

**MINUTES OF THE MEETING  
OF THE  
LOUISVILLE METRO PLANNING COMMISSION  
January 16, 2014**

A meeting of the Louisville Metro Planning Commission was held on Thursday, January 16, 2014 at 1:20 p.m. at the Old Jail Building, located at 514 W. Liberty Street, Louisville, Kentucky.

**Commission members present:**

Donnie Blake, Chair  
David Proffitt, Vice Chair (left at 1:30 p.m.)  
Jeff Brown  
David Tomes  
Vince Jarboe  
Robert Kirchdorfer  
Chip White  
Clifford Turner  
Robert Peterson

**Commission members absent:**

Tawana Hughes

**Staff Members present:**

Emily Liu, Director, Planning & Design Services  
John G. Carroll, Legal Counsel  
Jonathan Baker, Legal Counsel  
Joseph Reverman, Planning Supervisor  
Julia Williams, Planner II  
Rebecca Simmons, Management Assistant (sign-ins)  
Chris Cestaro, Management Assistant (minutes)

**Others:**

Pat Barry, MSD

The following matters were considered:

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**Swearing-In of New Commissioner**

01:23:38 New Commissioner, Robert Peterson Jr., was sworn in.

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**Approval of Minutes**

**Approval of the minutes of the December 19, 2013 Planning Commission public hearing**

01:25:07      Commissioner Brown made one change to the minutes: on page 23, the Condition of Approval in the “Resolved” statement mentioned a fee-in-lieu as an option. He said that is not an option for that case and should be removed from the minutes.

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

**RESOLVED**, that the Planning Commission does hereby **APPROVE** the minutes of the Louisville Metro Planning Commission public hearing conducted on December 19, 2013 with corrections as noted.

**The vote was as follows:**

**YES: Commissioners Blake, Proffitt, Brown, Tomes, Jarboe, Kirchdorfer, White, and Turner.**

**NO: No one.**

**NOT PRESENT: Commissioner Hughes.**

**ABSTAINING: Commissioner Peterson.**

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**Business Session**

**Case No. 13AMEND1000**

**Project Name:** LDC Amendments  
**Applicant:** Waterfront Development  
**Representative:** Mike Kimmel  
**Jurisdiction:** Louisville Metro

**Case Manager:** **Mike Hill, Planning Coordinator**

**Request:**

Amend the Land Development Code to allow taverns as a permitted use in the W-1 and W-2 zoning districts.

**Discussion:**

01:26:58 Mike Hill presented the case. He said the first step in the process is to request that the Planning Commission be the applicant. Next, the request would be reviewed and researched by staff and then presented to the Planning Committee. The proposed date for that is February 13, 2014. If approved, the case would come back before the full Planning Commission for a public hearing.

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

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** the above request to list the Louisville Metro Planning Commission as the applicant for the Case No. 13AMEND1000.

**The vote was as follows:**

**YES: Commissioners Blake, Proffitt, Brown, Tomes, Jarboe, Kirchdorfer, White, Turner, and Peterson.**

**NO: No one.**

**NOT PRESENT: Commissioner Hughes.**

**ABSTAINING: No one.**

**END BUSINESS SESSION**

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**Public Hearing**

**Case No. 13ZONE1003**

**Project Name:** Lagos Logos

**Location:** 448 and 450 Roberts Avenue  
Louisville, KY 40214

**Owners/Applicants:** Tommy and Donna Lago  
448 and 450 Roberts Avenue  
Louisville, KY 40214

**Representative:** Tommy Lago  
448 Roberts Avenue  
Louisville, KY 40214

**Jurisdiction:** Louisville Metro  
**Council District:** 13 – Vicki Aubrey Welch

**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:**

A change in zoning from R-4 to C-2 to permit an embroidery shop on property located at 448 and 450 Roberts Avenue (Tax Block 1132, Lots 48 and 50) containing 0.994 acres and being in Louisville Metro. A landscape waiver is also being requested.

**Agency Testimony:**

01:29:04 Julia Williams presented the case and showed a Power Point presentation (see staff report and audio-visual recording for detailed exhibits.) She added that there had been some discussion as to whether Roberts Avenue was a public or private street. After researching the issue, it has been determined that Roberts Avenue is a public street. Ms. Williams clarified that this

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will have no bearing on the rezoning proposal but will need to be addressed on the plan.

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

Tom Lago (applicant), 448 Roberts Avenue, Louisville, KY 40214

Kevin Triplett (legislative aide to Councilwoman Vicki Aubrey Welch), 601 W. Jefferson Street, Louisville, KY 40202

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

01:34:35 Tom Lago, the applicant, said he and his wife started their home-based business in 1995 and have been in continuous operation since then. He said that most of the business is conducted over the internet and there are very few customers who actually visit this site. Most of the vehicles shown in the Power Point photos are his vehicles. He said he has received letters of support from neighbors.

01:35:50 In response to a question from Commissioner Kirchdorfer, Mr. Lago explained that this is a residential area transforming into business and industrial uses. Businesses are coming in and buying residential properties. He said he and his wife are planning to purchase the vacant property to the north of his property.

01:36:55 Kevin Triplett spoke in support on behalf of Councilwoman Vicki Aubrey Welch. He said the Councilwoman is in favor of the rezoning request and is not aware of any opposition to it.

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

No one spoke.

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

No one spoke.

**Rebuttal:**

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

**Discussion:**

01:37:48 Commissioner White said he is in favor of the request. Commissioner Brown said he is in favor also, but wanted to make sure the plan

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is updated to show Roberts Avenue as a public road; also, make sure the lots are consolidated at some point, maybe with a binding element. Ms. Williams said there is a binding element to that effect. Commissioner Jarboe said that both the rezoning and the landscape waiver request are appropriate, especially since this is an existing building and use.

01:39:58 All of the Commissioners restated their support based on the testimony today and the staff report.

**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 January 16, 2014 public hearing proceedings.**

**Zoning**

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

**WHEREAS**, the Louisville Metro Planning Commission finds that the site is located in the Traditional Neighborhood Form District. The Traditional Neighborhood Form District is characterized by predominantly residential uses, by a grid pattern of streets with sidewalks and often including alleys. Residential lots are predominantly narrow and often deep, but the neighborhood may contain sections of larger estate lots, and also sections of lots on which appropriately integrated higher density residential uses may be located. The higher density uses are encouraged to be located in centers or near parks and open spaces having sufficient carrying capacity. There is usually a significant range of housing opportunities, including multi-family dwellings; and

**WHEREAS**, the Commission further finds that Traditional neighborhoods often have and are encouraged to have a significant proportion of public open space such as parks or greenways, and may contain civic uses as well as appropriately located and integrated neighborhood centers with a mixture of mostly neighborhood-serving land uses such as offices, shops, restaurants and services. Although many existing traditional neighborhoods are fifty to one hundred twenty years old, it is hoped that the Traditional Neighborhood Form will be revitalized under the new Comprehensive Plan. Revitalization and reinforcement of the Traditional Neighborhood Form will require particular emphasis on (a) preservation and renovation of existing buildings in stable

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neighborhoods (if the building design is consistent with the predominant building design in those neighborhoods), (b) the preservation of the existing grid pattern of streets and alleys, (c) preservation of public open spaces; and

**WHEREAS**, the Commission further finds that the proposal is for an existing business to come into compliance with the zoning regulations. The lots along Roberts Avenue transition from high intensity commercial to single family and vacant residential to industrial uses. With this existing mix of uses, the proposed use is no more or less of a nuisance than any other business located along this private roadway; and

**WHEREAS**, the Commission further finds that, while the proposal does not meet the comprehensive plan by not providing sidewalks, they are not required by the Land Development Code and there are no other sidewalks constructed along Roberts Avenue where a new sidewalk could connect; and

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

**RESOLVED**, the Louisville Metro Planning Commission does hereby  
**RECOMMEND** to the legislative council of Louisville Metro Government that the A change in zoning from R-4 to C-2 to permit an embroidery shop on property located at 448 and 450 Roberts Avenue (Tax Block 1132, Lots 48 and 50) on property described in the attached legal description, be **APPROVED**.

**The vote was as follows:**

**YES: Commissioners Blake, Proffitt, Brown, Tomes, Jarboe, Kirchdorfer, White, Turner, and Peterson.**

**NO: No one.**

**NOT PRESENT: Commissioner Hughes.**

**ABSTAINING: No one.**

**Landscape Waiver**

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



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**WHEREAS**, the Louisville Metro Planning Commission finds that the waiver will not adversely affect adjacent property owners. The waiver to permit the existing home to encroach into the landscape buffer will not affect adjacent property owners because the home has been located in the same place since it's construction and will still be used residentially; and

**WHEREAS**, the Commission further finds that the waiver will not violate specific guidelines of Cornerstone 2020, because the planting and screening materials required in the buffer will still be met within the LBA; 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. Permitting the encroachment allows the applicant to utilize the site for both his home and business without the extra cost of removing his existing home on the site; and

**WHEREAS**, the Commission further finds that the strict application of the regulations would create a hardship on the applicant because he would have to remove his existing home from the buffer and rebuild it elsewhere on the site; and

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

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** the Landscape Waiver from 10.2.4 to permit the encroachment of an existing building into a required LBA along the north property line.

**The vote was as follows:**

**YES: Commissioners Blake, Proffitt, Brown, Tomes, Jarboe, Kirchdorfer, White, Turner, and Peterson.**

**NO: No one.**

**NOT PRESENT: Commissioner Hughes.**

**ABSTAINING: No one.**

**District Development Plan**

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

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**WHEREAS**, the Louisville Metro Planning Commission finds that the only natural resources on the site are the existing trees which are to remain; and

**WHEREAS**, the Commission further finds that the proposal provides for vehicular transportation but not pedestrian because it is not required by the Land Development Code; and

**WHEREAS**, the Commission further finds that the provision of sufficient open space (scenic and recreational) to meet the needs of the proposed development. Most of the site is left undeveloped and as open area; and

**WHEREAS**, the Commission further finds that the provision of adequate drainage facilities on the subject site in order to prevent drainage problems from occurring on the subject site or within the community has been met. MSD has preliminarily approved the proposal; and

**WHEREAS**, the Commission further finds that the site design is compatible with the adjacent area as the buffers are being provided and the screening materials will be located within those buffers; and

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

**RESOVLED**, the Louisville Metro Planning Commission does hereby **APPROVE** the District Development Plan for property located at 448 and 450 Roberts Avenue (Tax Block 1132, Lots 48 and 50) containing 0.994 acres and being in Louisville Metro, ON CONDITION that the plan be amended to show Roberts Avenue as a public street, and **SUBJECT** to the following Binding Elements:

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations 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 4,781 square feet of gross floor area.

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3. No pennants, balloons, or banners shall be permitted on the site.
4. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
5. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested:
  - a. The development plan must receive full construction approval from Louisville Metro Department of 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 within 6 months after the development plan approval.
  - c. **A legal instrument shall be recorded consolidating the property into one lot. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of the approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.**
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. 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.

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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.

**The vote was as follows:**

**YES: Commissioners Blake, Proffitt, Brown, Tomes, Jarboe, Kirchdorfer, White, Turner, and Peterson.**

**NO: No one.**

**NOT PRESENT: Commissioner Hughes.**

**ABSTAINING: No one.**

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**Case No. 13ZONE1020**

**Project Name:** Germantown Mill Lofts

**Location:** 900, 910, and 946 Goss Avenue and 1318 McHenry Street

**Owner:** Fincastle Investment Company

**Applicant:** Underhill Associates / JTJ LLC  
Colin Underhill  
808 Lyndon Lane  
Louisville, KY 40222

**Representative:** Kevin Young  
Land Design & Development  
503 Washburn Avenue  
Louisville, KY 40222

**Architect/Engineer:** Randy E. Pimsler  
Pimsler-Hoss Architects  
1383 Spring Street NW  
Atlanta, GA 30309

**Jurisdiction:** Louisville Metro

**Council District:** 10 – Jim King

**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 Form District from Traditional Workplace to Traditional Neighborhood and a change in zoning from M-2 Manufacturing to CR Commercial/Residential

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on property located at 900, 910, and 946 Goss Avenue and 1318 McHenry Street (Tax Block 26A, Lot 65) containing 7.7 acres and being in Louisville Metro. A Variance to exceed the height requirements for signage and a Waiver to permit an existing building to encroach into a landscape buffer area are also being requested.

**Agency Testimony:**

01:42:35 Julia Williams presented the case and showed a Power Point presentation, which included maps and photos of the site and surrounding areas (see staff report and audio-visual recording for detailed presentation.) She added that one sign will be removed from the plan along the McHenry Road frontage – it was left on the plan in error. The applicant has already agreed to do this and correct the plan.

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

Kevin Young, Land Design & Development, 503 Washburn Avenue, Louisville, KY 40222

Randy E. Pimsler, Pimsler-Hoss Architects, 1383 Spring Street NW  
Atlanta, GA 30309

Colin Underhill, Underhill Associates / JTJ LLC, 808 Lyndon Lane, Louisville, KY 40222

Mike Morris, 947 Goss Avenue, Louisville, KY 40217

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

01:50:58 Colin Underhill, the applicant, gave a brief history of the project. The plan is to build 180 residential apartments, plus 15,000 square feet of commercial space that would complement the neighborhood. He showed a Power Point presentation which included renderings and explained the proposal in more detail (see audio-visual recording for detailed exhibits; Kevin Young also used this presentation to explain the project.)

01:55:28 Kevin Young said the form district for this site is currently Traditional Workplace. It was a manufacturing business when it was originally constructed and is currently zoned M-2; however, he explained why the applicant feels that a form district change to Traditional Neighborhood is more appropriate and better reflects how the neighborhood has changed.

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02:00:03 Randy Pimsler said the applicant hoped that this project would revitalize the building as well as the surrounding neighborhood. He discussed the proposed demolition of three buildings on the site and why the applicant did not want to keep them as part of this project. He emphasized that the three buildings are not in keeping with the historic character of the site.

02:02:21 Mr. Pimsler discussed the signage variance request and showed rendering of the signs that the applicant is proposing. He said the applicant would like to place some signage on the existing smokestack, because it is “an icon” for the neighborhood and the property. He said the proposed signage there would be backlit metal lettering. He showed photos of a project that his office had completed in the Atlanta area which he said is very similar to what is being proposed for this site.

02:04:14 Mike Morris, President of the Schnitzelburg Area Community Council, said his neighborhood association has voted to “enthusiastically” support the change in zoning and this proposal. He distributed copies of a letter from the Germantown Neighborhood Association, which also supports the proposal.

02:06:06 Commissioner Kirchdorfer asked if the smokestack was still being used for anything. Mr. Pimsler said it is not, nor is it being considered for any other use. He added that it will be repaired and restored only because it is an “iconic” feature on the property.

02:06:59 In response to a question from Commissioner Turner, Mr. Pimsler discussed the proposed illumination of the lettering on the smokestack. This is meant to be subtle lighting with no glare and no impact on the adjoining properties. There will be no spotlights.

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

No one spoke.

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

Elizabeth Hatchett, 968 Samuel Street, Louisville, KY 40204

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

02:08:45 Elizabeth Hatchett said she would have preferred condominiums instead of apartments, but was basically all right with the project. She asked if there could be a bigger buffer between the parking lot and the daycare center.

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She said that, right now, there is only a chain-link fence between the play area and the parking lot. She also said that, based on the plan posted online, she only saw two commercial uses besides the apartments. Are there plans for any more commercial uses? She expressed concerns about the renovation of a very old structure disturbing “rats and varmints” and making them “invade” adjoining properties. She asked how this would be kept under control if it becomes an issue.

02:11:46      Regarding the pest control issue, Commissioner Blake said he was sure the Health Department would be involved in that. He said that, usually, when renovations are being done on old buildings, the applicant enlists someone in the pest control industry to manage that.

**Rebuttal:**

02:12:14      Mr. Underhill said that, over the last 10-15 years, the Underhill have been involved in “a significant amount” of apartment-to-condominium conversion work. He said that, if the market demand for condominiums would have supported it, this whole project might have been condos. However, the market demand right now is for apartments. He said they will be developed with finishes that could enable them to be converted to condominiums in the future if the market demand comes back.

02:13:32      Mr. Young said that there is a 20-foot separation between the entrance drive and the daycare; also, the handicap parking spaces will probably be rearranged to give a safer entrance into the daycare. He said that above-ground detention is shown on the plan; however, a determination has since been made that the detention should be underground. That will open up a greenspace for the daycare play area (can also be used as community greenspace.)

02:14:51      In response to a question from Commissioner Kirchdorfer, Mr. Young said the daycare drop-off driveway is off McHenry Street. Mr. Young pointed out the location of the daycare and the driveway on the plan.

02:15:55      Mr. Pimsler said there is more than one entry into the site, and discussed entry points, traffic flow, and how these relate to the childcare facility. He discussed landscaping how it relates to the retention of the historic character of the site. He said Historic Preservation had examined the site plan and said the applicant might be doing too much landscaping. He discussed current commercial proposals for this project, which include office uses, a fitness center (available to anyone, not just apartment residents), and at least one restaurant. There is also a community room that is open for public utilization.



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02:18:58 Jeff Underhill also discussed current and future retail possibilities. He said putting primarily residential uses on this property, as well as commercial uses, will encourage future commercial development in the area.

02:20:48 Mr. Young said the neighborhood has changed over the years and that this proposal practices adaptive re-use.

02:21:40 In response to a question from Commissioner Turner, Mr. Young discussed the existing sidewalks along Goss Avenue and connectivity.

**Discussion:**

02:22:18 Commissioner Jarboe said he thought the proposed changes and waiver requests are appropriate. He said he remembers this case from LD&T, and that all questions asked of the applicant have been answered satisfactorily. He was supportive at the reuse of the historic property. Commissioners Turner, Peterson, Kirchdorfer, Tomes, Brown, White, and Blake all agreed and stated that this is an appropriate use and potentially beneficial for the neighborhood. Commissioner Tomes added that the proposed signage is “sophisticated” and good looking. Commissioner Blake said he agreed with the applicant’s compliance statement/s, included in the applicant’s booklet.

02:26:08 Jonathan Baker, legal counsel for the Planning Commission, explained why he advised that the rezoning and the form district change requests could be voted on together.

**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 January 16, 2014 public hearing proceedings.**

**Zoning and Form District**

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

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposed redevelopment of this site is to create a more vibrant mixed use complex, containing primarily residential units to complement the existing surrounding low density residential uses. Amenities on the site are proposed to be open to the

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public, further integrating the development into the community. Surrounding property values are anticipated to rise due to the investment in the proposed development, enhancing the neighborhood and surrounding communities; and

**WHEREAS**, the Commission further finds that the proposal meets the intent of **Guideline 1 .– Community Form**. The subject property is located within a designated Traditional Workplace Form District (TWFD), which in this case is characterized by the industrial nature of the existing site and related structures. At one point, the subject property was likely well integrated into the surrounding neighborhood as the structure provided employment opportunities to the surrounding residential occupants. While the district standards encourage adaptive reuse and investment in the form district, proposed uses for the redevelopment of this site are more compatible with a proposed Traditional Neighborhood Form District (TNFD). Given that this is an existing site, there is no proposed modification to the compatibility related issues of scale and / or form. The Traditional Neighborhood Form District (TNFD) promotes the redevelopment of properties to promote a mixture of uses, in this case office, commercial / restaurant and additional non-residential uses (fitness center, community meeting space) that effectively integrate these uses within traditional neighborhoods. The proposed redevelopment readily promotes appropriate and compatible uses and development, primarily residential in nature. By maintaining, in large part, the existing historic structures and adaptively reworking these structures to various proposed uses, high quality design will be brought to the site with new interior materials, finishes, fenestration, lighting. Site amenities and open spaces will also be developed in an appropriately qualitative manner. Where possible, additional public transit amenities shall be pursued and incorporated into the proposed development. The development team will work with Transit Authority of River City (TARC) to enhance connectivity to the existing mass transit stops as well as to provide for new access points if possible, adjacent to the proposed development. This will facilitate greater access to public transit by the residents of the subject property as well as adjacent neighbors; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of **Guideline 2 .– Centers**. The proposed redevelopment of the Louisville Cotton Mill provides for many of the intents of this guideline. Not only is the existing infrastructure to be maintained and reused, the proposed redevelopment will maintain and reuse the existing site and structures to a great extent. Existing utilities shall need to be reworked to provide for the modernization of the existing structures, but new extensions should not necessarily be required. Commute times should not be impacted and as noted above, the hope is to further enhance the existing transportation opportunities in and around the main thoroughfares surrounding the site. The proposed mixed use development readily provides for

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an opportunity for a mixture of housing types, incomes and age groups in that each structure has a unique set of floor plans and unit configurations allow for one and two bedroom units for individual, shared / roommate housing and / or family occupancies. The redevelopment allows for some diversity within the subject site with residential, office, community and restaurant uses currently proposed. Vitality is enhanced and revitalization likely accomplished, as much of the existing site is underutilized and a sense of place is readily reestablished by the adaptive reuse of the existing historic structures. This project is in itself a compact development, utilizing the existing structures and site to maximize the density of new residential units in a cost effective and efficient manner. The impact to the adjacent residential properties is anticipated to be minimal and in most ways, is considered to be an existing and desirable focal point for the community, as noted in the policies section of this guideline; and

**WHEREAS**, the Commission further finds that the proposal meets the intent of **Guideline 3 .– Compatibility**. The intent of this guideline is to provide for a mixture of land uses and densities near each other as long as they are designed to be compatible with each other. The proposed redevelopment enhances compatibility by bringing new residential development to the existing site which is essentially surrounded by single family residential uses. Compatibility is further enhanced in that the subject property provides a buffer to the commercial industrial zoned lands to the west of the property along Shelby Street. The proposed mixed use of the existing site and structures does not suggest a sensitive use nor one that will impact negatively with noise, lighting and / or odors. The proposed uses should not diminish the existing conditions surrounding the site and will visually improve the quality of the existing site and structures through the adaptive reuse. Windows will be repaired and / or replaced, buildings that are not salvageable shall be removed, the site will be landscaped and the property fully occupied and utilized based on the proposed master plan. The redevelopment of the existing site is an exercise in preservation of the existing site and the surrounding properties. There are no proposed modifications to the surrounding and / or adjacent properties and parking and related site amenities are contained within the boundaries of the existing site. Buffers to the adjacent properties along the proposed parking area shall be provided by means of landscaping along the perimeter of the property. This will also enhance the visual character and quality of proposed development. Setbacks and building heights are respected via existing conditions which are not proposed to be modified. There are no buildings / structures proposed for this site and thus the buildings remain compatible with surrounding properties as it has for its entire history. By placing trash collection and pick up at the northeast intersection of the site and Ash Street, the impact of possible odors and truck traffic is minimized. Residential deliveries and the minimal deliveries required for

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the proposed commercial uses are anticipated to be less than those currently impacting the neighborhood as vehicles service the existing antique mall occupancy. Signs will for the most part be monumental or low lying signs, in keeping with the residential character of the surrounding neighborhood. Proposed signage at the existing tower will highlight this feature and become a landmark for the surrounding neighborhoods. Additional signage is proposed at the front facade along Goss Avenue, announcing both the project name and address; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of **Guideline 4 .– Open Space**. The design of the open space on this site will be consistent with the Traditional Neighborhood and will be less formal and provide for greens and interconnected interior open spaces throughout the site. The perimeter open space will be provided with low fencing, trees and appropriate landscape treatments. Approximately twenty percent of the site is to remain as open / landscaped area. Outdoor recreation shall be provided for the proposed development with green spaces, pool, gathering places and small outdoor court activities such as bocce and the like. It is anticipated that common outdoor spaces, such as those provided for in the redevelopment, will be maintained through a management company employed by the developer of the property; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of **Guideline 5 - Natural Areas and Scenic and Historic Resources**. The subject property has been designated as a historic landmark by the Louisville Historic Preservation Agency, The State Historic Preservation Office (SHPO) and the National Park Service (NPS). A Part One application for site specific designation has been filed with SHPO and the redevelopment will pursue historic tax credits as a means of financing the project. A Part Two application will outline the proposed redevelopment in an effort to maintain the landmark designation. Protecting the existing historic features of the site and buildings is a foremost concern in the redevelopment of this property. The existing tower will be rebuilt to the extent possible and remain a landmark element of the site. The intent to guide public and private economic development, investment, and preservation within areas identified as an important resource by the community is clearly met and adhered to as a major project goal of this redevelopment effort; and

**WHEREAS**, the Commission further finds that the proposal meets the intent of **Guideline 6 .– Economic Growth and Sustainability**. Economic growth and sustainability guidelines are readily adhered to in the proposed redevelopment since the reuse of the existing structures and infrastructure, as noted above, will readily reduce staff time for comment in all areas of department review. Surely, existing elements require less time than new ground up elements given the

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nature of the required reviews and based on known and / or existing conditions. This guideline also speaks to encouraging the redevelopment, rehabilitation and reinvestment opportunities in older neighborhoods and / or in industrial areas. The subject property is an excellent example of just this type of redevelopment effort. As noted in the guidelines, encouraging adaptive reuse as a means of sustainable development is yet another hallmark of this project, as proposed; and

**WHEREAS**, the Commission further finds that the proposal meets the intent of **Guideline 7 - Circulation**. The subject property is located on a minor arterial street (Goss Avenue) and surrounded on the two remaining sides by local roads (Ash and McHenry Streets). The existing infrastructure readily supports the commercial traffic to and from the site at this time. It is anticipated that the pattern of traffic will be modified somewhat to a more regular traffic pattern with morning departures from the site and evening return visits to the site by residents of the property. The property is also tangential to the Transit Authority of River City (TARC) on the northwest corner of the site (Logan Street and Goss Avenue) as well as at the southwest corner of the site (Shelby Street and Ash Street) allowing for a variety of transportation opportunities from this site. If possible, the option of relocating a transit stop closer to this site shall be pursued as a long term goal for this redevelopment as enhanced ridership would likely be anticipated. As occupancy takes place on this site, a greater number of residential commuters are readily available to TARC with likely commutes to the downtown area and surrounding business centers. Parking on site is anticipated to be adequate for the proposed development and will contain landscaped areas and appropriately sized curb cuts for vehicular access to and from the site. Street intersections are respected and on street parking shall be limited to avoid conflicts at these locations; and

**WHEREAS**, the Commission further finds that the proposal meets the intent of **Guideline 8 .– Transportation Facility Design**. As noted above, it is anticipated that a new transportation stop might be provided in coordination and cooperation with the Transit Authority of River City (TARC) along Goss Avenue, if possible. If provided for this facility, it might allow for enhanced access by residents throughout this development along with users in the adjacent neighborhood. Roadwork redesign is anticipated to be minimal if at all. Access points are limited, considering the site occupies nearly eight acres of land and is bounded by three public streets. Internal traffic patterns do not include any new streets, with circulation provided simply via paved aisles in the proposed parking areas; and

**WHEREAS**, the Commission further finds that the proposal meets the intent of **Guideline 9 .– Bicycle, Pedestrian and Transit**. Pedestrian movement is

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enhanced in the proposed development with a combination of carefully planned parking and related access points that respect pedestrian movement. An internal network of sidewalks proposed to connect to the existing sidewalks along the street right of ways greatly enhances movement into and around the subject property. Existing sidewalks will be maintained and / or enhanced at the perimeter of the site. Bicycle racks will be provided for resident use in strategic placed locations and storage amenities for bicycles and related equipment will be provided for in the proposed development plan; and

**WHEREAS**, the Commission further finds that the proposal meets the intent of **Guideline 10 – Flooding and Stormwater and Guideline 11 - Water Quality**. Land Design and Development, the civil engineer for the project, will work with the Metropolitan Sewer District (MSD) to create a plan that effectively manages and treats stormwater. On site storm water detention is planned and will mitigate any issues related to the potential for flooding from the subject property. The site contains a great deal of open space and landscaped area, accounting for approximately seventy six thousand square feet of area or an estimated twenty percent of the site. There is a necessary balance of required parking and impervious lot coverage and the development strives to minimize the impervious areas while satisfying the need for accommodating vehicles on site. It is a goal of the development to find opportunities to enhance the management of storm waters by incorporating underground detention, cisterns, possible roof gardens and the like in effort to make the project a demonstration site for sustainable design, where possible and appropriate; and

**WHEREAS**, the Commission further finds that the proposal meets the intent of **Guideline 12 - Air Quality**. The project under consideration will strive to reduce and / or minimize the level of air pollution by a series of measures, several of which have been mentioned previously in other guideline sections of this document. Traffic patterns on and around the site will be managed, via proposed curb cuts and access points which will facilitate the flow into and out of the site and minimize or alleviate potential traffic congestion. To the extent possible, utilization of mass transit will be enhanced and encouraged for residents of project. Sidewalks will be maintained and enhanced in the right of way and pedestrian walkability shall be facilitated by a series of new on site sidewalks that connect to the existing public system. Landscape amenities and plantings will also reduce the impact from air born particulates; and

**WHEREAS**, the Commission further finds that the proposal meets the intent of **Guideline 13 - Landscape Character**. In an effort to enhance the existing landscape character, the proposed site plan provides for approximately eight percent of the parking area to be landscaped (fifteen thousand square feet of

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area). A tree canopy is provided along the perimeter of the site and strategically placed landscape materials shall be provided throughout the open space areas. Appropriate landscape design standards shall be adhered to in the proposed site plan, incorporating the use of native and indigenous plant materials in an appropriate manner. A buffer shall be developed along the western boundary with the rail corridor; and

**WHEREAS**, the Commission further finds that the proposal meets the intent of **Guideline 14 – Infrastructure**. In keeping with the policies of this guideline, this redevelopment is not only located within an area served by existing utilities, it is currently served by existing utilities. Public water and sanitary service is available and has adequate capacity, based on initial reviews. New tie-ins for service will be required and provided along with the updating of existing lines, on site. Where possible and appropriate, underground utilities will be implemented; and

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

**RESOLVED**, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the legislative council of Louisville Metro Government that the change in zoning from M-2 to CR, and a change in form district from Traditional Workplace to Traditional Neighborhood, on property located at 900, 910, and 946 Goss Avenue and 1318 McHenry Street (Tax Block 26A, Lot 65) containing 7.7 acres on property described in the attached legal description be **APPROVED**.

**The vote was as follows:**

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

**NO: No one.**

**NOT PRESENT: Commissioners Hughes and Proffitt.**

**ABSTAINING: Commissioner White.**

**Variance to exceed the minimum height requirement for signage**

On a motion by Commissioner Tomes, the following resolution was adopted:  
**WHEREAS**, the Louisville Metro Planning Commission finds that the requested variance will not adversely affect the public health, safety or welfare. The

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variance is to permit a sign to be located on an existing smokestack associated with the historic structure. The sign will be located where it will not interfere with the public; and

**WHEREAS**, the Commission further finds that the requested variance will not alter the essential character of the general vicinity. Having a sign located on the existing smokestack will not alter the character of the area because the smokestack is existing and already part of the character of the area. Adding a sign to the smokestack will identify the historic use of the site as well as the neighborhood; and

**WHEREAS**, the Commission further finds that the requested variance will not cause a hazard or nuisance to the public. The smokestack sign is not located where it will affect the public as it is located on an existing structure interior to the site; and

**WHEREAS**, the Commission further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations.

**WHEREAS**, the Commission further finds that the proposed sign is to be located on an existing smokestack where the letters will both identify the historic nature of the site and the neighborhood which it is located. The sign is not a type of advertising sign that motorists would be familiar or where the sign would be a distraction to motorists. The type of letters proposed compliment the architecture and identify the site for its historic nature within the neighborhood. Information on the sign is limited as the sign will just be letters; 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. The following design guidelines further clarify this criterion:

1. Elevation changes between properties and adjacent streets should be reviewed to ensure that signage is appropriately visible to the street;
2. The transportation department responsible for the adjacent public streets must review the plans for freestanding signs to ensure conformance with safety standards prior to approval by the board.

The circumstance of the variance is that the smokestack and associated buildings are historic which is unique for the neighborhood to have a large previously industrial building so close to residential. The signage will be visible further down the street but would not likely be visible to a pedestrian on the



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street. The proposal is for attached signage that will not affect transportation and sight distance; 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. The following design guidelines further clarify this criterion:

1. The transportation department responsible for the adjacent public streets must review the plans for freestanding signs to ensure conformance with safety standards prior to approval by the board.
2. The SRB should review the layout of the land and surrounding property to determine whether relief is warranted.

Not granting the variance would not be a hardship on the applicant but the purpose of the sign is to identify the historic nature of the site in the neighborhood and to identify the neighborhood; and

**WHEREAS**, the Commission further finds that the circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought. The exceptional signage and its location is an action taken by the applicant after the adoption of the regulation. The circumstance of the signage is to identify the historic nature of the site and neighborhood; and

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

**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Variance to exceed the minimum height requirement for signage

**The vote was as follows:**

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

**NO: No one.**

**NOT PRESENT: Commissioners Hughes and Proffitt.**

**ABSTAINING: Commissioner White.**

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**Waiver from Chapter 10 to permit an existing building to encroach into a landscape buffer area along the north property line and to not provide the 6' screen.**

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

**WHEREAS**, the Louisville Metro Planning Commission finds that the waiver will not adversely affect adjacent property owners because the adjacent property is a railroad and commercial property; and

**WHEREAS**, the Commission further finds that the waiver will not violate specific guidelines of Cornerstone 2020, because the site will still be providing the planting materials required for the buffer with the exception of the 6' screen; 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. The existing building encroaches into the buffer. The relief associated here is so that the applicant does not have to demolish a portion of the historic structure to accommodate the full buffer; and

**WHEREAS**, the Commission further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant. Demolishing part of a historic structure to provide the buffer would be an unnecessary hardship; and

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

**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Waiver from Chapter 10 to permit an existing building to encroach into a landscape buffer area along the north property line and to not provide the 6' screen.

**The vote was as follows:**

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

**NO: No one.**

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**NOT PRESENT: Commissioners Hughes and Proffitt.**

**ABSTAINING: Commissioner White.**

**Permit exceptional signage on the existing buildings smokestack/tower**

The following design guidelines further clarify this criterion:

1. Proposals for sign area and height modifications in excess of 25% of what is permitted by chapter 8 should be carefully scrutinized to ensure compatibility with surrounding development.
2. The proposed sign is in compliance with the underlying form district as described within Cornerstone 2020, typically the type of neighborhood, character of the area and traffic speeds should be considered in the design of a sign.
3. The proposed sign should be visually consistent with the architecture, materials, colors and overall design of the building(s) which it identifies.
4. Generally, all colors, except fluorescent, may be allowable depending on their relationships to architecture, the business, and the surrounding neighborhood.
5. Signs should have an individual character and should not be designed to mimic signs on adjacent properties.
6. Signs should be clearly readable, information should be limited.
7. For attached signage the architectural design of the building may influence the location of the sign on the structure.
8. Light backgrounds are discouraged on internally illuminated signs because visibility is lowered by a “wrap around” effect.
9. Signs located within overlay districts and/or local landmarks district should be reviewed in accordance with guidelines of the applicable district.
10. Lighted signs should be designed so that they are not unnecessarily bright.
11. The scale of signs should be appropriate for the building on which they are placed and the area in which they are located. The size and shape of a sign should be proportionate with the scale of the structure.
12. Because residential and commercial uses generally exist in close proximity, signs should be designed and located so that they have little or no impact on adjacent residential neighborhoods.
13. Place wall signs to establish facade rhythm, scale and proportion where façade rhythm doesn't exist. On buildings that have a monolithic or plain facade, signs can establish or continue appropriate design rhythm, scale, and proportion.
14. Pedestrian-oriented signs are encouraged. It is desirable and encouraged to include a pedestrian-oriented sign as one of the permitted signs for a

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business. Pedestrian-oriented signs are signs that are designed for and directed toward pedestrians so that they can easily and comfortably read the sign as they stand adjacent to the business.

15. Select colors carefully. Color is one of the most important aspects of visual communication -- it can be used to catch the eye or to communicate ideas or feelings. Colors should be selected to contribute to legibility and design integrity. Even the most carefully thought out sign may be unattractive and a poor communicator because of poor color selection. Too many colors used thoughtlessly can confuse and negate the message of a sign.
16. Use contrasting colors. Contrast is an important influence on the legibility of signs. A substantial contrast should be provided between the color and material of the background and the letters or symbols to make the sign easier to read in both day and night. Light letters on a dark background or dark letters on a light background are most legible.
17. Limit the number of letter styles. The number of lettering styles should be limited in order to increase legibility. A general rule to follow is to limit the number of different letter types to no more than two for small signs and three for larger signs. Intricate typefaces and symbols that are difficult to read reduce the sign's ability to communicate.
18. Significant signage. The preservation of designated signature signs may be used to justify increases in overall sign area limits as long as the integrity of the signature sign is maintained and any new signage is deemed to be compatible to the signature sign; and

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

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

**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE** the request to permit exceptional signage on the existing buildings smokestack/tower.

**The vote was as follows:**

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

**NO: No one.**

**NOT PRESENT: Commissioners Hughes and Proffitt.**

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**ABSTAINING: Commissioner White.**

**District Development Plan**

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

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal preserves a historic site and structures for residential and commercial repurposing; and

**WHEREAS**, the Commission further finds that pedestrian and vehicular connectivity is found throughout the proposal; and

**WHEREAS**, the Commission further finds that open space is provided on the site to meet the needs of the development and neighborhood; and

**WHEREAS**, the Commission further finds that the plan provides adequate drainage facilities on the subject site in order to prevent drainage problems from occurring on the subject site or within the community. MSD has preliminarily approved the proposal; and

**WHEREAS**, the Commission further finds that the site's only change is the addition of parking in the rear of the site. The parking will be buffered from the adjacent residential located across the roadways where there is currently parking and no buffering; and

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

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

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

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Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.

2. The development shall not exceed 246,643 square feet of gross floor area.
3. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
4. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
5. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested:
  - a. The development plan must receive full construction approval from Louisville Metro Department of 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 receiving a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
6. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
7. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.

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8. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.

**The vote was as follows:**

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

**NO: No one.**

**NOT PRESENT: Commissioners Hughes and Proffitt.**

**ABSTAINING: Commissioner White.**

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**Case No. 13ZONE1018**

**Project Name:** The Standard at Louisville

**Location:** 1900 South Floyd Street

**Owner:** Cardinal Land Development LLC  
8911 Greenway Commons Place  
Louisville, KY 40220

**Applicant:** 908 Development Group  
2209 E. 7<sup>th</sup> Avenue Suite C  
Tampa, FL 33605

**Representative:** Deborah Bilitski  
Wyatt, Tarrant & Combs, PLLC  
500 W. Jefferson Street Suite 2800  
Louisville, KY 40202

**Architect/Engineer:** Ann Richard RLA  
Land Design & Development, Inc.  
503 Washburn Avenue Suite 100  
Louisville, KY 40222

**Jurisdiction:** Louisville Metro  
**Council District:** 6 – David James

**Case Manager:** **Christopher Brown, 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 EZ-1 Enterprise Zone to C-2 Commercial for a proposed multi-family structure located at 1900 South Floyd Street (Tax Block 035C, Lot 0004) containing 1.6 acres and being in Louisville Metro. A Detailed District



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Development Plan with setback and height variances, and landscape waivers are also being requested.

**Agency Testimony:**

02:38:33 Christopher Brown presented the case and showed a Power Point presentation, which included maps and photos of the site and surrounding areas (see staff report and audio-visual recording for detailed presentation.) He said that there was one correction to the staff report regarding Variance #2 – a variance from Chapter 5.2.2, Table 5.2.2 of the Land Development Code to allow the building to exceed the 45' maximum height by 36'. The height variance request should be **40 feet**, not 36 feet as is stated in the staff report, for a total building height of 85 feet.

02:44:22 Mr. Brown explained how the pedestrian connection from the building to Floyd Street has been amended on the site plan since the LD&T Committee meeting. The connection has been amended to address slope issues at that corner.

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

Deborah Bilitski, Wyatt, Tarrant & Combs, PLLC, 500 W. Jefferson Street Suite 2800, Louisville, KY 40202

Ann Richard RLA, Land Design & Development, Inc., 503 Washburn Avenue Suite 100, Louisville, KY 40222

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

02:47:23 Deborah Bilitski, the applicant's representative, showed the applicant's Power Point presentation. She discussed the waiver and variance requests, which are primarily being requested because the proposal is for residential use with no commercial.

02:52:51 Commissioner Jarboe asked about the steps leading down to Brandeis. Ms. Bilitski said changes have been made to the site plan since the LD&T Committee meeting. Ann Richard, with Land Design & Development, explained those changes in detail. She said the steps and sidewalk have been removed from the Brandeis ROW. There are three doors from the building onto the Floyd Street ROW – the sidewalk has been added coming from the building, closer to the intersection of Brandeis and Floyd Streets.

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

No one spoke.

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

No one spoke.

**Rebuttal:**

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

**Discussion:**

02:54:08 All of the Commissioners said they supported the proposal, based on the evidence presented today and the staff report.

**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 January 16, 2014 public hearing proceedings.**

**Zoning**

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

**WHEREAS**, the Louisville Metro Planning Commission (“Planning Commission”) finds that the proposed change in zoning from EZ-1 Enterprise Zone to C-2 Commercial on the property located at 1900 S. Floyd Street (the “subject property”) complies with Guideline 1 of the Cornerstone 2020 Comprehensive Plan (the “Comprehensive Plan”) because the subject property is located within the Campus Form District; Guideline 1.B.11 provides that the Campus Form District typically contains a mixture of uses clustered for a single or predominant function which primarily serve the people who work or live on the campus; development and redevelopment should be consistent with the organization and pattern of the district; access should be provided by a series of well-connected streets that relate to the function of the major roadway network in surrounding districts and also encourage bicycle, pedestrian, and transit travel; a variety of land uses are encouraged in the Campus Form District to serve the daily needs of residents, students, and workers, including medium to high density residential

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uses, shops, services, offices and institutional uses, and proposed developments should also have adequate parking facilities that are convenient for motorists, but do not negatively impact the pedestrian environment; the proposed development will provide housing that will serve the need of students of the University; vehicular access to the proposed development will be from S. Floyd Street, which has adequate capacity to handle the traffic that will be generated by the proposed development; the development provides an adequate level of vehicular, pedestrian, bicycle, and transit connectivity because the development will include a bicycle parking area, and the existing sidewalk along the west side of S. Floyd Street will be repaired and improved; and the proposed building will incorporate high quality architectural design features that are compatible with development on U of L's campus and in the surrounding area; and

**WHEREAS**, the Commission further finds that the proposed change in zoning complies with Guideline 2 of the Comprehensive Plan because the subject site is located in an existing activity center at the intersection of E. Brandeis Avenue and S. Floyd Street, both minor arterials, west of I-65 and across the street from U of L; the provision of additional student housing enhances the mixture of uses within the Campus Form District; the proposed development will incorporate streetscape amenities, landscaping, pedestrian connections, and adequate on-site parking; the developer is committed to a high-quality architectural design for the proposed building. The building will be articulated to provide visual interest and will include brick and glass materials, transparent doorways and entry areas, and other animating features; and the proposed development will encourage vitality and a sense of place within and around the University of Louisville campus; and

**WHEREAS**, the Commission further finds that the proposed change in zoning complies with Guideline 3 of the Comprehensive Plan because the subject property is located on the northwest corner of the intersection of E. Brandeis Avenue and S. Floyd Street, west of I-65, in a mixed-use area, with an LG&E facility to the north, warehouses to the east, and railroad to the west, all of which are zoned EZ-1; immediately to the south across E. Brandeis Avenue is U of L, which is zoned OR-2; diagonally across E. Brandeis Avenue from the subject property is property zoned C-2 and M-2; and beyond the railroad tracks is a bookstore and a restaurant that are in the TNZD district; the proposed rezoning is compatible with existing zoning and will cause no adverse visual or noise impacts to the surrounding area; the proposed development will incorporate site design and architectural character that blends the existing industrial character of the

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area and the character of U of L's campus; and outdoor lighting and signage will meet the requirements of the Land Development Code; and

**WHEREAS**, the Commission further finds that the proposed change in zoning complies with Guidelines 4 and 5 of the Comprehensive Plan because there are no natural, scenic, environmental, or historic resources on the subject property that would restrict the proposed development; and outdoor open space for the residents of the development is provided on site in accordance with Land Development Code requirements; and

**WHEREAS**, the Commission further finds that the proposed change in zoning complies with Guideline 6 of the Comprehensive Plan because the proposed development will encourage redevelopment, rehabilitation and reinvestment opportunities in an older industrial areas that is consistent with the Campus form district pattern; the subject property is appropriate for the proposed development because it is located at the intersection of two minor arterial roadways with in close proximity to I-65 in an area where the activities of the proposed use will not adversely affect adjacent areas; and the proposal represents an excellent adaptive reuse of an old industrial site that will meet the University's housing needs within close proximity to U of L's main campus; and

**WHEREAS**, the Commission further finds that the proposed change in zoning complies with Guidelines 7, 8, and 9 of the Comprehensive Plan because the site is located at the northwest corner of the intersection of E. Brandeis Avenue and S. Floyd Street, both of which are classified as minor arterials, in close proximity to the I-65 interchange; S. Floyd Street and E. Brandeis Avenue have adequate carrying capacity for the traffic that will be generated by development; the access to the site and parking garage, which will be provided from S. Floyd Street, is located to facilitate safe vehicular and pedestrian access to and from the property; a separate bicycle storage area will also be provided; the sidewalk along S. Floyd Street will be improved to provide pedestrian access to and from the development; the subject property is located along local and circulator TARC routes, ensuring an adequate level of public transit service; therefore, the subject site is located where transportation infrastructure exist to ensure the safe and efficient movement of people and goods; and

**WHEREAS**, the Commission further finds that the proposed change in zoning complies with Guidelines 10 and 11 of the Comprehensive Plan because the subject site is not located in the 100-year flood plain, and there are no streams, wetlands, or waterways on the site; stormwater detention will be handled on site in an underground vault that will be designed to accommodate the runoff from the

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proposed development in accordance with regulatory requirements; and an erosion prevention and sediment control plan will be implemented prior to construction utilizing best management practices as required by the Metropolitan Sewer District; and

**WHEREAS**, the Commission further finds that the proposed change in zoning complies with Guideline 12 of the Comprehensive Plan because the proposal represents an efficient land use pattern and utilizes current traffic patterns; the close proximity of the subject property to the University's campus, bicycle and pedestrian amenities provided, and availability of TARC service will promote a reduction in vehicle miles traveled and increase pedestrian travel in an effort to reduce the air impacts of the development; the proposed development will also aid in reducing commuting time and transportation-related air pollution; and the existing and proposed roadway infrastructure provides adequate capacity for the additional traffic generated by this development; and

**WHEREAS**, the Commission further finds that the proposed change in zoning complies with Guideline 13 of the Comprehensive Plan because the subject property is an old industrial site with no existing landscaping or landscape buffer areas; the surrounding property is developed in a traditional urban pattern with minimal or no setbacks or landscape buffer areas; existing tree canopy within the E. Brandeis Avenue right-of-way will be preserved to meet Land Development Code requirements; and outdoor lighting and signage will be consistent with the Campus form of development and comply with Land Development Code requirements; and

**WHEREAS**, the Commission further finds that the proposed change in zoning complies with Guideline 14 and 15 of the Comprehensive Plan because the subject property is served by existing infrastructure which has adequate capacity for the proposed development; all necessary utilities, including water, electricity, telephone, and cable are available; and the development has an adequate supply of potable water and water for fire-fighting purposes and is served by the Louisville Fire Department; and

**WHEREAS**, the Commission further finds that the proposed development complies with KRS 100.213 in as much as the existing EZ-1 Enterprise Zone classification is not appropriate while the C-2 Commercial is appropriate; the property is located in the Campus Form District, which encourages a mixture of uses that serve the daily needs of residents and employees within the Campus; the EZ-1 zoning does not allow residential uses in a Campus Form District; therefore, the proposed C-2 zoning is appropriate to allow this industrial site to be

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redeveloped into student housing, which is appropriate in this Campus Form District; and

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

**RESOLVED**, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the legislative council of Louisville Metro Government that the Change in zoning from EZ-1, Enterprise Zone, to C-2, Commercial on property located at 1900 South Floyd Street as described in the attached legal description be **APPROVED**.

**The vote was as follows:**

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

**NO: No one.**

**NOT PRESENT: Commissioners Hughes and Proffitt.**

**ABSTAINING: No one.**

**Variance #1 - Variance from Chapter 5.2.2, Table 5.2.2 of the Land Development Code to allow the building to encroach into the required 15' front yard along East Brandeis Avenue**

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

**WHEREAS**, the Louisville Metro Planning Commission ("Planning Commission") finds that the requested variance to permit the proposed structure to encroach 5 feet into the 15-foot required front yard along E. Brandeis Avenue will not adversely affect public health, safety or welfare because the subject property is located on the northwest corner of the intersection of E. Brandeis Avenue and S. Floyd Street, across from University of Louisville's Belknap campus; the properties further to the north along S. Floyd Street are industrial in nature and will not be adversely affected by the variance; directly to the west is a CSX Railroad, and across S. Floyd Street to the east are properties zoned EZ-1, which contain large warehouse buildings; the surrounding property is developed in predominantly a traditional urban pattern with minimal or no setbacks or

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landscape buffer areas; the proposed building will incorporate site design and architectural quality compatible with the character of the surrounding area, which blends the existing industrial character of the surrounding area with the more traditional architecture found on and around U of L's campus; the building facades will be constructed using a mixture of materials, including brick and glass, and will incorporate architectural features including windows and entryways consistent with traditional development in an urban setting; and sidewalks will be available along E. Brandeis Avenue and S. Floyd Street as shown on the development plan; and

**WHEREAS**, the Commission further finds that, although the property is located in the Campus Form District, the properties surrounding the subject property are developed in a traditional pattern with minimal or no setbacks; the setbacks of the new structure on the property are consistent with the existing setbacks on surrounding properties; the proposed buildings on the subject property will be constructed with a high level of architectural design that blends the existing industrial character of the area with the more traditional architecture found on and around U of L's campus; and there is a significant amount of excess right-of-way along E. Brandeis Avenue separating the proposed development from the roadway; therefore, granting the requested variance will not alter the essential character of the general vicinity; and

**WHEREAS**, the Commission further finds that the proposed variance will not cause a hazard or nuisance to the public because the resultant setback will be consistent with setbacks in the vicinity; the location of the building will continue the traditional pattern of development found in the area; the properties to the north and east of the site contain an industrial uses and there are no residential properties in direct proximity to site; and

**WHEREAS**, the Commission further finds that the granting the variance will not allow an unreasonable circumvention of the requirements of the zoning regulations because it will allow the proposed building to be consistent with the pattern of development in the general vicinity and will not cause any adverse impacts to surrounding properties; and

**WHEREAS**, the Commission further finds that special circumstances exist that do not generally apply to land in the general vicinity because the subject property is an irregularly-shaped corner parcel located in a transitional area between an old, declining industrial area and the University, and is surrounded entirely by non-residential properties, a railroad, and an LG&E facility; the Traditional Neighborhood Form District regulations require only residential buildings to

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observe a 15-foot front yard setback, while mixed-use and non-residential structures may be located on the property line; thus, if the proposed building incorporated a non-residential use, the setback variance would not be required; and there is a substantial amount of excess right-of-way along E. Brandeis Avenue which serves to separate the proposed building from the roadway; and

**WHEREAS**, the Commission further finds that the strict application of the regulations would deprive the applicant of the reasonable use of the land and create an unnecessary hardship because the applicant will be unable to develop the land in a manner consistent with properties in the surrounding area; the irregular shape of the parcel, being adjoined by a railroad on one side, an LG&E facility on another, and having two roadway frontages make it extremely difficult to comply with the setback requirements on all sides of the property; the applicant is not responsible for these conditions, and therefore, the circumstances giving rise to the variance are not the result of actions taken by the application subsequent to the adoption of the regulations from which relief is sought; and

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

**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Variance from Chapter 5.2.2, Table 5.2.2 of the Land Development Code to allow the building to encroach into the required 15' front yard along East Brandeis Avenue.

**The vote was as follows:**

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

**NO: No one.**

**NOT PRESENT: Commissioners Hughes and Proffitt.**

**ABSTAINING: No one.**

**Variance #2: Variance from Chapter 5.2.2, Table 5.2.2 of the Land Development Code to allow the building to exceed the 45-foot maximum height by 40 feet**



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

**WHEREAS**, the Louisville Metro Planning Commission (“Planning Commission”) finds that the requested variance to permit the proposed structure to be 85 feet in height will not adversely affect the public health, safety or welfare or alter the essential character of the vicinity because the Campus Form District allows nonresidential structures to be 150 feet in height, but limits the height of residential structures to 45 feet; the subject property is located on the northwest corner of the intersection of E. Brandeis Avenue and S. Floyd Street, across from University of Louisville’s Belknap campus; the properties further to the north along S. Floyd Street are industrial in nature and will not be adversely affected by the requested variance; directly to the west is a railroad, and across S. Floyd Street to the east are properties zoned EZ-1, which contain large warehouse buildings; the proposed building height is consistent with other residential buildings on U of L’s campus, including Unitas Towers (11 stories), University Tower Apartments (11 stories), and Louisville Hall (6 stories); the proposed building will incorporate site design and architectural quality compatible with the character of the surrounding area, which blends the existing industrial character of the surrounding area with the more traditional architecture found on and around U of L’s campus; the building facades will be constructed using a mixture of materials, including brick and glass, and will incorporate architectural features including windows and entryways consistent with traditional development in an urban setting; the building façade will be articulated to create an interesting streetscape; and sidewalks will be available along E. Brandeis Avenue and S. Floyd Street; and

**WHEREAS**, the Commission further finds that proposed variance will not cause a hazard or nuisance to the public or cause an unreasonable circumvention of the requirements of the zoning regulations because the site is surrounded by industrial uses, and LG&E facility, and a railroad track; there are no residential uses in the immediate area that will be impacted by the proposed development; the building is designed to be compatible with the pattern of development of the area and will incorporate architectural features that will complement the character of the surrounding area; and the proposed development represents a significant investment in the redevelopment and rehabilitation of an older and declining neighborhood in a manner that is consistent with the form district; and

**WHEREAS**, the Commission further finds that special circumstances exist that do not generally apply to land in the general vicinity which are not the result of actions taken by the application subsequent to the adoption of the regulations

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from which relief is sought because the subject property is an irregularly-shaped corner parcel located in a transitional area between an old, declining industrial area and the University, and is surrounded entirely by non-residential properties, a railroad, and an LG&E facility; the Campus Form District regulations limit only residential buildings to 45 feet in height, while nonresidential structures may be 150 feet in height; and there are several residential structures on the U of L campus that exceed 45 feet in height; and

**WHEREAS**, the Commission further finds that if the requested variance is not granted, the applicant will be unable to develop the land in a manner consistent with properties in the surrounding area; a substantial number of dwelling units would be lost, making the project financially infeasible; therefore, the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land and create an unnecessary hardship; and

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

**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Variance from Chapter 5.2.2, Table 5.2.2 of the Land Development Code to allow the building to encroach into the required 15' front yard along East Brandeis Avenue.

**The vote was as follows:**

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

**NO: No one.**

**NOT PRESENT: Commissioners Hughes and Proffitt.**

**ABSTAINING: No one.**

- **Waiver #1: Landscape waiver from Chapter 10.2.4 of the Land Development Code to reduce the required 15' landscape buffer along the north property perimeter to 5'**

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- **Waiver #2: Landscape waiver from Chapter 10.2.4 of the Land Development Code to reduce the required 15' landscape buffer along the west property perimeter to 10'**

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

**WHEREAS**, the Louisville Metro Planning Commission (“Planning Commission”) finds that the requested waivers of Section 10.2.4. of the Land Development Code to reduce the 15-foot landscape buffer area (LBA) to 5 feet along the north property line adjacent to the LG&E facility, and to 10 feet along the west property line adjacent to the railroad will not adversely affect adjacent property owners because the properties directly to the north and west of the subject site where the landscape waiver is requested contain an LG&E electric substation and a railroad line, respectively; the properties further to the north and across S. Floyd Street to the east are all zoned EZ-1 and contain industrial uses; the surrounding properties are developed in a traditional urban pattern with minimal or no setbacks or landscape buffer areas; the proposed development will meet tree canopy requirements off site within the excess right-of-way along E. Brandeis Avenue, and street trees will be provided, as possible, along the S. Floyd Street frontage; and

**WHEREAS**, the Commission further finds that the requested waivers comply with the Cornerstone 2020 Comprehensive Plan because the proposed use is consistent with the Campus Form District, which encourages a mixture of uses that serves the daily needs of residents and employees in the campus, unique building and site design elements, a high level of pedestrian and transit access, and high quality design of buildings; outdoor lighting and signage will comply with Land Development Code requirements; an LG&E substation is located north of the site, large warehouse buildings are located to the east, and a railroad is located immediately west of the subject property, and, therefore, the proposed development will create no adverse traffic, noise, lighting, or other impacts to surrounding properties; and

**WHEREAS**, the Commission further finds that the requested waivers are the minimum necessary to afford relief to the applicant because the proposed development is a redevelopment of an old industrial site, which contains no existing landscaping or landscape buffer areas; the site is an irregularly-shaped parcel, further making compliance with the required landscape buffer area unfeasible; and in order to develop the site as proposed while providing sufficient parking, appropriate access, and vehicle maneuvering area, the requested landscape waivers along the north and west property lines are required; and

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**WHEREAS**, the Commission further finds that the irregular shape of the parcel, being adjoined by a railroad on one side, an LG&E facility on another, and having two roadway frontages, makes it difficult to comply with the landscape requirements on all sides of the property; the entrance and access drive from S. Floyd Street are in the most appropriate location, being as far from the intersection of S. Floyd Street and Cardinal Boulevard as possible; if the requested waiver is not granted, the applicant would be unable to reasonably develop the property in a manner consistent with surrounding properties; therefore, the strict application of the regulations would deprive the applicant of the reasonable use of the land and create an unnecessary hardship; and

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

**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Landscape waiver from Chapter 10.2.4 of the Land Development Code to reduce the required 15' landscape buffer along the north property perimeter to 5 feet (Waiver #1) and the requested Landscape waiver from Chapter 10.2.4 of the Land Development Code to reduce the required 15-foot landscape buffer along the west property perimeter to 10 feet (Waiver #2).

**The vote was as follows:**

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

**NO: No one.**

**NOT PRESENT: Commissioners Hughes and Proffitt.**

**ABSTAINING: No one.**

**Detailed District Development Plan and binding elements**

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

**WHEREAS**, the Louisville Metro Planning Commission finds that the site is preserving the existing tree canopy along East Brandeis Avenue.; and

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**WHEREAS**, the Commission further finds that the site is providing for all types of transportation throughout the site; and

**WHEREAS**, the Commission further finds that open space provisions are met on the property with the proposed interior courtyard and recreational open space area; and

**WHEREAS**, the Commission further finds that adequate drainage facilities on the subject site in order to prevent drainage problems from occurring on the subject site or within the community are provided. MSD has preliminarily approved the proposal; and

**WHEREAS**, the Commission further finds that the site is compatible with the adjacent lots as the site is providing all required planting and screening materials and the proposed setback and height are within the range of existing structures along the East Brandeis and Cardinal corridor; and

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

**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE** the District Development Plan, **ON CONDITION** that the current binding elements are eliminated, and **SUBJECT** to the following binding elements:

**Existing Binding Elements (TO BE ELIMINATED)**

1. ~~No outside storage will be permitted on the site. Storage of materials will be only within the building.~~
2. ~~The development will be constructed in accordance with the approved district development plan.~~
3. ~~The size and location of any proposed advertising signs and landscaping plans must be approved by the Urban Renewal Commission prior to issuance of any sign permits.~~
4. ~~The plan must be reapproved by the Water Management Section of the Jefferson County Department of Public Works and Transportation, the~~

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~~Department of Traffic Engineering, and the City of Louisville Public Works Department before building permits are issued.~~

- ~~5. Unless use in accordance with the approved plan and binding elements has been substantially established within one year from the date of approval of the plan or rezoning whichever is later, the property may not be used in any manner until such time as a district development plan has been approved by the Planning Commission.~~

**Binding Elements TO BE ADOPTED:**

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 density of the development shall not exceed 66 dwelling units per acre **(105 units on 1.6 acres)**.
3. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
4. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested:
  - a. The development plan must receive full construction approval from Louisville Metro Department of Codes and Regulations Construction Permits and Transportation Planning Review 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.

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- c. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
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 façade elevations shall be in accordance with applicable form district standards and shall be approved by PDS staff prior to construction permit approval.

**The vote was as follows:**

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

**NO: No one.**

**NOT PRESENT: Commissioners Hughes and Proffitt.**

**ABSTAINING: No one.**

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**Case No. 13ZONE1019**

**Project Name:** Jefferson Post Apartments

**Location:** 4600 Fern Valley Road

**Owner:** Noltemeyer Capital LTD  
122 North Peterson Avenue  
Louisville, KY 40206

**Applicant:** Michael Keal  
Keal & Associates, Inc.  
P.O. Box 5130  
Louisville, KY 40255

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

**Jurisdiction:** Louisville Metro  
**Council District:** 2 – Barbara Shanklin

**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 EZ-1, Enterprise Zone to R-6, Multi-Family Residential
- Variance to reduce the 75' Parkway Setback to 50' along Fern Valley Road (LDC Table 10.3.1)\*\*\***REMOVED BY CASE MANAGER**\*\*\*
- Revised General District Development Plan
- Detailed District Development Plan
- Amendment to Binding Elements



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**Agency Testimony:**

02:59:35 Joseph Reverman presented the case on behalf of David Wagner and showed a Power Point presentation, which included maps and photos of the site and surrounding areas (see staff report and audio-visual recording for detailed presentation.) He said the proposal today is to expand an existing multi-family development onto the subject site. He showed sidewalks that were added by the applicant after the LD&T Committee meeting, since some concerns were expressed about pedestrian connectivity at that meeting. The variance request has been removed.

03:04:54 In response to a question from Commissioner Kirchdorfer, Mr. Reverman pointed out the access drive from the existing apartment development.

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

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

Michael Keal, Keal & Associates, Inc., P.O. Box 5130, Louisville, KY 40255

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

03:05:48 William Bardenwerper, the applicant's representative, showed the applicant's Power Point presentation. He said the applicant would not have requested the R-6 zoning if this site had been located in the Traditional Neighborhood form district, but it the rezoning is necessary because it is in the Suburban Workplace form district.

03:12:02 Michael Keal, the applicant, said the original plan requested access to Fern Valley Road. The Highway Department requested the removal of the right-in/right-out access to Fern Valley Road, so this has been removed from the current plan. Jefferson Post Drive aligns with an approved commercial plan on property south of the subject site. Once that commercial project is built, it will allow access to Jefferson Boulevard. He explained about how the original Clearwater Farms development will link to this site and allow access to Jefferson Boulevard and the lighted intersection to Fern Valley Road. Some pedestrian connections (sidewalks) have been added along Jefferson Boulevard and Jefferson Post Drive since the LD&T Committee meeting. He said the proposed complex lays out similarly to the Clearwater Farms development.

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

No one spoke.

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

No one spoke.

**Rebuttal:**

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

**Discussion:**

03:14:54 Commissioner Jarboe said the issues raised at the LD&T Committee meeting have been satisfactorily addressed, especially the sidewalk issue. He said he supported the use and the use seems appropriate here. All of the other Commissioners agreed that the use seems appropriate and that any concerns had been addressed.

**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 January 16, 2014 public hearing proceedings.**

**Zoning**

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

**WHEREAS**, the Louisville Metro Planning Commission finds that the subject site is appropriate for an apartment community among other reasons because it is located right next door to an apartment community constructed by this same developer and looks like it is the final section of that community, even though the adjoining apartment community is now under different ownership; this site is appropriate for this use because it serves both large scale commercial (notably Jefferson Mall plus significant new retail along the Outer Loop, both approved and planned) and area industrial properties (such as Ford) with ease of access to many employers in this relatively intensively developed area; and given the still relatively new Jefferson Blvd., proximity via it and Fern Valley Road to major shopping and major local employment centers (present and planned) and community infrastructure and facilities, this should be a good site for another apartment community; and

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**WHEREAS**, the Commission further finds that apartments are the one form of residential development demonstrated to be in significant current demand, apartment communities have recently been approved all over Metro Louisville; this seems to be a particularly good location where relatively few new apartment communities are planned, compared to the Metro East End; and whereas, all of these proposed apartment communities are expected to fill part of the gap that exists in new high quality rental housing, this is an area that appears to be particularly appropriate; and

**WHEREAS**, the Commission further finds that the proposal meets the intent of Guideline 1 – Community Form. The subject property is located in the Suburban Workplace Form District which is characterized by residential, industrial and commercial uses that vary from low to high density, from low to high intensity and that naturally blend compatibility into all new development plans; high density uses are supposed to be limited in scope to minor or major arterials and to areas that have limited impact on the low to moderate density residential areas; the Suburban Workplace Form District is also supposed to contain diverse housing types in order to provide housing choices for differing ages and incomes; and

**WHEREAS**, the Commission further finds that the proposed apartment community for the subject property is appropriate because of its location along a major arterial in close proximity to shopping and employment centers, as noted above, and because community facilities, as also noted above, are also located in near proximity with easy access to and from this site; and therefore, this application complies with this Guideline of the Comprehensive Plan; and

**WHEREAS**, the Commission further finds that the proposal meets the intent of Guideline 2 – Centers. The Intents of this Guideline are to promote the efficient use of land and investment in existing infrastructure; to lower utility costs by reducing the need for extensions; to reduce commuting time and transportation-related air pollution; to provide an opportunity for a mix of residential development that includes housing types and building styles that accommodate people of different ages and incomes and that are compatible with existing neighborhoods; and to provide vitality and a sense of place in neighborhoods and the community; and

**WHEREAS**, the Commission further finds that this application complies with these Intents of this Guideline, among other reasons set forth below, because infrastructure such as roads, sewers and the like, are already available; because of the relatively new Jefferson Blvd. with access via it and Fern Valley Road to

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the Jefferson Mall and other shopping and services at the Outer Loop and to such major employers as Ford, this proposed apartment community helps ease commuting distances and travel times and thus tends to improve the overall air quality; the proposed apartment community provides for the mixture of residential housing types that the Comprehensive Plan commends; and by “filling in the in-fill”, it helps create an overall newer and better, larger neighborhood; and

**WHEREAS**, the Commission further finds that Policies 4 and 5 of this Guideline appear to apply to this application in that they encourage compact, mixed or compatible development and uses; and this is a vacant site located near major shopping and employment centers where community facilities also exist; and

**WHEREAS**, the Commission further finds that Policy 12 of this Guideline encourages developments to include a focal point; and the focal points here will be the pool and clubhouse; and

**WHEREAS**, the Commission further finds that Policy 16 of this Guideline encourages alternative transportation modes; because the proposed apartment community is located along major arterials, which presumably includes an existing or future bus route, and because bicycle facilities and sidewalks are also located in the area and at this community, this application also complies with this Policy of this Guideline; and

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

**WHEREAS**, the Commission further finds that this application complies with the Intents of this Guideline because it is located right next door to another near mirror image apartment community constructed by this same developer; apartment communities like this are encouraged along major arterials like Jefferson Blvd. and Fern Valley Road; the apartment community will not produce noise, lighting, odors or similar nuisances that aren’t already typical of the area where other apartments and high volumes of traffic exist; and as a consequence of this and all else set forth below, the character of the existing residential area is preserved in positive manners, while nearby neighborhoods, shopping and employment centers are unaffected or enhanced; and

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**WHEREAS**, the Commission further finds that Policies 1, 2 and 3 of this Guideline pertain to building design, use of building materials, densities, buffers and so on; building design and materials that nearly mirror those of the new apartment development constructed next door, involve the use of maintenance free materials; and the designs of these buildings, as shown on the accompanying images from the neighborhood meeting and this narrative, demonstrate residential compatibility; and

**WHEREAS**, the Commission further finds that Policies 5, 6, 7, 8 and 9 of this Guideline pertain to impacts such as odors, traffic, noise, lighting and visual impacts; as partly already explained, a residential community would not ordinarily produce, and this one is not expected to produce, odors, noise, lighting and other visual impacts; traffic, as shown on the trip generation numbers accompanying this application, is also minimal, especially relative to the size and traffic-carrying capacities of Jefferson Blvd. and Fern Valley Road; and

**WHEREAS**, the Commission further finds that Policies 10, 11, 12, 13, 14, 15 and 16 of this Guideline all pertain to housing types, including density in appropriate areas, and the importance of appropriate/inclusive housing; the proposed apartment community, while intended to be market rate, is also expected to be “affordable enough” so that it doesn’t just market itself to the very highest income type renters; because there is a large range of rental needs within this community, this particular proposed apartment community is not expected to sacrifice quality while still offering value; because of the location of this proposed apartment community near large acreage zoned for employment use, this apartment community should attract a high demographic group of renters who want to live close to their places of employment and near other conveniences in the area; the market of course determines rental profile and rental rates; and naturally this community will welcome the elderly and handicapped; and

**WHEREAS**, Policies 21, 22, 23 and 24 of this Guideline are intended to deal with transitions, buffers, setbacks and minimizing the impacts of parking; as can be seen from the development plan filed with this application, especially the colored site plan that was part of the neighborhood meeting accompanying this application, parking is distributed throughout the apartment community and not located in just one central place; that helps to distribute the impacts of parking; thus transitions, buffers and required setbacks as set forth in the Land Development Code are met with the exception of one Variance; and

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**WHEREAS**, the Commission further finds that the proposal meets the intent of Guideline 4 – Open Space. The Intent and Policies 1, 2, 3, 5, 6 and 7 of this Guideline all pertain to open space, natural resources and the design and maintenance of same; the proposed overall site plan, as explained above, will include open space in the area around the clubhouse and pool; and sidewalks and access should also be plainly visible on the plan submitted herewith; and

**WHEREAS**, the Commission further finds that the proposal meets the intent of Guideline 6 – Economic Growth and Sustainability. The intents of this Guideline are, among other things, to ensure the availability of necessary usable land to facilitate residential and commercial development and to reduce public and private cost of land development; and

**WHEREAS**, the Commission further finds that the proposed apartment community complies with the Intents of this Guideline, as with all applicable Policies hereof, because it is, as stated above, a new apartment community in a highly traveled area serving nearby shopping and employment centers of major consequence; that will help address the significant rental demand that exists in Metro Louisville, thus one would expect apartments, like this especially, to exist in an area already so predominated by intensive commercial and workplace development as this area is; and because infrastructure is located at this site, developing at this in-fill location helps reduce the public and private costs for land development; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guidelines 7 and 8 – Circulation and Transportation Facility Design. The Intents of these two Guidelines are to provide for safe and proper functioning street networks; to ensure that new developments do not exceed the carrying capacity of streets; to ensure good internal and external circulation; to address congestion and air quality; to provide for safe and convenient accommodations with special mobility requirements of elderly and handicapped; and to provide an efficient, safe and attractive system of roadways, transit roads, sidewalks and pathways; and

**WHEREAS**, the Commission further finds that the proposed apartment community addresses all of these Intents of these Guidelines, among other reasons because the still relatively new Jefferson Blvd. and Fern Valley Road can easily accommodate the additional traffic from this proposed development; Jefferson Blvd. was built because of traffic-moving problems that previously existed, so as to ensure a better means of access between two major arterials, i.e., Outer Loop and Fern Valley Road; locating an apartment community at the

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subject property, near the referenced shopping and employment centers, helps move traffic to and from this site around the larger community in a relatively easy manner; Jefferson Blvd. and Fern Valley Road surely are not at capacity; public transportation, to the extent it exists now or in the future along Jefferson Blvd. and/or Fern Valley Road, will have access to the site; by locating this apartment community at an in-fill site with easy access to arterials helps address transportation-related air quality issues in this community; furthermore, this plan has been designed to address requirements of the elderly and physically challenged; further, required setbacks along Jefferson Blvd. and Fern Valley Road, the provision of sidewalks and the protection and preservation of open space help protect and enhance the public enjoyment of attractive corridors; and

**WHEREAS**, the Commission further finds that Policies 1, 2, 3, 4, 6, 9, 10, 11, 12, 13, 14, 15, 16, 17 and 18 of Guideline 7 all pertain to specific design requirements to ensure transportation impact mitigation, appropriateness of the local transportation network, adequacy of parking and specific site design in accordance with Metro Works' Transportation design manual; the development plan accompanying this application demonstrates compliance with all of these Policies; and has received the preliminary stamp of approval from Metro Transportation Planning, thus demonstrating compliance with all of these Policies of this Guideline which is anticipated; and

**WHEREAS**, the Commission further finds that Policies 4, 5, 7, 8, 9, 10 and 11 of Guideline 8 raise many of these same issues; and so once again, the answer to the question of compliance is that the detailed development plan accompanying this application evidences compliance with all the Metro Transportation Planning and Works' transportation design manual requirements; moreover, as stated, this development plan has received the preliminary stamp of approval from Metro Transportation Planning prior to docketing for LD&T for review; and to the extent that the development plan changes between this filing and LD&T review are required, those changes will be made; and

**WHEREAS**, the Commission further finds that the proposal meets the intent of Guideline 9 – Bicycle/Pedestrian Transit. The Intents and Policies of this Guideline are to assure bicycle access, pedestrian safety and the accommodation of mass transit; and the development plan accompanying this application addresses all of those requirements; and

**WHEREAS**, the Commission further finds that the proposal meets the intent of Guideline 10 – Flooding and Stormwater. The Intents and Policies of this Guideline are to assure that flooding and stormwater are addressed; MSD has

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required the applicant and its engineers to include detention on the development plan, as shown; and as with Metro Transportation Planning, MSD also gave this plan its preliminary stamp of approval; and

**WHEREAS**, the Commission further finds that the proposal meets the intent of Guideline 11 – Water Quality. The Intent and Policies of this Guideline are to assure that water quality is not degraded due to water pollution and erosion; and the normal way that this Guideline is addressed is through construction plans and actual construction compliance with the soil erosion and sedimentation requirements of MSD; and

**WHEREAS**, the Commission further finds that the proposal meets the intent of Guideline 12 – Air Quality. The Intents and Policies of this Guideline are to support an efficient land use pattern that reduces travel distances between work, shopping and home and to encourage development with densities that lead to mass transit; as stated above, because this application is for an apartment community along major arterials with easy access to existing shopping and employment centers, this application addresses all of these Intents and Policies of this Guideline in exactly the way that it is supposed to; by promoting density and intensity at in-fill locations such as this, near shopping and employment centers and along arterials with easy access to other arterials, commuting times are reduced, thus promoting air quality benefits; and

**WHEREAS**, the Commission further finds that the proposal meets the intent of Guideline 13 – Landscape Character. The Intents and Policies of this Guideline are to protect and enhance landscape character; this application complies with the Intents and Policies of this Guideline because it will fully comply with the Land Development Code by providing landscaping where required or needed to mitigate potential adverse impacts on adjoining properties; and

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

**RESOLVED**, the Louisville Metro Planning Commission does hereby  
**RECOMMEND** to the legislative council of Louisville Metro Government that the change in zoning from EZ-1, Enterprise Zone, to R-6 Multi-Family Residential on property located at 4600 Fern Valley Road as described in the attached legal description be **APPROVED**.



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**The vote was as follows:**

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

**NO: No one.**

**NOT PRESENT: Commissioners Hughes and Proffitt.**

**ABSTAINING: No one.**

03:17:17 Before a motion was made on the General Development Plan, Mr. Reverman clarified that modifications on the General Plan Binding Elements, there should have been one proposed change that is not included in the staff report. That change is to eliminate binding element #4, which restricts this site to 62,000 square feet of gross floor area. That was originally proposed in 2005 for a commercial development. He said the rest of the General Plan binding elements are not in conflict with what is being proposed today.

03:18:30 Commissioner Brown asked if binding element #3, which refers to a total number of units, is still applicable. Mr. Reverman said that refers to the apartments that have already been constructed on another portion of the site.

**Revised General District Development Plan, Detailed District Development Plan, and Amendment to Binding Elements**

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

**WHEREAS**, the Louisville Metro Planning Commission finds that there are no natural resources that currently exist on the site; and

**WHEREAS**, the Commission further finds that the provisions for safe and efficient vehicular and pedestrian transportation both within the development and the community have been met. Transportation Review has approved the proposal's transportation facilities; and

**WHEREAS**, the Commission further finds that open space has been provided in excess of the requirements of the LDC; and

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

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**WHEREAS**, the Commission further finds that the overall site design (location of buildings, parking lots, screening, landscaping) and land use or uses with the existing and projected future development of the area is compatible with the surrounding area. The proposal continues the existing apartments to the east (Clearwater Farm). The buildings will maintain the setbacks, building heights, and landscaping pattern of the existing Clearwater Farm apartments while using the existing transportation infrastructure through sidewalks and public and private streets. The site can be accessed by both major roadways adjacent to the site; and

**WHEREAS**, the Commission further finds that the proposal continues the existing apartments to the east (Clearwater Farm). Since the original plan called for this site to be used as commercial retail, the down zoning to allow multi-family residential will cause fewer adverse impacts on the adjacent single and multi-family residences. The site will create a better transition from the single family residences to the north to the potential commercial and industrial uses to the southwest. The buildings will maintain the setbacks, building heights, and landscaping pattern of the existing Clearwater Farm apartments while using the existing transportation infrastructure through sidewalks and public and private streets. The site can be accessed by both major roadways adjacent to the site. A transit route is located along Shepherdsville Road, which is within walking distance of the site, and major areas of activity are within a reasonable distance on Jefferson Boulevard, Outer Loop, and Preston Highway; and

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

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

**Existing Binding Elements to Remain with RGDDP**

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

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designee for review and approval; any changes/additions/alterations not so referred shall not be valid.

2. Prior to development (includes clearing and grading) of each site or phase of this project, the applicant, developer, or property owner shall obtain approval of a detailed district development plan in accordance with Chapter 11, Part 6. Each plan shall be in adequate detail and subject to additional binding elements.

3. The density of the development shall not exceed 472 dwelling units, total. The western most portion shall be developed with 12.85 per acre (232 units on 18.06 acres). The eastern most portion shall be developed with 14.64 per acre (240 units on 16.39 acres).

~~4. The western most commercial portion of the development shall not exceed 62,000 square feet of gross floor area. The eastern most commercial portion of the development shall not exceed 33,800 square feet of gross floor area.~~

4. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site, except for those permitted by the Land Development Code.

5. 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.

6. 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.

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d. A major subdivision plat creating the lots and roadways as shown on the approved district development plan shall be recorded prior to issuance of any building permits.

7. If a building permit is not issued within two years of the date of approval of the plan or rezoning, whichever is later, the property shall not be used in any manner unless a revised district development plan is approved or an extension is granted by the Planning Commission.

8. 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.

9. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors, and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.

10. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the August 18, 2005 Planning Commission meeting.

11. The facade elevations shall be in accordance with applicable form district standards and shall be approved by PDS staff prior to construction permit approval.

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

13. The applicant shall provide documentation showing that the development complies with all the regulations from Chapter 4, Part 1, Section 3, Lighting, prior to the issuance of a construction permit. These regulations include the following items:

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- a. Mounting Height Limit
- b. Luminaire Shielding
- c. Canopy Lighting Level
- d. Light Trespass

14. All street name signs shall be installed prior to requesting a certificate of occupancy for any structure. The address number shall be displayed on a structure prior to requesting a certificate of occupancy for that structure.

15. Prior to requesting a building permit for the apartment buildings, renderings of all apartment buildings shall be submitted to the LD&T Committee for approval. The apartment buildings shall be at least 70% brick. Renderings of all commercial buildings shall be submitted to the LD&T Committee for approval prior to requesting building permits for the commercial buildings.

16. Prior to cemetery site disturbance, the existing cemetery shall be moved in accordance with all applicable statutes and regulations. The cemetery shall be located on the subject site in the vicinity of the historic house.

17. The developer will pay for a traffic signal at the intersection of Fern Valley Road and the extension of Bahama Lane, when that signal is approved by the Kentucky Department of Highways.

18. Trees to be provided for canopy, and interior street trees in the apartment areas, will be a minimum of 235 trees in excess of trees required for screening and parkway.

19. Bahama Lane shall not be extended within the development to Fern Valley Road. Instead, a pedestrian/bicycle path capable of emergency vehicle use shall be constructed within Acapolca Way, where Bahama Lane currently intersects, and the subject property. The pedestrian/bicycle path shall be extended through the development to tie into the street and sidewalk network within the development. The applicant shall submit a revised plan eliminating the extension of Bahama Lane and including said pedestrian/bicycle path that is best capable of emergency vehicle use to Planning and Design Services for approval of the LD&T Committee of the Planning Commission. Said plan shall be submitted within thirty (30) days of Metro Council final action.

20. The existing house and slave house, which are listed in the National Register of Historic Places, the path leading out from the slave house to the road, and the two stone gates that are beside the walkway shall all be preserved.

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Exterior changes to this structure shall be reviewed and approved by the staff of the Metro Landmarks Commission. The historic home shall be restored and renovated and used as a community center for the entire development.

21. Prior to ground disturbance of the area to be surveyed as described below, the developer shall hire a professional archaeologist approved by the Urban Design Division to assess the effects, if any, on archaeological resources in the area of the historic house, the area in the rear of the historic house and the slave house, to conduct an archaeological survey in those areas, if recommended, and to report any subsequent discoveries during construction to the Metro Landmarks Commission. The specific area of the site to be surveyed, as well as the scope of work, shall be established in consultation with the Urban Design Division prior to implementation.

22. The developer shall conduct photographic documentation, including digital images and National Register quality black and white prints with negatives, for any structure to be removed as part of the project. Documentation shall be reviewed and approved by the staff of the Urban Design Division of Planning and Design Services prior to removal of any structures.

**Binding Elements to Apply to DDDP**

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

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- a. The development plan must receive full construction approval from Louisville Metro Department of 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.
4. 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.
  5. 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.
  6. The apartment buildings shall be at least 70% brick to ensure compatibility with the existing apartments to the east (Clearwater Farm). The materials and design of proposed structures shall be substantially the same as depicted in the photos/rendering as presented at the January 16, 2014 Planning Commission public hearing.

**The vote was as follows:**

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

**NO: No one.**

**NOT PRESENT: Commissioners Hughes and Proffitt.**

**ABSTAINING: No one.**

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**Case No. 13ZONE1012**

**Project Name:** Kenwood Business Center Lot 2

**Location:** 7001 Southside Drive

**Owner/Applicant:** Kenwood Business Center, LLC  
4852 Crittenden Drive  
Louisville, KY 40209

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

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

**Jurisdiction:** Louisville Metro

**Council District:** 13 – Vicki Aubrey Welch

**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 Form District from Traditional Neighborhood to Suburban Workplace; a change in zoning from R-4 Single Family Residential and C-1 Commercial to M-2 Manufacturing to permit a warehouse on property located at 7001 Southside Drive (Tax Block 1036, Lots 68, 69 & 70) containing 11.17 acres and being in Louisville Metro. A Revised Category 3 plan, a Variance to exceed the maximum setback from Southside Drive, and Land Development Code Waiver to omit a



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required 6-foot berm along the north property line are also being requested and are associated with 451 Kenwood Business Drive & 5539 National Turnpike.

**Agency Testimony:**

03:29:40 Julia Williams presented the case and showed a Power Point presentation, which included maps and photos of the site and surrounding areas (see staff report and audio-visual recording for detailed presentation.)

03:36:04 In response to a question from Commissioner Kirchdorfer, Ms. Williams clarified that the current form district could be deemed as inappropriate, due to the economic changes in the area. Therefore, the proposal is appropriate due to the changes in the area.

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

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

Steve Scott and Todd Lanning, Mindel Scott & Associates, 5151 Jefferson Boulevard, Louisville, KY 40219

Jeff Robinson (applicant), Kenwood Business Center, 4852 Crittenden Drive, Louisville, KY 40209 (was introduced by Mr. Bardenwerper but did not speak)

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

03:37:32 William Bardenwerper, the applicant's representative, also showed a Power Point presentation explaining the proposal. He added that Steve Scott would address a drainage issue, which was raised as a concern by Councilwoman Vicki Aubrey-Welch at the neighborhood meeting.

03:43:42 Todd Lanning discussed screening, landscaping and setbacks proposed along the east property line. He said the applicant will submit a landscape plan to the Metro Council, which will likely include a wooden fence along the area where the waiver is being proposed. He described the landscaping in more detail (evergreen shrubs, deciduous trees, etc.) Mr. Bardenwerper added that the applicant has asked for the waiver of the required berm in order to preserve the existing trees on the site.

03:45:36 Steve Scott said that, at the neighborhood meeting, some questions had arisen regarding drainage issues for properties downstream,

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specifically for the Yorktown subdivision and areas further south. He said it was explained at the neighborhood meeting that there is a proposed detention basin on the south side of the site. It was approved by MSD and is already constructed. It was agreed between the applicant and MSD that the applicant would reduce the post-development flows below the level of the pre-development flows. The basin “was oversized by quite a bit” to detain and reduce water flow off the property.

03:48:15 In response to a question from Commissioner Blake about the Category 3 Plan, Ms. Williams explained that Category 3 proposal had changed from what was previously proposed. Some of the buildings on the existing M-2 portion of the site have changed slightly. She said the part of the site proposed for rezoning today will have its own development plan, be plan certain, and have its own set of binding elements. Those binding elements will not apply to the portion of the property already zoned M-2.

03:49:58 Commissioner Kirchdorfer asked if the rolling gate was tied in to the fencing on perimeter. Mr. Bardenwerper said the two would be tied together. In response to another question from Commissioner Kirchdorfer, Mr. Scott said the fence would be on the property line. There would be room between the building and the property line; there would be room between the building and the property line. The building belongs to another business and they would have room to access the back of the building and maintain their side of it.

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

No one spoke.

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

No one spoke.

**Rebuttal:**

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

**Discussion:**

03:52:02 Commissioner Jarboe said he felt the proposal had been explained well and he had no further questions. He said he feels the rezoning is appropriate and the land use is appropriate. All the other Commissioners agreed, especially with statements about how the area has changed over the years.

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**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 January 16, 2014 public hearing proceedings.**

**Zoning and Form District Change**

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

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the intent of Guideline 1 – Community Form. The current Community Form for some of this property is Traditional Neighborhood, which Division of Planning and Development Services (DPDS) staff asked this applicant to change to Suburban Workplace; as such, a Suburban Workplace Form District is characterized by predominantly industrial and office users where buildings are set back from the streets in a landscaped setting; and adequate transportation access, connected roads, public transportation and pedestrian facilities should be provided; and

**WHEREAS**, the Commission further finds that this application complies with this Guideline because the development plan accompanying this application shows that it is designed in accordance with these recommendations. The overall workplace development has buildings set back from the streets, it is landscaped, there are internal walkways and good connectivity to Southside Drive and National Turnpike; Southside Drive provides places for employees to enjoy lunch; having two points of access helps disperse traffic in all directions; and, although some nearby residents prefer only one access, generally speaking more connectivity is better, especially so in this case given that the directions of traffic flow are not entirely known but are likely to involve businesses headed in all directions; and

**WHEREAS**, the Commission further finds that the proposal meets the intent of Guideline 2 – Centers. The intents of this Guideline are to promote the efficient use of land and investment in existing infrastructure; to lower utility costs by reducing the need for extensions; to reduce commuting time and transportation-related air pollution; to encourage vitality and a sense of place; to restrict isolated commercial uses from developing along streets and noncommercial areas; and to encourage commercial revitalization in redeveloping areas; and

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**WHEREAS**, the Commission further finds that the application complies with all of these Intents of this Guideline of the Comprehensive Plan because infrastructure already exists in the area, because this is an area of fairly dense residential population, commuting distances should be easier for many people; with retail and restaurant facilities located close by, it is even possible for people to walk to lunch during their breaks; the old Kenwood Drive-In is a now unused facility that is appropriate for redevelopment; given that nearly two-thirds of the site is already zoned M-2, rezoning the balance of the site for the same purpose and having the good internal circulation and connectivity that is provided to the two major road systems (National Turnpike and Southside Drive) makes sense; this proposal involves a revitalization of an unused facility that will likely not be reutilized for its prior use as a drive-in theater; and the proposed business park use is the best use possible for this site, given the multiplicity of factors mentioned; and

**WHEREAS**, the Commission further finds that Policies 1, 2, 4, 5, 7, 11, 13, 14, 15 and 16 of Guideline 2 are applicable to this application in the following ways; activity centers are to be located at the intersections of arterial and collector streets that are not predominantly residentially utilized; they should be planned expansions of or within already existing activity centers; and they should be generally compact, include a mixture of compatible uses that are desirable to the area, that try to share parking, access and utilities, and parking should be safe and convenient with alternative forms of transportation encouraged or provided, as applicable; and

**WHEREAS**, the Commission further finds that this application complies with these applicable Policies of this Guideline because this whole area of Southside Drive and National Turnpike is full of highly active mixed land uses, some of an industrial/business park nature as this, others of a variety of commercial kinds and all compact and located along arterial roadways; this particular business park will also have good internal circulation between these two arterial roadways (National Turnpike and Southside Drive), include parking that can be shared as well as utilities that will be extended from existing locations throughout the site in a convenient, cost effective manner; parking is accessed off a main internal road connecting National Turnpike and Southside Drive; mass transit is available in the area; and other forms of transportation, including pedestrians by virtue of sidewalk connectivity, are provided; and

**WHEREAS**, the Commission further finds that the proposal meets the intent of Guideline 3 – Compatibility. The intents of this Guideline are to allow a mixture of land uses near each other as long as they are designed to be compatible; to

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prohibit the location of sensitive land uses where accepted standards for noise, lighting, odors or similar nuisances might be violated or visual quality significantly diminished; and to preserve the character of existing neighborhoods; and

**WHEREAS**, the Commission further finds that this application complies with these Intentions of this Guideline of the Comprehensive Plan because this is a highly intense area with a large mixture of diverse uses; elements of the current Land Development Code (LDC) already address issues like noise and lighting, as well as aesthetics through landscaping, screening and buffering, which will be provided; and the neighborhood, containing a diverse mixture of uses from industrial to commercial to residential, will be preserved through the high level of design and adaptive reuse of this unused property; and

**WHEREAS**, the Commission further finds that Policies 1, 2, 5, 7, 8 and 9 of this Guideline pertain to the issues of adverse potential impacts that can be mitigated through design measures, conditions of approval (i.e., binding elements) and specific application of and compliance with the LDC. This application complies with all of these Policies of this Guideline because, located as this property is along two arterial roadways, mixed among a variety of equally or more intensive uses, most of which are older and thus not compliant with contemporary LDC provisions, potentially adverse consequences either do not exist or are fully mitigated; and to the extent that the Planning Commission is concerned that some potential uses could cause nuisances that are not otherwise addressed on the development plan filed with this application, conditions of approval are considered; and

**WHEREAS**, the Commission further finds that Policies 17, 18 and 19 of this Guideline pertain to industrial uses, especially those that might utilize or produce hazardous substances; this application complies with these Policies of this Guideline because it is not anticipated that the uses will be of the kinds that would involve the manufacture and/or use or production of hazardous substances; and

**WHEREAS**, the Commission further finds that Policies 21, 22, 23, 24 and 29 of this Guideline pertain to screening, buffering, setbacks and impacts of parking and other transportation facilities; the development plan accompanying this application demonstrates how this application complies with these Policies of this Guideline because adequate setbacks and good screening, through landscaping and appropriate placement of fencing, as well as location of parking, mostly internal to the site, evidence that these factors will also assure compatibility; and

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**WHEREAS**, the Commission further finds that the proposal meets the intent of Guidelines 4 and 13 – Open Space and Landscape Character. The Intents of these two Guidelines and specifically Policies 1, 2, 4 and 6 of Guideline 13 are designed to enhance the quality of aesthetics and to provide for good screening and buffering; and

**WHEREAS**, the Commission further finds that this application complies with these Intents and applicable Policies of these Guidelines of the Comprehensive Plan because the development plan accompanying this application demonstrates compliance with the LDC in terms of setbacks and the screening and landscaping within those buffer areas and also the landscaping within internal parking lot areas; and

**WHEREAS**, the Commission further finds that the proposal meets the intent of Guideline 6 – Economic Growth and Sustainability. The Intents of this Guideline are to assure the availability of necessary land to facilitate commercial and industrial development, to reduce public and private cost for land development, and to ensure regional scale workplaces and industrial land uses with good access to people, goods and services at appropriate locations; and

**WHEREAS**, the Commission further finds that this application complies with these Intents of this Guideline of the Comprehensive Plan because this already approximately two-thirds zoned M-2 business park is located in an area partially surrounded by other industrial and workplace uses with access to roads that have access to all parts of Metro Louisville and to interstate highways I-265, I-65 and the Watterson Expressway; by completing development of an already approximately two-thirds completed business park, this serves to reduce public and private costs for land development and greenfields areas; and located as this is in a densely populated area, this is a workplace center with good access to a workforce located nearby with easy access to transportation facilities to move goods and services throughout the community and to the UPS World Air Hub; and

**WHEREAS**, the Commission further finds that Policies 1, 2, 3, 4, 5, 6, 7, 8, 10 and 11 of this Guideline all pertain to these issues of preserving workplaces, investing in older industrial areas, locating industry near industry and with easy access to good transportation facilities and, of course, near the UPS World Air Hub; and

**WHEREAS**, the Commission further finds that this application complies with all of these applicable Policies of this Guideline because this is an already largely

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developed business park, and an older site at that may also help rejuvenate and support area small businesses, particularly restaurants because of more employees working in the area; it has good access to all of the major interstates through access points to both National Turnpike and Southside Drive; and

**WHEREAS**, the Commission further finds that the proposal meets the intent of Guidelines 7 and 8 – Circulation and Transportation Facility Design. The intents of these Guidelines are to provide for safe and proper functioning street networks; to ensure that developments do not exceed the traffic-carrying capacity of these streets; to ensure that there is good internal and external circulation to, from and throughout the proposed development; to assure that congestion and air quality are addressed in positive ways; and to make sure that transportation facilities internal and external to the development are safe and efficient for the movement of all forms of transportation; and

**WHEREAS**, the Commission further finds that this application complies with these Intents of these Guidelines of the Comprehensive Plan because the development plan accompanying this application has been laid out in compliance with applicable Metro Public Works and Transportation Planning policies and standards; in that regard, the external street systems were previously examined when the Phase I development of approximately two-thirds of this site was developed; at that time, the traffic study demonstrated that National Turnpike and Southside Drive had adequate traffic-carrying capacity; the type of development that is proposed here and the small addition that is involved to that already existing business park is not anticipated to yield such amounts of traffic that the carrying capacity of these two streets (National Turnpike and Southside Drive) will be diminished; air quality is largely addressed by reducing commuting distances, since this workplace is near a large support population; and traffic congestion will be better addressed once the new access points are constructed, especially the one at Southside Drive where the current access is at an odd angle to Southside Drive and will be straightened out; and

**WHEREAS**, the Commission further finds that Policies 1, 2, 3, 9, 10, 11, 12, 13 and 14 of Guideline 7 and Policies 4, 5,7, 9, 10 and 11 of Guideline 8 are those very specific transportation Policies that are specifically reviewed in the context of the development plan submitted with this application by Metro Transportation Planning and Public Works; this application received approval from those agencies demonstrating compliance with all of these Policies of these Guidelines as well as the LWC and in particular Metro Public Works and Transportation Planning's design standards; and

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**WHEREAS**, the Commission further finds that the proposal meets the intent of Guideline 9 – Bicycle, Pedestrian and Transit. The intents and Policies 1, 2, 3 and 4 of this Guideline all pertain to ensuring that alternate forms of transportation are accommodated; in this case, Southside Drive is a transit route, and so employees can access this facility via transit; sidewalks are always provided in all new developments; and bicycles must be accommodated as well and will be as required; and

**WHEREAS**, the Commission further finds that the proposal meets the intent of Guideline 10 – Stormwater Management. The Intents and Policies 1, 3, 6, 7, 10 and 11 of this Guideline are intended to assure that stormwater is managed to the maximum extent practicable; and

**WHEREAS**, the Commission further finds that this application complies with these Intents and applicable Policies of this Guideline of the Comprehensive Plan because stormwater detention is provided on site; that is in addition to storm pipes that already exist along the perimeters that will connect into the new internal drainage system; although there will be more impervious surface in this development as a consequence thereof than in the property that presently exists, it will be engineered drainage flows instead of haphazard drainage flows which will assure that drainage enters into MSD approved drainage systems; the oversized detention basin near the National Turnpike side of the property assures that drainage flow will be slowed down during all applicable storm events before entering the drainage system, which ultimately flows into existing downstream facilities that the applicant has been told are operating at over-capacity; the applicant's engineers, by being more fully informed at the neighborhood meeting of these downstream issues, will do everything possible to assure that not only post-development rates of runoff do not exceed predevelopment conditions but that downstream facilities are not adversely impacted; and

**WHEREAS**, the Commission further finds that the proposal meets the intent of Guideline 12 – Air Quality. The Intents and Policies 1, 2, 3, 4, 6, 7, 8 and 9 of this Guideline are all intended to assure that new developments such as this do not have adverse impacts on air quality; and

**WHEREAS**, the Commission further finds that this application will comply with these Intents and applicable Policies of this Guideline of the Comprehensive Plan because, as stated, it is proposed for an area that has a significant support population; as a consequence, that can help reduce vehicle miles traveled for



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employees to these new places of employment; because it has great access to all of the major interstates through multiple routes, and as a consequence of the two major points of ingress and egress to and from this development to this development, traffic can and will be dispersed in multiple directions ultimately to several major road and interstate systems; and

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

**RESOLVED**, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the legislative council of Louisville Metro Government that the change in form district from Traditional Neighborhood to Suburban Workplace, and a change in zoning from C-1, M-2 and R-4 to M-2 on property located at 7001 Southside Drive as described in the attached legal description, be **APPROVED**.

**The vote was as follows:**

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

**NO: No one.**

**NOT PRESENT: Commissioners Hughes and Proffitt.**

**ABSTAINING: No one.**

**Variance to exceed the maximum setback from Southside Drive**

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

**WHEREAS**, the Louisville Metro Planning Commission finds that the requested variance will not adversely affect the public health, safety or welfare. The buildings additional setback will not affect the public because it locates the building in an area where there are other adjacent similarly sized structures; and

**WHEREAS**, the Commission further finds that the variance will not alter the character of the area because the site had previously been used as a drive-in theatre where there were no structures built within the required setback or to fit the traditional form; and

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**WHEREAS**, the Commission further finds that the additional setback of the building will not affect the public because it maintains the existing entrance to the site and provides sidewalk and pedestrian access to the site which did not exist before; and

**WHEREAS**, the Commission further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations. The variance is not unreasonable because the shape of the lot would not allow for sufficient use of the lot because the entrance is not very wide while the interior of the site is which allows for more building area. Not having a structure located within the required setback is consistent with what has occurred on the site for some time when the site was used as a drive in theatre; 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. The shape of the lot is unusual for the area which would be a special circumstance since there are no other similarly shaped lots in the vicinity; 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. Constructing a building within the required setback would limit the use of the rest of the site which would be a hardship on the applicant; and

**WHEREAS**, the Commission further finds that the circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought. The circumstances existed prior to the zoning regulations. Any structure that would have been required on the site would have to have been setback farther than required in order to maximize the use of the site; and

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

**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Variance to exceed the maximum setback from Southside Drive.

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**The vote was as follows:**

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

**NO: No one.**

**NOT PRESENT: Commissioners Hughes and Proffitt.**

**ABSTAINING: No one.**

**Waiver from Chapter 5 to eliminate the 6' berm requirement from the LBA along the north property line**

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

**WHEREAS**, the Louisville Metro Planning Commission finds that eliminating the 6' berm will not adversely affect adjacent properties because it would allow for the existing vegetation to remain and be used for screening, buffering and to meet the tree requirements within the buffer; and

**WHEREAS**, the Commission further finds that eliminating the berm will not violate Cornerstone 2020 because the screening and planting materials will still be planted or existing materials will be used to meet LDC requirements. Cornerstone 2020 also promotes preservation of natural features on a site and preserving the existing trees will help to achieve that guideline; 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. Constructing a berm would require the applicant to remove existing vegetation and would alter the existing drainage facilities. Preserving the existing vegetation along the property line instead of constructing the berm benefits both the applicant and adjacent property owners; and

**WHEREAS**, the Commission further finds that the applicant has incorporated other design measures, mainly the preservation of existing vegetation to compensate for not providing the berm; and

**WHEREAS**, the Commission further finds that, based on the evidence and testimony presented, portions of the staff report, and the applicant's justification

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and findings of fact that all of the applicable Guidelines of Cornerstone 2020 and the Comprehensive Plan are being met; now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Waiver from Chapter 5 to eliminate the 6' berm requirement from the LBA along the north property line

**The vote was as follows:**

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

**NO: No one.**

**NOT PRESENT: Commissioners Hughes and Proffitt.**

**ABSTAINING: No one.**

**Detailed District Development Plan and Binding Elements**

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

**WHEREAS**, the Louisville Metro Planning Commission finds that the site is preserving existing vegetation instead of providing a 6 foot berm and is also preserving the drive-in theatres existing historic sign; and

**WHEREAS**, the Commission further finds that the site is providing for all types of transportation throughout the site; and

**WHEREAS**, the Commission further finds that open areas on the site are mainly to provide for buffers and existing trees and vegetation; and

**WHEREAS**, the Commission further finds that MSD has preliminarily approved the proposal; and

**WHEREAS**, the Commission further finds that the site is compatible with the adjacent lots as the site is providing all required buffers and is preserving existing trees on the site; and

**WHEREAS**, the Commission further finds that, based on the evidence and testimony presented, portions of the staff report, and the applicant's justification

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and findings of fact that all of the applicable Guidelines of Cornerstone 2020 and the Comprehensive Plan are being met; now, therefore be it

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

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. The development shall not exceed 160,542 square feet of gross floor area.
3. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
4. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
5. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested:
  - a. The development plan must receive full construction approval from Louisville Metro Department of 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. A minor subdivision plat or legal instrument 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

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- Planning and Design Services; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
- d. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
  - e. A reciprocal access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be created between the adjoining property owners 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.
  - f. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
6. 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.
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. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
9. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and

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developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.

10. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the January 16, 2014 Planning Commission meeting.
11. No idling of trucks shall take place within 200 feet of single-family residences. No overnight idling of trucks shall be permitted on-site.
12. The historic sign shall be relocated within sight of Southside Drive to maintain the historic relationship to the road. In the event that a suitable location is not available at such time that the sign would be moved, property owner shall contact the Metro Historic Preservation Officer to find an appropriate site for relocation of the historic sign.

**The vote was as follows:**

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

**NO: No one.**

**NOT PRESENT: Commissioners Hughes and Proffitt.**

**ABSTAINING: No one.**

**Revised Category 3 plan (13DEVPLAN1110)**

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

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

**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE** the Revised Category 3 Plan (Case No. 13DEVPLAN1110).

**The vote was as follows:**

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

**NO: No one.**

**NOT PRESENT: Commissioners Hughes and Proffitt.**

**ABSTAINING: No one.**



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**STANDING COMMITTEE REPORTS**

**Land Development and Transportation Committee**

No report given.

**Legal Review Committee**

No report given.

**Planning Committee**

No report given.

**Policy and Procedures Committee**

No report given

**Site Inspection Committee**

No report given.

**ADJOURNMENT**

The meeting adjourned at approximately 3:58 p.m.

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**Chairman**

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**Division Director**