote was as follows:

YES: Commissioners Tomes, Peterson, Daniels, Brown, Howard, and Carlson.
NOT PRESENT: Commissioners Jarboe, Lewis, Robinson, and Smith.

Zoning

02:10:38 On a motion by Commissioner Howard, seconded by Commissioner Peterson, the following resolution based on the Standard of Review and Staff Analysis, the applicant's justification, and the evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets **Community Form: Goal 1** because the proposed zoning district change is not an expansion into an existing residential area, as the only abutting property is vacant. The nearest residentially used properties are across Woodbine Street to the north, and those properties are already adjacent to industry to their east; the subject site is located on major transit corridors, and in an existing industrial activity center. Adequate infrastructure exists to support the uses allowed by the proposed zoning district; the applicant proposes to change the form district to Traditional Workplace to comply with form district guidelines; disadvantaged populations are not disproportionately impacted by the proposal; the proposal does not include any potential impacts to air or water; the site has direct access to two minor arterial roads; the proposal includes a privacy fence to the north which will help to mitigate any adverse impacts from noise on the nearest residential residences, which are located across Woodbine Street; no junkyards, landfills, quarries, or similar uses are included in the proposal; the Commission further finds the Proposal conforms to the Community Form Plan Element 4.1. The TW form district applies to older established industrial and employment areas that contain primarily small-to-medium scale industrial and employment uses. The uses in a TW form district are often integrated with or adjacent to residential neighborhoods. The TW form district should be served by public transportation and parking should be encouraged mostly off-street and behind buildings. Flexible and creative site design should be encouraged in the redevelopment in a TW form district. The proposed rezoning from OR2/C2 to EZI is appropriate for the site and is in compliance with the

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intent of the newly proposed TW form district. The Storage Building is of a design appropriate in mass, scale and style to the buildings in the neighborhood. The project is the kind of improvement that is encouraged by Plan 2040 and allows for the expansion of an existing business. It conforms to the intent of the Community Form Plan Element because it promotes the prosperity of the neighborhood. The zoning change and new Storage Building is also adaptive infill development which is a clear objective of the Community Form Plan Element. The new use allows for the expansion of a business that is located near the major transportation corridor or 1-65. The site encourages the expanded industry to be located in a new workplace form district and in an area already served by existing infrastructure. Finally, Goal 5 of the Community Form Plan Element is to integrate art and the specific objective is to have art infused into the build environment. The applicant has met with a member of the neighborhood association and plans to allow appropriate murals to be painted on the walls of buildings at the property; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Community Form: Goal 2** because the proposed zoning district of EZ-1 is compatible with the proposed zoning district of Traditional Workplace. The proposal would expand an existing activity center in an appropriate location, as there is adequate infrastructure and adequate buffering to the nearest residences; the proposal is for an industrial zoning district; the proposed zoning district would permit a more compact pattern of development, as the subject site is currently unutilized and the applicant proposes to develop it; the proposal would expand an existing industrial zoning district into an unutilized parcel. The proposal would require fewer vehicle trips by permitting the applicant to store finished products on site; the proposal is for an industrial zoning district that would disallow almost all residential uses; the applicant proposes to preserve the two existing buildings on the property, which under the proposed zoning district could be used for commercial purposes in the future; the proposal does not include an underutilized parking lot; and

WHEREAS, The Planning Commission further finds the Proposal conforms to the **Community Form Plan Element 4.1**. The TW form district applies to older established industrial and employment areas that contain primarily small-to-medium scale industrial and employment uses. The uses in a TW form district are often integrated with or adjacent to residential neighborhoods. The TW form district should be served by public transportation and parking should be encouraged mostly off-street and behind buildings. Flexible and creative site design should be encouraged in the redevelopment in a TW form district. The proposed rezoning from OR2/C2 to EZ1 is appropriate for the site and is in compliance with the intent of the newly proposed TW form district. The Storage Building is of a design appropriate in mass, scale and style to the buildings in the neighborhood. The project is the kind of improvement that is encouraged by Plan 2040 and allows for the expansion of an existing business. It

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conforms to the intent of the Community Form Plan Element because it promotes the prosperity of the neighborhood. The zoning change and new Storage Building is also adaptive infill development which is a clear objective of the Community Form Plan Element. The new use allows for the expansion of a business that is located near the major transportation corridor or 1-65. The site encourages the expanded industry to be located in a new workplace form district and in an area already served by existing infrastructure. Finally, Goal 5 of the Community Form Plan Element is to integrate art and the specific objective is to have art infused into the build environment. The applicant has met with a member of the neighborhood association and plans to allow appropriate murals to be painted on the walls of buildings at the property.

WHEREAS, the Commission further finds that the proposal meets the intents of **Community Form: Goal 3** because no natural features are evident on the site. The required tree canopy will be provided; no wet or highly permeable soils, or severe, steep or unstable slopes are evident on the site; the subject site is not located in the Ohio River Corridor; and the site is not located in a flood-prone area or in an area vulnerable to sinkholes or landslides; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Community Form: Goal 4** because the existing structures on the site are proposed to be preserved; no distinctive cultural features are evident on the site; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Mobility: Goal 1** because the subject site is located in an existing activity center and employment center, and is adjacent to transit; access to the site is achieved directly from two minor arterial streets, and not through an area of significantly lower intensity or density; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Mobility: Goal 3** because the subject site is well served by transit, and has sidewalks available. Housing is located a block away; the subject site is located on two minor arterials and transit corridors. There are sidewalks along the streets adjacent to the site. The proposed zoning district would permit the expansion of an existing industrial use; the vicinity of the subject site is walkable, with sidewalks available; Transportation Planning has approved the proposal; and

WHEREAS, The Planning Commission further finds the Proposal conforms to the **Mobility Plan Element 4.2**. The plan element of Mobility promotes effective connectivity through the community via a safe and effective transportation system. Goal 3 of the Mobility plan element is to encourage land use and transportation patterns that connect Louisville Metro and support future growth. There are existing sidewalks along the western and southern boundaries of this property. The property is near a

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public transportation route along South Preston. Policy 3 under Goal 3 of the Mobility plan element is to evaluate developments for their ability to promote public transportation and pedestrian use. Policy 4.5 under Goal 3 is to encourage linkage between neighborhoods and employment. Although air quality relating to automobile emissions, noise and traffic flow concerns will not be an issue as no additional traffic will be generated by this proposal. This location for the new development will actually promote air quality and access to public transportation routes. The proximity of the subject property to I-65 and other neighborhood will continue to result in shorter trips for residents, resulting in further reduction of automobile emissions. The existing sidewalks are sufficient to accommodate expected pedestrian movement. Also, as previously indicated, there will be no increase in vehicular traffic and no adverse effect on air quality; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Community Facilities: Goal 2** because the subject site is served by utilities and all relevant utilities have approved the proposal; Louisville Water Company has approved the proposal, and MSD has approved the proposal; and

WHEREAS, The Planning Commission further finds the Proposal conforms to the **Community Facilities Plan Element 4.3**. Although the proposal does not include any new community facilities, it does comply with Policy 1 of Goal 2 of the Community Facilities plan element. The development is located in an area that is being served by existing utilities. In addition, the Metro Louisville Fire Department will provide fire safety services to the site and the Metro Louisville Police Department will provide police service to the site; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Economic Development: Goal 1** because the proposed land use would serve and expand an existing industrial use that is located to the east; the subject site is adjacent to existing industrial to the east and south; the subject site is located at the intersection of two minor arterials; the subject site is not located near the airport or the Ohio River; and the subject site is located on two minor arterial streets and within an existing industrial activity center; and

WHEREAS, The Planning Commission further finds the Proposal conforms to the **Economic Development Plan Element 4.4**. The intent of the Economic Development plan element is to provide a framework for a healthy economic climate. The goals, objectives and policies advance Louisville Metro's economic development vision by supporting small and mid-sized businesses and encouraging investment in areas facing disinvestment. Clearly allowing the applicant to expand the business with the Storage Building would further to strategy of promoting small businesses and encouraging investment in a distressed area. Objective (b) of Goal 1 of this plan element is the

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redevelopment of underused commercial or industrial areas. This property is currently being used for limited storage in the existing garages but is otherwise underused. Policy 2 of Goal 1 of this plan element is to encourage industries to locate adjacent to existing industry. This property is located next to applicant's current operations which is currently zoned EZI and in a TW form district. The property to the south of this location is also zoned EZ1 and in a TW form district. Policy 5 of Goal 1 of this plan element is to require industrial development to locate with appropriate transportation connectivity near an arterial street which is the case with this location. Policy 2 of Goal 2 of this plan element encourages opportunities for adaptive re-use and encourages infill development through flexible land use regulations. Policy 3 of Goal 2 of this plan element encourages tree plantings that will be a part of applicant's development. The reinvestment and redevelopment of this property is consistent with and supported by the Plan; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Livability: Goal 1** because the subject site is not located in a karst area; the subject site is not located in the regulatory floodplain; the subject site is not located in the regulatory floodplain; and

WHEREAS, The Planning Commission further finds the Proposal conforms to the Livability Plan Element 4.5. The intent of the Livability plan element is to provide guidance and direction for the provision and maintenance of resources necessary for the health and well-being of the citizens. Objective (c) and policy 41 of Goal 1 of this plan element is encourage new tree plantings and the restoration of the tree canopy. There are currently no trees on the property, but the applicant intends to fully comply with any new tree canopy requirements. Policy 2 of Goal 2 of this plan element is to streamline the application and permitting process for the appropriate vacant properties. While there is not an absent property owner, this property as currently zoned does not allow for its adaptive reuse and the zoning change would allow for appropriate reuse. Finally, Goal 3 of this plan element promotes equitable access to land use planning to not only those large developers and industry, but also to small business owners looking to expand operations and business opportunities which in turn leads to better neighborhoods and prosperity of the citizens of those neighborhoods; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Housing: Goals 1 and 2** because the proposed zoning district would not permit most forms of housing; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Housing: Goal 3** because the subject site is currently vacant. No existing residents will be displaced; and the proposed zoning district would not permit most forms of housing; and

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WHEREAS, The Planning Commission further finds the Proposal conforms to the Housing Plan Element 4.1 This plan element seeks to enhance housing opportunities to all citizens of Louisville. Specifically Goal 2 of this element is to facilitate the development of connected neighborhoods with an objective to promote infill development and adaptive re-use. This site was previously eight individual lots that have been consolidated to allow for the expansion of an existing business. The zoning change and form district change will allow for the construction of the new Storage Building which will allow for the adaptive re-use of the property. The commerce in this TW form district will expand and benefit the adjacent TN form district. The uses in TW are often integrated with or adjacent to residential neighborhoods and allow for residents of the neighborhood local employment opportunities; and

WHEREAS, the Planning Commission further finds the Proposal conforms to all other applicable sections of Plan 2040; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the proposed **Change in zoning** from C-2 Commercial and OR-2 Office Residential to EZ-1 Enterprise Zone be approved.

The vote was as follows:

YES: Commissioners Tomes, Peterson, Daniels, Brown, Howard, and Carlson.
NOT PRESENT: Commissioners Jarboe, Lewis, Robinson, and Smith.

Variances

- **Variance #1 - From Section 5.2.5.C.3.c to allow a structure to encroach into the required rear yard setback.**
- **Variance #2 - From Section 5.5.1.A.2 to allow a structure on a corner lot to exceed the maximum allowable setback of 5' from each street frontage.**

02:11:32 On a motion by Commissioner Howard, seconded by Commissioner Peterson, the following resolution based on the Standard of Review and Staff Analysis, the applicant's justification, and the evidence and testimony heard today, was adopted:

(Variance #1) WHEREAS, the Louisville Metro Planning Commission finds that the requested variance will not adversely affect public health, safety or welfare as the applicant is providing a privacy fence between the subject site and the affected property, with the result that buffering is still being provided; and

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WHEREAS, the Commission further finds that the proposed storage building is proposed to be situated toward the rear of the site. If granted, the variance will not affect any issue or concern relating to public health, public safety or the general welfare. It is anticipated that the proposal will receive the approval of Transportation Review, which will demonstrate that the location of the building does not adversely affect the public health, safety or welfare; and

WHEREAS, the Commission further finds that the requested variance will not alter the essential character of the general vicinity as reduced setbacks are common in Traditional form districts and in the general vicinity; and

WHEREAS, the Commission further finds that the proposed building encroaches into the minimum rear yard setback. The proposed storage building is in character with the surrounding industrial uses, while at the same time a much lower impact, both visually and materially. The current site is largely vacant. Any development on the site would be more in character with the general vicinity; and

WHEREAS, the Commission further finds that the requested variance will not cause a hazard or nuisance to the public as the reduced setback will affect only one property, which is currently vacant; and

WHEREAS, the Commission further finds that the proposed variance will not cause a hazard or nuisance to the public because the location of the building causes no potentially threatening condition, nor does it cause any nuisance related to excess lighting, dust, noise, visual or otherwise; and

WHEREAS, the Commission further finds that the requested variance will not allow an unreasonable circumvention of zoning regulations as the reduced setback is necessary to allow the applicant to construct a storage building without demolishing an existing building already on the property; and

WHEREAS, the Commission further finds that the proposed variances will not allow an unreasonable circumvention of the requirements of the zoning regulations because the building is proposed to be situated near the rear of the property, allowing for future development on the site. The rear of the proposed storage shed would back up to the rear of the adjacent building. Landscaping will still be provided in more appropriate areas on the site. Thus, the granting of the variance will not allow an unreasonable circumvention of the requirements of the zoning regulations; and

WHEREAS, the Commission further finds that the requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone because there is an existing structure on the property which the applicant

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proposes to preserve, requiring the proposed storage building to be set close to the abutting property at the rear; and

WHEREAS, the Commission further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant by requiring the applicant to construct the proposed storage building elsewhere on the lot, which is proposed to be reserved for future expansion of the business, reducing the utility of the lot for future expansion; 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 its land because it would disallow the use of the property as part of the operations of the adjacent business; and

WHEREAS, the Commission further finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as the variance is being requested and no construction has yet taken place; and

(Variance #2) WHEREAS, the Commission further finds that the requested variance will not adversely affect public health, safety or welfare as the increased building setback from the adjoining streets is not likely to be noticeable to the public; and

WHEREAS, the Commission further finds that the proposed storage building is proposed to be situated toward the rear of the site. If granted, the variance will not affect any issue or concern relating to public health, public safety or the general welfare. It is anticipated that the proposal will receive the approval of Transportation Review, which will demonstrate that the location of the building does not adversely affect the public health, safety or welfare; and

WHEREAS, the Commission further finds that the requested variance will not alter the essential character of the general vicinity as the increased setback is unlikely to be noticeable from S Preston Street, since the setback is increased by only 4 feet on that side. The increased setback is also unlikely to be noticeable from S Jackson Street, as the building is oriented so as to be more visible to S Preston; and

WHEREAS, the Commission further finds that the proposed building encroaches into the minimum rear yard setback. The proposed storage building is in character with the surrounding industrial uses, while at the same time a much lower impact, both visually and materially. The current site is largely vacant. Any development on the site would be more in character with the general vicinity; and

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WHEREAS, the Commission further finds that the requested variance will not cause a hazard or nuisance to the public as an increased setback does not cause a hazard, and the applicant proposes to have a mural painted on the side of the building to mitigate any nuisance; and

WHEREAS, the Commission further finds that the proposed variance will not cause a hazard or nuisance to the public because the location of the building causes no causes no potentially threatening condition , nor does it cause any nuisance related to excess lighting, dust, noise, visual or otherwise; and

WHEREAS, the Commission further finds that the requested variance will not allow an unreasonable circumvention of zoning regulations as the increased setback from S Preston Street would permit the applicant space in the yard to adequately secure the property, and the increased setback from S Jackson Street would permit the applicant to construct the new structure behind an existing building which is to be preserved; and

WHEREAS, the Commission further finds that the proposed variances will not allow an unreasonable circumvention of the requirements of the zoning regulations because the building is proposed to be situated near the rear of the property, allowing for future development on the site. There is an existing building holding the corner in a manner intended by the regulation. Thus, the granting of the variance will not allow an unreasonable circumvention of the requirements of the zoning regulations; and

WHEREAS, the Commission further finds that the requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone because there is an existing structure on the property which the applicant proposes to preserve, requiring the proposed storage building to be set close to the abutting property at the rear and preventing it from meeting the required maximum setback along S Jackson Street. The increased setback from S Preston Street allows the applicant space to secure the property; and

WHEREAS, the Commission further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant by requiring the applicant to construct the proposed storage building elsewhere on the lot, which is proposed to be reserved for future expansion of the business, reducing the utility of the lot for future expansion; 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 its land because it would disallow the use of the property as part of the operations of the adjacent business; and

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WHEREAS, the Commission further finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as the variance is being requested and no construction has yet taken place; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the requested **Variations from Section 5.2.5.C.3.c** to allow a structure to encroach into the required rear yard setback, and from Section 5.5.1.A.2 to allow a structure on a corner lot to exceed the maximum allowable setback of 5' from each street frontage.

The vote was as follows:

YES: Commissioners Tomes, Peterson, Daniels, Brown, Howard, and Carlson.
NOT PRESENT: Commissioners Jarboe, Lewis, Robinson, and Smith.

Waivers

- **Waiver #1 - From Section 5.5.5.A.1 to not provide the required screening between an accessory structure and the adjacent public street**
- **Waiver #2 - From Section 10.2.4 to not provide the required landscape buffer and associated plant material on the north property line**

02:12:07 On a motion by Commissioner Howard, seconded by Commissioner Peterson, the following resolution based on the Standard of Review and Staff Analysis, the applicant's justification, and the evidence and testimony heard today, was adopted:

(Waiver #1) WHEREAS, the Louisville Metro Planning Commission finds that the waiver will not adversely affect adjacent property owners as the screening is required between the accessory structure and the public street; and

WHEREAS, the Commission further finds that the requested waiver will not adversely affect adjacent property owners because the adjacent vacant building was originally built to the extremities of the property line. The proposed storage shed backs up to this vacant existing building with minimal impact to the adjacent parcel and the surrounding area; and

WHEREAS, the Commission further finds that the waiver will not violate specific guidelines of Plan 2040 as Plan 2040 Community Form Goal 1 Policy 10 encourages the mitigation of impacts caused when incompatible developments unavoidably occur adjacent to one another, including the mitigation of visual nuisances. This policy is not

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violated because the applicant has proposed to have a mural painted on the side of the structure to mitigate the appearance of the structure; and

WHEREAS, the Commission further finds that the requested waiver will not violate the Comprehensive Plan. Plan 2040 Community Form Goal 1 encourages flexible site design and respect for the traditional pattern of development. The surrounding area has traditionally developed with little to no buffer areas between parcels. Goal 5 encourages public art. The proposed storage shed intends to have a mural on the visible portion of the structure; and

WHEREAS, the Commission further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as security concerns preclude completely opaque screening of the site from the adjacent road; and

WHEREAS, the Commission further finds that the existing adjacent vacant building was originally built to the property lines. The proposed storage shed sits between an existing garage and the existing adjacent building. The location of the storage shed allows for future development of the site while minimizing impacts. Thus, the request constitutes the minimum necessary to afford relief to the Applicant; and

WHEREAS, the Commission further finds that the applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived by intending to have a mural painted on the side of the storage building to mitigate its impact and contribute to the visual quality of life of the neighborhood; 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. Strict application would require the removal of the existing garage or limit future development of the site; and

(Waiver #2) WHEREAS, the Commission further finds that the waiver will not adversely affect adjacent property owners as the affected adjacent property is currently vacant, and a screening fence will be provided; and

WHEREAS, the Commission further finds that the requested waiver will not adversely affect adjacent property owners because the adjacent vacant building was originally built to the extremities of the property line. The proposed storage shed backs up to this vacant existing building with minimal impact to the adjacent parcel and the surrounding area; and

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WHEREAS, the Commission further finds that the waiver will not violate specific guidelines of Plan 2040 as Plan 2040 Community Form Goal 1 Policy 10 encourages the mitigation of impacts caused when incompatible developments unavoidably occur adjacent to one another, including the mitigation of visual nuisances. This policy is not violated because the applicant will provide a privacy fence between the subject property and the affected property to mitigate the impact of the structure; and

WHEREAS, the Commission further finds that the requested waiver will not violate the Comprehensive Plan. Plan 2040 Community Form Goal 1 encourages flexible site design and respect for the traditional pattern of development. The surrounding area has traditionally developed with little to no buffer areas between parcels. Goal 5 encourages public art. The proposed storage shed intends to have a mural on the visible portion of the structure; and

WHEREAS, the Commission further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the amount of space between the proposed storage building and the adjacent property is too small to allow the required plant material to thrive; and

WHEREAS, the Commission further finds that the existing adjacent vacant building was originally built to the property lines. The proposed storage shed sits between an existing garage and the existing adjacent building. The location of the storage shed allows for future development of the site while minimizing impacts. Thus, the request constitutes the minimum necessary to afford relief to the Applicant; 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 create an unnecessary hardship on the applicant by requiring the applicant to install plant material that would not be able to thrive in the amount of space available; 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. Strict application would require the removal of the existing garage or limit future development of the site; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the requested **Waivers** from Section 5.5.5.A.1 to not provide the required screening between an accessory structure and the adjacent public street, and from Section 10.2.4 to not provide the required landscape buffer and associated plant material on the north property line.

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The vote was as follows:

YES: Commissioners Tomes, Peterson, Daniels, Brown, Howard, and Carlson.
NOT PRESENT: Commissioners Jarboe, Lewis, Robinson, and Smith.

Amendment of Restriction

02:12:42 On a motion by Commissioner Howard, seconded by Commissioner Peterson, the following resolution based on the evidence and testimony heard today, was adopted:

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Amendment to Restriction that is listed in Section 2.6.1.A.1, which requires a 200' setback from any residential use not zoned EZ-1.

The vote was as follows:

YES: Commissioners Tomes, Peterson, Daniels, Brown, Howard, and Carlson.
NOT PRESENT: Commissioners Jarboe, Lewis, Robinson, and Smith.

Detailed District Development Plan with Binding Elements

02:13:25 On a motion by Commissioner Howard, seconded by Commissioner Peterson, the following resolution based on the Standard of Review and evidence and testimony heard today, was adopted:

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

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

WHEREAS, the Commission further finds that there are no open space requirements pertinent to the current proposal; and

WHEREAS, the Commissioners further finds that the Metropolitan Sewer District has approved the preliminary development plan and will ensure the provision of adequate

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

WHEREAS, the Commissioners further finds that the overall site design and land uses are compatible with the existing and future development of the area. The proposed site plan expands industrial uses from an adjacent site, and adequately buffers the proposed low-intensity industrial use from the most affected adjoining property, which is currently vacant; and

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

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

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
3. The existing western access point to S Jackson Street shall be closed, and access to the site shall be achieved from S Preston Street and the private alley running from Woodbine Street to S Jackson Street.
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.

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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 Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. Encroachment permits must be obtained from the Kentucky Transportation Cabinet.
 - 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 reciprocal access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be created between the owners of the subject property and the property to the immediate east, and recorded. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
 - e. Final elevations/renderings shall be submitted for review and approval by Planning Commission staff. A copy of the approved rendering shall be available in the case file on record in the offices of the Louisville Metro Planning Commission.
6. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
7. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
8. No idling of trucks shall take place within 200 feet of single-family residences. No overnight idling of trucks shall be permitted on-site.
9. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties

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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.

The vote was as follows:

YES: Commissioners Tomes, Peterson, Daniels, Brown, Howard, and Carlson.
NOT PRESENT: Commissioners Jarboe, Lewis, Robinson, and Smith.