

PLANNING COMMISSION MINUTES
October 17, 2019

PUBLIC HEARING
CASE NO. 19-ZONE-0025 AND 19-STRCLOSURE-0005

Request: Change in zoning from R-4 to C-1 with detailed and revised detailed district development plan and setback variance

Project Name: Anchorage Plaza

Location: 12903, 12910 and 12920 Factory Lane

Owner: Ghasem Properties, Inc. and Atlantic Development Group, LLC

Applicant: Ghasem Properties

Representative: Bardenwerper, Talbott & Roberts, PLLC

Jurisdiction: Louisville Metro

Council District: 19 – Anthony Piagentini

Case Manager: Joel Dock, 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.)

Agency Testimony:

01:48:18 Mr. Dock discussed the case summary, standard of review and staff analysis from the staff report.

01:51:47 Commissioner Mims asked if connection to the existing shopping center is worked out in regards to the receiving end of the driveway. Mr. Dock said it's an internal drive lane so the right-of-way will be abandoned and improvements will be made. It will be converted into a private drive lane with parking on one side, parking on the other side and some pedestrian facilities that come through.

The following spoke in favor of this request:

Bill Bardenwerper, Bardenwerper, Talbott and Roberts, PLLC, 1000 North Hurstbourne Parkway, Louisville, Ky. 40223

Mark Madison, Milestone Design Group, 108 Daventry Lane, Suite 300, Louisville, Ky. 40223

Summary of testimony of those in favor:

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01:53:17 Mr. Bardenerper gave a power point presentation. The center will continue with the current design. The same justification used in October will apply for this proposal.

01:59:47 Commissioner Daniels asked if the Factory Ln. road closure will be parking. Mr. Bardenwerper said yes, the county will be relieved of the burden of providing maintenance as well.

02:00:58 Commissioner Howard asked if the main entrance off Factory Ln. is a 10 foot roadway. Mr. Madison said it's a drive-through to access the side of the building. Commissioner Howard asked if there's only one access point for the property. Mr. Madison said no, there are 2 other access points.

02:04:37 Commissioner Mims asked what the back of the building will look like. Mr. Dock said there's a binding element that requires renderings for the proposed building to be reviewed and approved by staff prior to permit.

Deliberation

02:05:50 Planning Commission 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.

Street Closure (19-STRCLOSURE-0005)

On a motion by Commissioner Brown, seconded by Commissioner Howard, the following resolution based on the Standard of Review and Staff Analysis and testimony heard today was adopted.

WHEREAS, adequate public facilities are available to serve existing and future needs of the community. Easements and access to utilities was coordinated with respective agencies and will be provided by individual easement or recorded with the closure plat; and

WHEREAS, any cost associated with the rights-of-way to be closed will be the responsibility of the applicant or developer, including the cost of improvements to those rights-of-way and adjacent rights-of-way, or the relocation of utilities and any additional agreement reached between the utility provider and the developer. Easements and

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access to utilities was coordinated with respective agencies and will be provided by individual easement or recorded with the closure plat; and

WHEREAS, the Louisville Metro Planning Commission finds, Plan 2040 calls for developments to be evaluated for their impact on the transportation net-work (including the street, pedestrian, transit, freight movement and bike facilities and services) and air quality. The closure does not result in a decreased level of connectivity/service as the street is a remnant of a former road relocation and will be incorporated into a cross-connectivity and parking scheme for the associated development; and

WHEREAS, the Louisville Metro Planning Commission further finds there are no other matters concerning this street closure request at this time.

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council the right-of-way street closure on property described in the attached legal description be **APPROVED**.

The vote was as follows:

YES: Commissioners Brown, Daniels, Howard, Mims and Jarboe

NOT PRESENT AND NOT VOTING: Commissioners Carlson, Lewis, Peterson and Tomes

Zoning Change from R-4 to C-1

On a motion by Commissioner Brown, seconded by Commissioner Howard, the following resolution based on the Plan 2040 Staff Analysis and testimony heard today was adopted.

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Community Form because, the proposed district is located between existing and proposed non-residential developments and districts; the proposal is located along a collector level roadway with immediate connectivity to higher classified roadways and the interstate. It is located in an area of existing commercial development and employment centers; traffic flow will be consistent with existing and proposed development in proximity to the interstate; the proposal is consistent with expectations for noise currently occurring within commercial development adjoining the site; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Form because, the proposed district is located in an existing activity center. Design and density will be compatible with desired

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form, adjacent uses, and existing and planned infrastructure; the proposal is located where a sufficient population will support the use; the proposed district concentrates commercial uses at an appropriate location resulting in an efficient land use and cost-effective infrastructure investment; the proposal allows for a mixture of compatible land uses that reduces trips; the proposed district does not limit the potential for residential uses above retail; the proposal allows for new development consistent with current and proposed uses; the proposal puts to use an inappropriately zoned district between commercial centers; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Community Form because, minimum canopy will be provided as required; MSD will ensure that the development complies with all standards to mitigate impact of wet or highly permeable soils; the site is not located in the floodplain; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 4: Community Form because, the site does not appear to contain historic resources; the site does not appear to contain cultural resources; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Mobility because, the proposed higher intensity use is located within or near existing marketplace corridors, existing and future activity centers, and employment centers to support transit-oriented development and an efficient public transportation system; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Mobility because, the proposal allows for a mixture of compatible land uses that are easily accessible by bicycle, car, transit, pedestrians and people with disabilities; the proposal promotes public transit by concentrating activities near transit routes; the proposal will allow for walkable centers to connect different modes of travel; all transportation improvements required will be made to improve the network; the proposal will bear or share in rough proportionality the costs of transportation facilities and services made necessary by development; Transportation facilities will be made adequate; all roadway improvements will occur in accordance with long-range transportation plans and level of mobility criteria for all modes of travel; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Facilities because, the proposal served by existing utilities or capable of being served by public or private utility extensions; an adequate supply of potable water and water for fire-fighting purposes will be provided; the proposal will have an adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams as determined by the Metropolitan Sewer District (MSD); and

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WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Economic Development because, the proposed district meets the needs of adjacent uses and district as these uses are commercial; the proposal is located with adequate access to a major arterial and at locations where nuisances and activities of the proposed use will not adversely affect adjacent areas; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Livability because, no karst features have been identified at this time; the subject site is not located in the regulatory floodplain.

WHEREAS, the proposed zone change and detailed district development plan (DDDP) complies with applicable Objectives a, b, c, & f and applicable Policies 1, 2.1, 3.1.8, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 17, 18, 19, 20, 23, 27 & 28 because the small retail center proposed as an addition to the both the existing retail center along LaGrange Road and Factory Lane and the recently rezoned parcel under development; all three parcels have similar ownership and are proposed and designed to be operated as one cohesive development allowing the property to function better as a whole; together this site and the other one mentioned that was previously approved and developed/under development are appropriate for this location, among other reasons, because they are at the intersection of LaGrange Rd. and Factory Lane just outside the Snyder Freeway where a large retail activity center already exists; this small retail center addition is located across Factory Lane from a very large Kroger anchored retail center and across LaGrange Rd. from yet another small retail center developed by the principal of this same applicant; and with the new residential growth outside of the Gene Snyder, commercial retail locations like this have an increased demand, particularly at the best locations for such retail, being in close proximity to the Gene Snyder; and

WHEREAS, the new retail center will continue to drive retail traffic to support the existing retail stores in the center and position the overall development to adapt readily now and in the future to new market demands; the rezoning will allow the center to survive and continue to serve the suburban area in a robust and healthy commercial manner fulfilling the Suburban Workplace goals; and the property will continue to have connected and shared parking along with sidewalks promoting pedestrian and bicycle use consistent with the Suburban Workplace goals; and

WHEREAS, the development and proposed zone change will remain compatible with the scale and site design of nearby existing developments as the property to the south is the Gene Snyder expressway, the property to the east is the adjoining development for which this parcel will become a part, the property to the north across Factory Lane is the large Kroger anchored retail center, and the property to the east is zoned OR-1; Factory Lane further to the east has already been developed making this truly an infill

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rezoning development; this undeveloped property is too small to be functionally developed on its own as a separate stand-alone development such that this proposal is the highest and best use from a land use perspective to allow the development in the area wherein it makes sense to do so and in a way that works best; the property will continue to allow a mixture of intensities through the development of this small parcel is the best way possible; appropriate buffers are already in place such that this rezoning will not cause the expansion of the Suburban Workplace into residential areas; the proposed rezoning will continue to locate the higher density and intensity uses near the major arterial and primary collector of La Grange Road, Chamberlain Lane and Factory Lane, and it will place the employment uses near existing infrastructure and public transportation; and the potential adverse impacts, such as noise, lighting and traffic will continue to be mitigated through the use of buffers, setbacks and compliance with the Land Development Code; and

WHEREAS, the proposed zone change and DDDP complies with applicable Objectives b & d and Policies 1, 2, 5, 6, 7, 9, 10, 12, 13, 14, 15, 16, & 17 because the additional retail uses will encourage sustainable growth and avoid potential decline and will continue to provide intensity around a mixed-use center and along commercial corridors by placing intensity compatible with the Suburban Workplace and existing infrastructure; the design and density are appropriate with adjacent uses that will serve the needs of the surrounding community as they will not change from what exists at the site other than the potential use; the development will be compact in an activity center resulting in efficient land use and will take advantage of and complement cost-effective infrastructure investment; the mixture of compatible uses will reduce traffic and limit trips for customers and users of the site, along with providing “capture trips” by providing additional retail services to those already traveling La Grange Road, Chamberlain Lane and Factory Lane thus avoiding more lengthy trips; this site is within an existing activity center of the adjoining developments already mentioned, and also exists along corridors where major support population exists; as an addition to an existing small retail center, the combination are compact and will contain a mixture of acceptable/desirable retail and office uses, complementary to what exists in the growing area; there is no other practical use of this property other than what is proposed due to the small size of the property as any other solitary development would need many waivers and variances from the LDC to have even a very small building located thereon; the users in these, essentially combined centers will share parking so that there will be no change in traffic and no change to the number of curb cuts currently serving the site, all of which will also continue to be accessible by pedestrian and bicycle traffic; utilities already exist for extension into this site and with the adjoining property under development provision for utilities can be easily made; and they will also share points of access, such that traffic can better enter and exit utilizing both Lagrange Rd. and Factory Lane; and

WHEREAS, the proposed zone change and DDDP complies with applicable Objectives a, c & d and Policies 9, 10 & 12 because the proposed development will enhance the

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surrounding neighborhoods by not diminishing any open space or natural resources; the zoning change will not cause any impact to flood prone areas, nor will it impact any wet or permeable soils or steep slopes, and by providing an additional detention basin in a location where one could not be previously located (due to being an unrelated property), the stormwater management will be handled more effectively; the proposal avoids any significant change in topography and does not cause any environmental changes or damage; the landscape buffers and setbacks will continue to provide the community transitions between the site and the surrounding properties; and the stormwater drainage improvements already under construction as part of the proposed combined developments will continue to limit any issues with flooding or standing water with no new impervious surface proposed, while respecting the natural features of the property and protecting the health, safety and welfare of the adjacent properties and future uses of the development; and

WHEREAS, the proposed zone change and DDDP complies with applicable Objective b and Policies 1 & 2 because there are no historic buildings or features on the property; the rezoning and development plan will essentially provide an infill activity center location where a large support population exists; and thus, it represents a good opportunity for continued economic development for the area; and

WHEREAS, the proposed zone change and DDDP complies with applicable Objectives a, b, c & e and Policies 1, 3, 4, 7 & 14 because the site is served by public transportation through TARC service along LaGrange Road, which is directly adjacent to the retail development to which this property will become a part; the retail uses are located on a minor arterial of La Grange Road and a secondary collector of Factory Lane, encouraging efficient access and minimizing vehicle miles travelled, along with the capture of pass-by trips by providing goods and services along routes already traveled; and it also continues to place higher density and intensity near existing commercial corridors and along the minor arterial and secondary collector with TARC service available; and

WHEREAS, the proposed zone change and DDDP complies with applicable Objectives a, b, c & d and Policies 1, 2, 4, 5, 6, 7, & 8 because the development plan complies with the objectives and policies of Goal 2 by promoting safe, accessible and efficient transportation uses by accommodating pedestrian, bicycle and vehicular access through the connected lots and accessible rights-of-way between the lots which are already part of the development; this portion of the development will also tie these other developments together; the site distances for the curb cuts will not change and are adequate for the area; the internal circulation of pedestrian and vehicular traffic is appropriate with the connected walkways and shared access, parking, etc.; and the entrances are compatible with surrounding development and aesthetically pleasing to adjacent areas; and

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WHEREAS, the proposed zone change and DDDP complies with applicable Objectives a, b, c, & d and Policies 1, 2, 3, 4, 5, 7, 10, 12, 14, 17, 18, 20 & 24 by providing walking and bicycling opportunities with the sidewalks and interconnected walkways and by providing a mix of complementary neighborhood serving businesses, services and reducing miles travelled by car by providing the activity center with additional development in this infill situation; the plan will not burden the transportation network but will allow the site to continue to be consistent with the purpose of the Suburban Workplace; the plan is consistent with long range transportation plans of the community by promoting infill development along established routes; the parking requirements of the site consider the intensity of the use and the character and pattern of the Form District in that it will continue to serve the community; and the plan also satisfies the policy of supporting biking and pedestrian travel by providing for those modes of transportation, with additional bike parking provided; and

WHEREAS, the proposed zone change and DDDP complies with applicable Objective b and Policies 1, 2, & 3 because it is not a community facilities plan, but it does locate development in areas currently served by existing infrastructure, it has adequate water supply and access to sewers so as to not burden existing or future community facilities; and

WHEREAS, the proposed zone change and DDDP complies with applicable Objectives a, c, d, f & h and Policies 3, 7, & 9 because this development provides an economic climate that improves growth, innovation, and investment opportunity for all by providing for the use of an otherwise undevelopable parcel in an infill context; it locates these new potential uses in an area with existing infrastructure in an efficient manner increasing economic opportunities in the area; and it will also provide opportunities to small businesses by providing another location for same; and

WHEREAS, the proposed zone change and DDDP complies with applicable Objectives a, b, c, d & f and Policies 1, 3, 4, 5, & 7 because this development plan complies with Goal 2 of Economic Development as it enhances the quality of life in the area by developing a small infill location, while at the same time protecting and improving the economic value of the surrounding areas by supplementing the economic viability of the activity center; and it also satisfies the goal and policy of infill development to take advantage of the existing infrastructure; and

WHEREAS, the proposed zone change and DDDP complies with applicable Objectives d & e and Policies 7, 12, 17, 23, 25, 26, 27, 28, 31, 32, 35, & 39 because the development plan provides pedestrian and bicycle connectivity while not creating new traffic for the area; it also continues to deal with any impacts to drainage associated with the site through the use of detention basins accounting for the impervious surface; and landscaping will be added where necessary and required under the Land Development Code to reduce the drainage impacts of the site to nearby residential uses; and

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WHEREAS, the proposed zone change and DDDP complies with applicable Objectives a, b, c & d and Policy because the development provides additional goods and services in close proximity; and

WHEREAS, The proposed zone change and DDDP complies with applicable Objective c and Policies 1, 2, & 4 because the development plan provides equitable access to the land use planning and policy resources by providing the surrounding residents and property owners notice of the development changes, notice of all public meetings, by providing the neighborhood meeting, and providing an opportunity for citizen involvement in the plan design and sought-after zoning changes; and

WHEREAS, the proposed zone change and DDDP complies with applicable Objectives a, b, c, e & f and Policies 1, 2, & 8 because the development is providing and enhancing choices for mobility and encouraging clean air by reducing miles driven by providing needed services to an area needing such services; it also provides needed entertainment and retail services in and along high capacity transit corridors of La Grange Road and Factory Lane, supporting public transportation with the medium and high intensity uses; and

WHEREAS, the proposed zone change and DDDP complies with applicable Objectives and applicable Policies of Goal 1, 2, & 3 as it creates and locates necessary services and employment opportunities in an existing activity center near residential areas, thereby strengthening and supporting the housing in the area; and this use will facilitate connected and mixed-use areas and ensure long term affordability and living options for all in the community; and

WHEREAS, for all the reasons explained at LD&T and the Planning Commission public hearing testimony and exhibit books, on the approved detailed district development plan, this application also complies with all other applicable Goals of the 2040 Plan.

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council the change in zoning from R-4, Single Family Residential to C-1, Commercial on property described in the attached legal description be **APPROVED**.

The vote was as follows:

YES: Commissioners Brown, Daniels, Howard, Mims and Jarboe

NOT PRESENT AND NOT VOTING: Commissioners Carlson, Lewis, Peterson and Tomes

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Variance to encroach 5' upon the required 25' front yard setback

On a motion by Commissioner Brown, seconded by Commissioner Howard, the following resolution based on the Standard of Review and Staff Analysis and testimony heard today was adopted.

WHEREAS, the requested variance will not adversely affect public health, safety, or welfare as the proposed reduction does not impede the safe movement of pedestrians or vehicles; and

WHEREAS, the requested variance will not alter the essential character of the general vicinity as the setback appears consistent with existing development; and

WHEREAS, the requested variance will not cause a hazard or nuisance to the public as the proposed reduction does not impede the safe movement of pedestrians or vehicles and the setback appears consistent with existing development; and

WHEREAS, the requested variance will not allow an unreasonable circumvention of zoning regulations as the setback appears consistent with existing development.

WHEREAS, the requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone as the variance allows for the safe provisioning of pedestrian access on the south side of the building; and

WHEREAS, the Louisville Metro Planning Commission finds, the strict application of the provisions of the regulation would deprive the applicant of reasonable use of the land for the reasons previously stated in these findings; and

WHEREAS, the Louisville Metro Planning Commission further finds the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as the site has not been developed and relief is being sought.

WHEREAS, the variance will not adversely affect the public health, safety or welfare because the request is limited to five feet to provide the building and drive through required by the user of the building; due to the terrain and drop from Factory Lane, and the excess right of way at this location, the reduced front yard setback will not affect the ability to extend the existing sidewalk and will not cause issues with the ability to make the sidewalk and driveway section ADA compliant; and the very small variance request is offset by the excess right of way beyond the roadway pavement; and

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WHEREAS, the variance will not alter the essential character of the general vicinity because the setback allows the proposed building to be in line with the existing retail building along Factory Lane; and

WHEREAS, the variance will not cause a hazard or a nuisance to the public because this is an aesthetic regulation, and the impacts of this encroachment, if any, are not ones identified with hazards or nuisances, but rather with visual considerations; this is particularly true in this case where sidewalks are still being provided; and

WHEREAS, the variance will not allow an unreasonable circumvention of the requirements of the zoning regulations because only a 5 foot variance is requested, which is the minimum to allow the proposed use consistent with the existing retail building along Factory Lane; and

WHEREAS, the variance arises from special circumstances, which do not generally apply to land in the general vicinity because this is an effort to locate the retail/commercial building where one would logically be located and where it is best situated for purposes of good access, circulation, limiting walking distances and addressing existing grade conditions; and

WHEREAS, strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create unnecessary hardship because the applicant would be forced to squeeze this site, losing building depth and/or parking that would make it difficult if not impossible, to accommodate viable uses for the anticipated tenants; and

WHEREAS, the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the regulation but rather the applicant is attempting to develop in accordance with the pattern created by the unique shape and location of the property and surrounding development.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the variance to encroach 5 feet upon the required 25 foot front yard setback.

The vote was as follows:

YES: Commissioners Brown, Daniels, Howard, Mims and Jarboe

NOT PRESENT AND NOT VOTING: Commissioners Carlson, Lewis, Peterson and Tomes

Revised Detailed and Detailed District Development Plan and Binding Elements

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On a motion by Commissioner Brown, seconded by Commissioner Howard, the following resolution base on the Standard of Review and Staff Analysis and testimony heard today was adopted.

WHEREAS, the development plan does not significantly impact natural resources on the property and all tree canopies, landscaping buffering, and open space is provided; and

WHEREAS, provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community will be provided as pedestrian connections and internal parking lot connectivity is provided; and

WHEREAS, sufficient open space is provided as tree canopy, landscaping buffering, and open space is provided; and

WHEREAS, 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 Louisville Metro Planning Commission finds, the proposal is generally compatible within the scale and site design of nearby existing development and with the form district's pattern of development as the proposed development is consistent with existing development; and

WHEREAS, the Louisville Metro Planning Commission further finds the proposed development plan conforms to Plan 2040. The proposal is located between existing and proposed non-residential developments and districts. The proposal is located along a collector level roadway with immediate connectivity to higher classified roadways and the interstate. It is located in an area of existing commercial development and employment centers. The proposed district is located in an existing activity center. Design and density will be compatible with desired form, adjacent uses, and existing and planned infrastructure. The proposal concentrates commercial uses at an appropriate location resulting in an efficient land use and cost-effective infrastructure investment.

WHEREAS, the proposed zone change and detailed district development plan (DDDP) complies with applicable Objectives a, b, c, & f and applicable Policies 1, 2.1, 3.1.8, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 17, 18, 19, 20, 23, 27 & 28 because the small retail center proposed as an addition to the both the existing retail center along LaGrange Road and Factory Lane and the recently rezoned parcel under development; all three parcels have similar ownership and are proposed and designed to be operated as one cohesive development allowing the property to function better as a whole; together this

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site and the other one mentioned that was previously approved and developed/under development are appropriate for this location, among other reasons, because they are at the intersection of LaGrange Rd. and Factory Lane just outside the Snyder Freeway where a large retail activity center already exists; this small retail center addition is located across Factory Lane from a very large Kroger anchored retail center and across LaGrange Rd. from yet another small retail center developed by the principal of this same applicant; and with the new residential growth outside of the Gene Snyder, commercial retail locations like this have an increased demand, particularly at the best locations for such retail, being in close proximity to the Gene Snyder; and

WHEREAS, the new retail center will continue to drive retail traffic to support the existing retail stores in the center and position the overall development to adapt readily now and in the future to new market demands; the rezoning will allow the center to survive and continue to serve the suburban area in a robust and healthy commercial manner fulfilling the Suburban Workplace goals; and the property will continue to have connected and shared parking along with sidewalks promoting pedestrian and bicycle use consistent with the Suburban Workplace goals; and

WHEREAS, the development and proposed zone change will remain compatible with the scale and site design of nearby existing developments as the property to the south is the Gene Snyder expressway, the property to the east is the adjoining development for which this parcel will become a part, the property to the north across Factory Lane is the large Kroger anchored retail center, and the property to the east is zoned OR-1; Factory Lane further to the east has already been developed making this truly an infill rezoning development; this undeveloped property is too small to be functionally developed on its own as a separate stand-alone development such that this proposal is the highest and best use from a land use perspective to allow the development in the area wherein it makes sense to do so and in a way that works best; the property will continue to allow a mixture of intensities through the development of this small parcel is the best way possible; appropriate buffers are already in place such that this rezoning will not cause the expansion of the Suburban Workplace into residential areas; the proposed rezoning will continue to locate the higher density and intensity uses near the major arterial and primary collector of La Grange Road, Chamberlain Lane and Factory Lane, and it will place the employment uses near existing infrastructure and public transportation; and the potential adverse impacts, such as noise, lighting and traffic will continue to be mitigated through the use of buffers, setbacks and compliance with the Land Development Code; and

WHEREAS, the proposed zone change and DDDP complies with applicable Objectives b & d and Policies 1, 2, 5, 6, 7, 9, 10, 12 13, 14, 15, 16, & 17 because the additional retail uses will encourage sustainable growth and avoid potential decline and will continue to provide intensity around a mixed-use center and along commercial corridors by placing intensity compatible with the Suburban Workplace and existing infrastructure;

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the design and density are appropriate with adjacent uses that will serve the needs of the surrounding community as they will not change from what exists at the site other than the potential use; the development will be compact in an activity center resulting in efficient land use and will take advantage of and complement cost-effective infrastructure investment; the mixture of compatible uses will reduce traffic and limit trips for customers and users of the site, along with providing "capture trips" by providing additional retail services to those already traveling La Grange Road, Chamberlain Lane and Factory Lane thus avoiding more lengthy trips; this site is within an existing activity center of the adjoining developments already mentioned, and also exists along corridors where major support population exists; as an addition to an existing small retail center, the combination are compact and will contain a mixture of acceptable/desirable retail and office uses, complementary to what exists in the growing area; there is no other practical use of this property other than what is proposed due to the small size of the property as any other solitary development would need many waivers and variances from the LDC to have even a very small building located thereon; the users in these, essentially combined centers will share parking so that there will be no change in traffic and no change to the number of curb cuts currently serving the site, all of which will also continue to be accessible by pedestrian and bicycle traffic; utilities already exist for extension into this site and with the adjoining property under development provision for utilities can be easily made; and they will also share points of access, such that traffic can better enter and exit utilizing both Lagrange Rd. and Factory Lane; and

WHEREAS, the proposed zone change and DDDP complies with applicable Objectives a, c & d and Policies 9, 10 & 12 because the proposed development will enhance the surrounding neighborhoods by not diminishing any open space or natural resources; the zoning change will not cause any impact to flood prone areas, nor will it impact any wet or permeable soils or steep slopes, and by providing an additional detention basin in a location where one could not be previously located (due to being an unrelated property), the stormwater management will be handled more effectively; the proposal avoids any significant change in topography and does not cause any environmental changes or damage; the landscape buffers and setbacks will continue to provide the community transitions between the site and the surrounding properties; and the stormwater drainage improvements already under construction as part of the proposed combined developments will continue to limit any issues with flooding or standing water with no new impervious surface proposed, while respecting the natural features of the property and protecting the health, safety and welfare of the adjacent properties and future uses of the development; and

WHEREAS, the proposed zone change and DDDP complies with applicable Objective b and Policies 1 & 2 because there are no historic buildings or features on the property; the rezoning and development plan will essentially provide an infill activity center location where a large support population exists; and thus, it represents a good opportunity for continued economic development for the area; and

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WHEREAS, the proposed zone change and DDDP complies with applicable Objectives a, b, c & e and Policies 1, 3, 4, 7 & 14 because the site is served by public transportation through TARC service along LaGrange Road, which is directly adjacent to the retail development to which this property will become a part; the retail uses are located on a minor arterial of La Grange Road and a secondary collector of Factory Lane, encouraging efficient access and minimizing vehicle miles travelled, along with the capture of pass-by trips by providing goods and services along routes already traveled; and it also continues to place higher density and intensity near existing commercial corridors and along the minor arterial and secondary collector with TARC service available; and

WHEREAS, the proposed zone change and DDDP complies with applicable Objectives a, b, c & d and Policies 1, 2, 4, 5, 6, 7, & 8 because the development plan complies with the objectives and policies of Goal 2 by promoting safe, accessible and efficient transportation uses by accommodating pedestrian, bicycle and vehicular access through the connected lots and accessible rights-of-way between the lots which are already part of the development; this portion of the development will also tie these other developments together; the site distances for the curb cuts will not change and are adequate for the area; the internal circulation of pedestrian and vehicular traffic is appropriate with the connected walkways and shared access, parking, etc.; and the entrances are compatible with surrounding development and aesthetically pleasing to adjacent areas; and

WHEREAS, the proposed zone change and DDDP complies with applicable Objectives a, b, c, & d and Policies 1, 2, 3, 4, 5, 7, 10, 12, 14, 17, 18, 20 & 24 by providing walking and bicycling opportunities with the sidewalks and interconnected walkways and by providing a mix of complementary neighborhood serving businesses, services and reducing miles travelled by car by providing the activity center with additional development in this infill situation; the plan will not burden the transportation network but will allow the site to continue to be consistent with the purpose of the Suburban Workplace; the plan is consistent with long range transportation plans of the community by promoting infill development along established routes; the parking requirements of the site consider the intensity of the use and the character and pattern of the Form District in that it will continue to serve the community; and the plan also satisfies the policy of supporting biking and pedestrian travel by providing for those modes of transportation, with additional bike parking provided; and

WHEREAS, the proposed zone change and DDDP complies with applicable Objective b and Policies 1, 2, & 3 because it is not a community facilities plan, but it does locate development in areas currently served by existing infrastructure, it has adequate water supply and access to sewers so as to not burden existing or future community facilities; and

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WHEREAS, the proposed zone change and DDDP complies with applicable Objectives a, c, d, f & h and Policies 3, 7, & 9 because this development provides an economic climate that improves growth, innovation, and investment opportunity for all by providing for the use of an otherwise undevelopable parcel in an infill context; it locates these new potential uses in an area with existing infrastructure in an efficient manner increasing economic opportunities in the area; and it will also provide opportunities to small businesses by providing another location for same; and

WHEREAS, the proposed zone change and DDDP complies with applicable Objectives a, b, c, d & f and Policies 1, 3, 4, 5, & 7 because this development plan complies with Goal 2 of Economic Development as it enhances the quality of life in the area by developing a small infill location, while at the same time protecting and improving the economic value of the surrounding areas by supplementing the economic viability of the activity center; and it also satisfies the goal and policy of infill development to take advantage of the existing infrastructure; and

WHEREAS, the proposed zone change and DDDP complies with applicable Objectives d & e and Policies 7, 12, 17 23, 25, 26, 27, 28, 31, 32, 35, & 39 because the development plan provides pedestrian and bicycle connectivity while not creating new traffic for the area; it also continues to deal with any impacts to drainage associated with the site through the use of detention basins accounting for the impervious surface; and landscaping will be added where necessary and required under the Land Development Code to reduce the drainage impacts of the site to nearby residential uses; and

WHEREAS, the proposed zone change and DDDP complies with applicable Objectives a, b, c & d and Policy because the development provides additional goods and services in close proximity; and

WHEREAS, The proposed zone change and DDDP complies with applicable Objective c and Policies 1, 2, & 4 because the development plan provides equitable access to the land use planning and policy resources by providing the surrounding residents and property owners notice of the development changes, notice of all public meetings, by providing the neighborhood meeting, and providing an opportunity for citizen involvement in the plan design and sought-after zoning changes; and

WHEREAS, the proposed zone change and DDDP complies with applicable Objectives a, b, c, e & f and Policies 1, 2, & 8 because the development is providing and enhancing choices for mobility and encouraging clean air by reducing miles driven by providing needed services to an area needing such services; it also provides needed entertainment and retail services in and along high capacity transit corridors of La Grange Road and Factory Lane, supporting public transportation with the medium and high intensity uses; and

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WHEREAS, the proposed zone change and DDDP complies with applicable Objectives and applicable Policies of Goal 1, 2, & 3 as it creates and locates necessary services and employment opportunities in an existing activity center near residential areas, thereby strengthening and supporting the housing in the area; and this use will facilitate connected and mixed-use areas and ensure long term affordability and living options for all in the community; and

WHEREAS, for all the reasons explained at LD&T and the Planning Commission public hearing testimony and exhibit books, on the approved detailed district development plan, this application also complies with all other applicable Goals of the 2040 Plan.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the Revised Detailed and Detailed District Development Plan **SUBJECT** to the following Binding Elements:

Proposed Binding Elements (Revised Detailed and Detailed District Development Plan for 9-74-00, 9-88-98, 18ZONE1022 and 19-ZONE-0025)

1. The development shall be in accordance with the approved district development plan and agreed upon binding elements unless amended pursuant to the Zoning District Regulations. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. An Individual Historic Resource Survey Form shall be completed for any historic resources (structures over 65 years old) on the subject site. The documentation must occur prior to the issuance of a demolition permit or ground disturbance at the site. The documentation shall be submitted to Urban Design/Historic Preservation Staff upon completion.
3. Signs shall be in compliance with Ch. 8 of the Land Development Code.
4. No outdoor advertising signs, small free-standing signs, pennants, balloons, or banners shall be permitted on the site.
5. There shall be no outdoor storage sales, or display on the site.
6. Outdoor lighting shall be directed down and away from surrounding residential properties. Lighting fixtures shall have a 90 degree cutoff and height of the light standard shall be set so that no light source is visible off-site.

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7. 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.

8. Before any permit (including but not limited to building, parking lot, change of use or alteration 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 Land Development Code, Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - d. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
 - e. A minor plat creating the lots as shown on the approved district development plan shall be recorded. A copy of the recorded instrument shall be submitted to the Division of Planning and Development Services; transmittal of the approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
 - f. 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.
 - g. A road closure for a portion of "Old Factory Lane" as shown on the development plan shall be recorded prior to requesting a building permit. Easements will be provided prior to recording of the street closure for each utility agency requesting the retention of their services within the area of the closure
 - h. Building renderings for all new structures and additions shall be approved by Planning Commission staff.

9. 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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10. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system.
11. 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.
12. A soil erosion and sedimentation control plan shall be developed and implemented in accordance with the Metropolitan Sewer District and the USDA Natural Resources Conservation Service recommendations. A copy of said plan shall be provided to Planning and Design Services for incorporation into the record.
13. The materials and design of proposed structures shall be substantially the same as depicted in the renderings as presented at the November 2, 2000 & October 18, 2018 public hearings of the Planning Commission.
14. The property owner shall provide a cross over access easement if the property to the east is ever re-developed for a nonresidential use requiring the provision of additional parking or any voluntary expansion of parking. A copy of the signed easement agreement shall be provided to Planning Commission staff upon request.

The vote was as follows:

YES: Commissioners Brown, Daniels, Howard, Mims and Jarboe

NOT PRESENT AND NOT VOTING: Commissioners Carlson, Lewis, Peterson and Tomes