

**Planning Commission Minutes
December 4, 2014**

Public Hearing

Case No. 14ZONE1036

Request: Change in zoning from R-4 to OR-3; Setback variance; and Land Development Code waivers.

Project Name: LaGrange Road Office

Location: 12610 LaGrange Road

Owner: Alan S. Kane, representative
Starz Properties, LLC
12540 Westport Road
Louisville, KY 40245

Applicant: Scott Hagan, representative
Hagan Properties, Inc.
12949 Shelbyville Road
Louisville, KY 40243

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

Engineer/Designer: Kevin Young
Land Design & Development Inc.
503 Washburn Ave Suite 101
Louisville, KY 40222

Jurisdiction: Louisville Metro

Council District: 17 – Glen Stuckel

Case Manager: **Christopher Brown, Planner II**

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

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part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

00:17:41 Christopher Brown presented the case and showed a Power Point presentation.

00:27:33 In response to a Commissioner's question, Mr. Brown explained that the front portion of the property is OR-3; only the rear portion of the property is proposed for rezoning at this time. He added that the applicant should address a conservation easement on the site, as well as the historic structure on the property.

The following spoke in favor of the proposal:

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

Kevin Young, Land Design & Development Inc., 503 Washburn Ave Suite 101, Louisville, KY 40222

Summary of testimony of those in favor of the proposal:

00:28:43 William Bardenwerper, applicant's representative, presented the applicant's case and showed a Power Point presentation. He said the conservation easement may not have value with this particular development, since this site is protected by plan certain.

00:35:48 Kevin Young - Land Design & Development, an applicant's representative, discussed design and landscaping issues.

00:38:29 Mr. Young discussed the historic preservation issues. He said the applicant has agreed to photograph/document the historic house on the property, per the request of Historic Preservation. He emphasized that the area around the house was so overgrown that the house was unreachable.

00:41:07 Mr. Bardenwerper stated that the Comprehensive Plan does not apply to the requested variance.

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00:41:53 Commissioner Butler asked if there were negative comments from the neighborhood meeting. Mr. Bardenwerper said he was not aware of any, but that attendees were given many ways to reach the applicants/applicant's representatives for questions, comments, etc.

The following spoke in opposition to the proposal:

No one spoke.

The following spoke neither for nor against the proposal:

No one spoke.

Rebuttal:

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

Deliberation

00:43:09 In response to a question from Commissioner Blake, Mr. Brown discussed renumbering of the proposed binding elements and clarified proposed changes. Commissioner Butler asked about existing binding element #3. Binding element #12 is being proposed to be deleted in its entirety.

00:47:34 Commissioners' deliberation.

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

Zoning

On a motion by Commissioner Butler, seconded by Commissioner Peterson, the following resolution was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that this application complies with **Guideline 1 – Community Form** because it is located in a Suburban Neighborhood Form District, which is characterized by predominantly residential uses but also uses that blend compatibility in existing landscape and neighborhood areas. The Suburban Neighborhood Form District also contains open space and, at appropriate locations, offices as well as retail shops,

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restaurants and services. The proposed small individual corporate office use is one of those uses contemplated for this particular form district, and the design of the site plan as well as the architecture of the building take into account, as recommended by this Guideline, a blending of compatibility with the inclusion of open space. It also has good access that will not negatively impact the traffic-carrying capacity of LaGrange or Reamers Roads. Sidewalks will be provided. Trees will be retained; and

WHEREAS, the Commission further finds that this application complies with **Guideline 2 – Centers** because, as set forth in the Intent statements of this Guideline, this use will efficiently utilize vacant land and existing infrastructure, and will address the issue of commuting times and distances because the owners of the proposed corporate headquarters building live just a short distance away. Further, the site design and building architecture that are evident on the drawings accompanying this application evidence the fact that this application creates a very appropriate use of space which will fit well within the larger neighborhood; and

WHEREAS, the Commission further finds that this application also complies with Policies 1, 2, 4, 5, 7, 8, 11, 12, 13, 14 and 15 of this Guideline for these reasons. This location is at the intersection of an arterial (LaGrange Road) and a major collector (Reamers Road) street. Considering the size and location of this property and considering the fact that the particular small corporate headquarters use proposed for this location is comparable to its own small designated center, this is an appropriate location for what is proposed. Further, development of this site is compact, leaving lots of existing trees. It adds an office, not a commercial, use to this major arterial, which is a corridor connecting the Eastpoint Business Park and nearby large commercial Forest Springs center to Oldham County as well as to residential and workplace developments nearby. Also, as opposed to prior commercial uses proposed for this site, this small corporate headquarters use is a desirable one, as far as early meetings with neighbors have determined. Also, a small office-headquarters use such as this is appropriate in an area where people reside, especially given the fact that the business owners reside nearby. The focal point is the high level of architectural design in the headquarters building as well as the key elements of landscape that have been retained on this site. Parking utilizes the already existing asphalt area which has been further designed in an environmentally-sensitive way as will be further explained by the land planners and engineers (Land Design and Development-LDD) at the LD&T meeting and public hearing. Utilities are available. Parking is surrounded by attractive intensive landscaping; and

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WHEREAS, the Commission further finds that this application complies with **Guideline 3 – Compatibility** because it evidences in both site design and building architecture that the proposed land use is sensitive to nearby neighborhoods. It also helps preserve the character of the site, which is heavily treed and of a high visual quality, not emitting noise, lighting, odors or the kinds of nuisances that would adversely affect nearby neighbors; and

WHEREAS, the Commission further finds that this application also complies with Policies 1, 2, 4, 5, 6, 7, 8, 9, 12, 20, 21, 22, 23, 24, 25 and 28 of this Guideline for reasons set forth as follows. The building materials were selected to blend with the landscape. Earth tone colors are evident in the building facade. Windows have a tendency to reflect the outdoors, but are also a very evident building material evidenced in most nearby residential structures. Further, the low rise of the principal office building combined with the barn style design of the accessory garage building will go well with the type of architecture as well as the size and scale of the buildings in the area. Also, this particular small, corporate headquarters use will not cause odors, traffic, noise, lighting or other visual impacts that will negatively impact the neighborhood. That is because an office use of this size does not create much traffic, there are no odors associated therewith, and lighting will only consist of an amount necessary for security and perhaps some minimal amount of building and landscaping accent. Accessibility to the site has been approved by Metro Transportation Planning. Protection of existing landscape assures good transition between this and adjoining or nearby residential uses. They also assure protective buffers. Buildings are adequately set back. Parking is minimized. The only sign will be within size and height limitations of the sign regulations of the Land Development Code (LDC); and

WHEREAS, the Commission further finds that the application complies with **Guideline 4 – Open Space; Guideline 5 – Natural Areas, Scenic and Historic Resources; and Guideline 13 – Landscape Character** because, as noted hereinabove, the site plan evidences a design that enhances the quality of the aesthetic environment. It assures that trees will be protected as noted on the concept tree preservation plan filed with this application; and

WHEREAS, the Commission further finds that this application also complies with Policies 1, 2, 5, 6 and 7 of Guideline 4, with Policies 1 and 2 of Guideline 5 and Policies 1, 2, 3, 4, 5 and 6 of Guideline 13. This site, as evidenced from the site plan accompanying this application, has been designed with the idea that much of it has been retained as open space, respecting significant trees, including natural features. Further, the interest of historic preservationists in this property or the existing structure can be accommodated with photographs of same. It is

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not an old enough building to have historic value and is dilapidated. The landscaping proposed for this site is evident on the concept landscape plan filed with this application. As noted above, significant existing trees will be retained and enhanced with new landscaping to provide for, not just compliance with, the LDC. But the landscaping is of a high quality and significance as desired both by this developer (which will locate its headquarters building on this location) and by neighbors. Also, this landscaping will help to screen residences and protect the property's aesthetic quality; and

WHEREAS, the Commission further finds that the application complies with **Guideline 6 – Economic Growth and Sustainability** because, located as this site is along a major arterial in close proximity to residential, commercial and workplace properties in a form district where a low intensity office use of this kind is deemed appropriate, it promotes a business at a location where infrastructure and support population are available; and

WHEREAS, the Commission further finds that the application complies with **Guideline 7 – Circulation; Guideline 8 – Transportation Facility Design; and Guideline 9 – Bicycle, Pedestrian Transit** because the detailed district development plan (DDDP) filed herewith was prepared in compliance with all Metro Transportation Planning and Public Works requirements as respects Policies 9, 10, 11, 14, 15, 16 and 19 of Guideline 7, Policies 5, 9, 10 and 11 of Guideline 8, and Policies 1, 3 and 4 of Guideline 9. That is to say that the DDDP addresses adequacy of right-of-way and parking, corner clearance and site distance standards, access and parking lot design, internal circulation, and the provision of bicycle and sidewalk facilities. Furthermore, LaGrange and Reamers Roads have adequate traffic-carrying capacity for a small corporate office facility of this kind; and

WHEREAS, the Commission further finds that the application complies with **Guideline 10 – Stormwater; and Guideline 11 – Water Quality** because on-site detention and water quality measures will be provided; and

WHEREAS, the Commission further finds that the application complies with **Guideline 12 – Air Quality** because locating a small corporate office building in close proximity to residential properties reduces commuting time and distance; 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

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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 R-4 to OR-3 on property located at 12610 LaGrange Road as described in the attached legal description, be **APPROVED**.

The vote was as follows:

YES: Commissioners Blake, Proffitt, Brown, Peterson, Butler, Jarboe, Kirchdorfer, and Turner.

NO: No one.

NOT PRESENT: Commissioners White and Tomes.

ABSTAINING: No one.

Variance - Variance from Chapter 5.3.1.C.5 of the Land Development Code to allow the proposed structure to exceed the 80' maximum setback along Reamers Road and La Grange Road.

On a motion by Commissioner Butler, seconded by Commissioner Brown, 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 since it allows the preservation of the mature tree canopy along the property frontage; and

WHEREAS, the Commission further finds that the requested variance will not alter the essential character of the general vicinity since it follows a varying setback pattern for structures along the applicable roadways; and

WHEREAS, the Commission further finds that the requested variance will not cause a hazard or nuisance to the public since the mature tree canopy will be able to be preserved and maintained along the street frontage to lessen the impact of the building on the surrounding residential areas; and

WHEREAS, the Commission further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations since it follows the varying setback pattern along surrounding roadways while accommodating the landscaping needs of the site; and

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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 due to the mature tree canopy on the site being maintained with the proposed use; and

WHEREAS, the Commission further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant by requiring the tree removal to place the building closer to both street frontages at the corner intersection; and

WHEREAS, the Commission further finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought since the tree canopy being preserved existed prior to the current proposal; and

WHEREAS, the Commission further finds that, based on the evidence and testimony presented, 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 Variance from Chapter 5.3.1.C.5 of the Land Development Code to allow the proposed structure to exceed the 80' maximum setback along Reamers Road and La Grange Road.

The vote was as follows:

YES: Commissioners Blake, Proffitt, Brown, Peterson, Butler, Jarboe, Kirchdorfer, and Turner.

NO: No one.

NOT PRESENT: Commissioners White and Tomes.

ABSTAINING: No one.

Waiver #1 - Waiver from Chapter 5.9.2.b.i of the Land Development Code to not provide a direct pedestrian connection from to the building from La Grange Road

On a motion by Commissioner Butler, seconded by Commissioner Peterson, the following resolution was adopted:

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WHEREAS, the Commission further finds that the waiver will not adversely affect adjacent property owners since internal connectivity for the site will be provided from the Reamers Road sidewalk that connects to the sidewalk along La Grange Road; and

WHEREAS, the Commission further finds that the waiver will not violate specific guidelines of Cornerstone 2020 since multi-modal access to the site will be provided in the most reasonable means along the street frontages for this property; and

WHEREAS, the Commission further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since a connection will be created along Reamers Road; 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 and would create an unnecessary hardship on the applicant since the pedestrian connection can be provided in a more accessible manner along Reamers Road without issues regarding the tree canopy; and

WHEREAS, the Commission further finds that, based on the evidence and testimony presented, 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 Waiver from Chapter 5.9.2.b.i of the Land Development Code to not provide a direct pedestrian connection from to the building from La Grange Road.

The vote was as follows:

YES: Commissioners Blake, Proffitt, Brown, Peterson, Butler, Jarboe, Kirchdorfer, and Turner.

NO: No one.

NOT PRESENT: Commissioners White and Tomes.

ABSTAINING: No one.

Waiver #2 - Landscape Waiver from Chapter 10.2.12.B of the Land Development Code to allow the required interior landscape areas to exceed the 120' maximum distance.

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On a motion by Commissioner Butler, seconded by Commissioner Peterson, the following resolution was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the waiver will not adversely affect adjacent property owners since the required amount of interior landscaping will be provided on site; and

WHEREAS, the Commission further finds that Guideline 13, Policy 5 calls for standards to ensure the creation and/or preservation of tree canopy as a valuable community resource. The purpose of interior landscape areas is to break up large impervious areas and allow for a greater distribution of tree canopy coverage. The waiver will not violate specific guidelines of Cornerstone 2020 since the required amount of interior landscaping will be provided on site; and

WHEREAS, the Commission further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since the location of the interior landscaping allows the preservation of trees on the site; and

WHEREAS, the Commission further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant by requiring relocation of the landscaping islands into areas that would have a greater negative impact to the existing tree canopy on the site; and

WHEREAS, the Commission further finds that, based on the evidence and testimony presented, 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 Landscape Waiver from Chapter 10.2.12.B of the Land Development Code to allow the required interior landscape areas to exceed the 120' maximum distance.

The vote was as follows:

YES: Commissioners Blake, Proffitt, Brown, Peterson, Butler, Jarboe, Kirchdorfer, and Turner.

NO: No one.

NOT PRESENT: Commissioners White and Tomes.

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ABSTAINING: No one.

Detailed District Development Plan

On a motion by Commissioner Butler, seconded by Commissioner Peterson, the following resolution was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that tree canopy requirements of the Land Development Code will be provided on the subject site through the preservation of mature tree canopy; 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 open spaces requirements of the site are met with the landscaping being provided on site; and

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

WHEREAS, the Commission further finds that the overall site design and land uses are compatible with the existing and future development of the area. Appropriate landscape buffering and screening will be provided to screen adjacent properties and roadways. The building will follow the varying setback pattern of the area with a building at scale with the form district; and

WHEREAS, the Commission further finds that the development plan conforms to applicable guidelines and policies of the Comprehensive Plan Cornerstone 2020 and the Land Development Code with the requested relief meeting their corresponding standards of review; and

WHEREAS, the Commission further finds that, based on the evidence and testimony presented, 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

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

1. ~~The development shall be in accordance with the approved district development plan, land use and agreed upon binding elements unless amended pursuant to the Zoning District Regulations. No further development shall occur without prior approval from the Planning Commission.~~ **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 residential character of the structure, including landscaping, shall be maintained. Exterior additions or alterations or demolition of structures shall not be made without prior approval of the Planning Commission's Land Development and Transportation Committee.~~
3. At least 60 days prior to demolition of any structures, the property owner shall notify the Jefferson County Department of Historic Preservation and Archives and allow the agency to photograph the structures and site, and undertake archaeological reconnaissance.
4. ~~There shall be no medical offices or other uses requiring a parking ratio greater than one space per 400 square feet of floor area unless parking can meet the requirement of the proposed use.~~
5. The development shall not exceed 4,876 **17,500** square feet of gross floor area.
6. ~~There shall be no vehicular access to Reamers Lane.~~
7. Upon the widening of LaGrange Road, the owner shall provide sidewalks in the LaGrange Road right-of-way in accordance with standards acceptable to the Jefferson County Department of Public Works and Transportation.

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8. ~~No freestanding sign shall be permitted on the property.~~
9. No outdoor advertising signs (billboards), small freestanding (temporary) signs, pennants or banners shall be permitted on the site.
10. There shall be no outdoor storage on the site.
11. Outdoor lighting shall be directed down and away from surrounding residential properties.
12. Prior to issuance of a certificate of occupancy the Applicant shall enter into a Conservation Easement ("C.E.") in favor of the Louisville & Jefferson County Planning Commission ("Planning Commission) or its designee pursuant to KRS 382.800 through 382.860 applicable to the entire property owned by Applicant on September 1, 1994, including the area zoned OR-3 and the area remaining zoned single-family residential, altogether being 8.6 acres, more or less ("the property"), which C.E. shall be subject to the following:
 - a. The purpose of the C.E. shall include retaining and protecting the natural and open space values of the property to the standards set for by the Planning Commission in order to assure the protection, proper care and maintenance of the existing vegetation on the property, which shall occur at the cost of Applicant;
 - b. The C.E. shall be recordable and in a form satisfactory to the General Counsel of the Planning Commission.
 - c. The C.E. shall be of unlimited duration except in the event a record subdivision plat for residential use on the property is approved by the Planning Commission; in such case the C.E. shall abate only to the extent of the area of the approved residential subdivision plat.
 - d. No requirement for protection or maintenance shall impose an affirmative obligation on the part of the Planning Commission; the obligation of protection, proper care and maintenance shall belong to Applicant, his successors, heirs and assigns.
 - e. The C.E. shall not prohibit Applicant from using his astronomical telescope and related equipment on the property in order to observe the universe.
13. The applicant shall submit a plan for approval by the Planning Commission staff's landscape architect showing trees measuring 12" DBH located within the area of site disturbance or potentially affected by construction of the proposed drive and parking lot prior to beginning any construction procedure (i.e. clearing, grading, demolition). The plan shall indicate trees to be preserved. Adjustments to the tree preservation plan

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which are requested by the applicant may be approved by the Planning Commission staff's landscape architect if the revisions are in keeping with the intent of the approved tree preservation plan.

The plan shall exhibit the following information:

- a. Proposed site plan (showing buildings, edges of pavement, property/lot lines, easements, existing topography, and other significant site features (LOJIC topographic information is acceptable).
- b. Preliminary drainage considerations (retention/detention, ditches/large swales, etc.).
- c. Location of all existing trees 12" DBH or greater within or affected by construction of the drive and parking lot, as shown by aerial photo or LOJIC maps.
- d. Location of construction fencing for each tree/tree mass designated to be preserved.

14. 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 be re-approved by the Jefferson County Department of Public Works and Transportation and the Metropolitan Sewer District.~~ **The development plan must receive full construction approval from Louisville Metro Department of Develop Louisville Construction Permit Review and Transportation Planning Review and the Metropolitan Sewer District.**
- b. A minor subdivision plat shall be recorded dedicating additional right-of-way to Reamers Lane to provide a total of 30 feet from the centerline. A copy of the recorded instrument shall be submitted to the Planning Commission.
- c. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
- d. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in ~~Article 12~~ Chapter 10. Such plan shall be implemented prior to requesting a certificate of occupancy and maintained thereafter.

15. If a certificate of occupancy is not issued within ~~one~~ 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.

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16. A certificate of occupancy must be received from the appropriate code enforcement office 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.
17. **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.**
18. **The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the December 4th, 2014 Planning Commission meeting.**
19. **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.**

The vote was as follows:

YES: Commissioners Blake, Proffitt, Brown, Peterson, Butler, Jarboe, Kirchdorfer, and Turner.

NO: No one.

NOT PRESENT: Commissioners White and Tomes.

ABSTAINING: No one.