

**PLANNING COMMISSION MINUTES
MARCH 15, 2018**

PUBLIC HEARING

CASE NUMBER 17ZONE1045

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

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

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

Agency Testimony:

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

The following spoke in favor of this request:

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

Summary of testimony of those in favor:

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

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

The following spoke in opposition to this request:

No one spoke.

Deliberation:

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

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

Change in Zoning from R-4 to C-2

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The vote was as follows:

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

Conditional Use Permit

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The vote was as follows:

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

NOT PRESENT: Howard and Tomes

Variances

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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The vote was as follows:

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

NOT PRESENT: Howard and Tomes

Waivers

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

WHEREAS, the Louisville Metro Planning Commission finds that the waiver will not adversely affect adjacent property owners as the location of the sidewalk in question would not connect to any other street or give access to any other adjacent property owners, and

WHEREAS, the Commission further finds that Guideline 7, Policy 1 states that developments should be evaluated for their impact on the street and roadway system and to ensure that those who propose new developments bear or reasonably share in the costs of the public facilities and services made necessary by development. Guideline 9, Policy 1 states that new development should provide for the movement of pedestrians, bicyclists and transit users with sidewalks along the streets of all developments where appropriate. These guidelines are not violated as sidewalks are provided along enough frontage to allow pedestrian access to the entire site and pedestrian connectivity is improved with this proposal, and

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

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

WHEREAS, the Commission further finds that Guideline 3, Policy 9 calls for protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigation when appropriate. Guideline 3, Policies 21 and 22 call for appropriate transitions between uses that are substantially different in scale and intensity or density, and to mitigate the impact caused when incompatible developments occur adjacent to one another through the use of landscaped buffer yards, vegetative berms and setback requirements to address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances. Guideline 3, Policy 24 states that parking, loading and delivery areas located adjacent to residential areas should be designed to minimize noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered. Guideline 13, Policy 4 calls for ensuring appropriate landscape design standards for

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

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

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

WHEREAS, the Commission further finds that the waiver will not adversely affect adjacent property owners as 15' of buffer is still provided and the appropriate plantings will be provided along the frontage in the right of way, and

WHEREAS, the Commission further finds that the waiver will not violate Guideline 3, Compatibility, of Cornerstone 2020, which calls for the protection of roadway corridors and public areas from visual intrusions, for mitigation of parking areas so as not to negatively impact nearby residents and pedestrians, and for screening and buffering of parking areas adjacent to streets. The waiver will not violate Guideline 13, Landscape Character, which calls for the protection of parkways through standards for buffers, landscape treatment, lighting and signs. The purpose of vehicle use area landscape buffer areas is to improve the appearance of vehicular use areas and property abutting public rights-of way. The guidelines are not violated as the plantings that are proposed meet the intent of the Comprehensive Plan, and

WHEREAS, the Commission further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as 15' of buffer is all that can be provided after meeting parking, queuing and drive aisle width requirements, and

WHEREAS, the Commission further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant as providing the full 30' buffer would cause issues with meeting other requirements, such as parking and queuing on site, and

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

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The vote was as follows:

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

NOT PRESENT: Howard and Tomes

Detailed District Development Plan

03:27:32 On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution, based on the Standard of Review and Staff Analysis and testimony heard today, was adopted:

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

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

WHEREAS, the Commission further finds that the plan has met open space requirements with 4,703 square feet of amenity areas, and

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

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

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

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

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

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

2. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
3. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
4. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested:
 - a. The development plan must receive full construction approval from Develop Louisville, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
 - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - d. A legal instrument shall be recorded creating the property lines as shown on the development plan. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of the approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
 - e. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
5. Prior to any site disturbance permit being issued and prior to any clearing, grading or issuance of a site disturbance permit, a site inspection shall be conducted by PDS staff to ensure proper placement of required tree protection fencing in accordance with the approved Tree Preservation Plan.
6. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.

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7. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
8. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
9. The materials and design of proposed structures shall be substantially the same as depicted in the renderings as presented at the March 15, 2018 Planning Commission meeting.

The vote was as follows:

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

NOT PRESENT: Howard and Tomes