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PROPOSED FINDINGS OF FACT REGARDING COMPLIANCE WITH ALL APPLICABLE GUIDELINES AND POLICIES OF THE CORNERSTONE 2020 COMPREHENSIVE PLAN

Project: Retail center

Applicant: Devonshire REIT and Man O'War Development, LLC,
c/o Patrick Madden

Location: 9700, 9610, 9608, 9511, 9509, 9507, 9513, 9515, 9517, 9601 and 9505 Bartley Drive; 7500, 7600 and 7602 Bardstown Road

Engineers, Land Planners and Landscape Architects: Land Design & Development, Inc.

Traffic Engineer: Diane B. Zimmerman Traffic Engineering

Request: Change in zoning from R-4 to C-1 and C-2 with a Conditional Use Permit for outdoor sale and consumption of alcoholic beverages plus change from Suburban Neighborhood to Regional Center Form District

WHEREAS, the Louisville Metro Planning Commission, having heard testimony before its Land Development & Transportation Committee, in the Public Hearing held on March 1, 2017 and having reviewed evidence presented by the applicant and Metro agency staff analysis of the application, make the following findings:

Introductory Statement

WHEREAS, the subject property is located at what has been approved as the location of the first traffic signal south of the Snyder Freeway interchange on south Bardstown Road; properties in and around this intersection of Snyder Freeway and South Bardstown Road on all sides comprise an area that is already mostly developed-out or already approved as a commercial activity center in this, one of the fastest growing areas of Metro Louisville for new residential housing; in fact, a pre-Recession accounting of residential growth trends just south (not north) of the Snyder Freeway along the Bardstown Road corridor determined that some 3200 new residential units had recently been built and over double that number had recently been approved; and now post-Recession development activity has picked up again, with new construction in approved developments and new residential development proposals being made to add to those pre-Recession numbers; and

WHEREAS, what all of this significant pre-Recession residential growth activity, amplified by new post-Recession development activity, means is that population in this area is growing

rapidly, with residences growing well beyond estimates included in the 2001 adopted “Fern Creek Small Area Plan”, making its growth projections obsolete; and

WHEREAS, because retail usually follows rooftops, the area south of the Snyder interchange is underserved by commercial services for such a large and growing support population as described above; rooftops (i.e., homes, meaning single-family houses, condos and apartments) are what mostly generate traffic and the need for retail services, especially of the kind proposed in this case; this is especially significant because residents of areas, such as these, often use the Snyder Freeway as a local street instead of reserving it for its primary purpose, which is to move traffic across the Louisville Metro area for jobs and other long-distance commuting purposes; because of this, the Snyder Freeway is increasingly clogged with local traffic, notably in areas like South Bardstown Road, traveling to places like Preston Highway and Hurstbourne Parkway for their shopping needs at those retail locations; also, the “original Fern Creek” area north of the Snyder Freeway is often heavily clogged with traffic because Fern Creek in that area has also grown significantly in recent years, especially with new north interchange-located retail development, such as the Wal-Mart Supercenter; but this clogs the interchange of the Snyder Freeway and Bardstown Road, especially at the evening peak hour when residents returning home from workplaces far and wide need to turn north onto Bardstown Road, above the Snyder Freeway, for their shopping needs when instead they could turn south to shop; this is made worse by residents south of the interchange traveling for their shopping needs to the north side of the interchange; and likewise, morning traffic also attempting to access the Snyder Freeway has to compete with morning traffic that happens to be passing through the interchange to shopping destinations in the original Fern Creek area north of the Snyder Freeway; and

WHEREAS, all of this strongly suggests that additional south-of-the-Snyder retail, much like Pat Madden’s Kohl’s-anchored center built just before the Recession hit, is good for this area; it allows residents to remain in the area where they currently reside so that they don’t clog the interstate, local arterials or the Snyder Freeway-Bardstown Road interchange; it cuts down on road miles traveled and vehicle idling because of vehicles caught in stop and go traffic, thus contributing to better air quality and saves fuel; as such, this proposal is a smart growth one; and it also brings price competition to the area so that a few stores can’t set prices based on a lack of competition, which is precisely what happens in under-served markets; and

Guideline 1: Community Form

WHEREAS, the proposed Regional Center Form District is appropriate for this site, just as it is for the site located across Bardstown Road from this one also on the south side of the Snyder Freeway in this exact same interchange area; Regional Centers are meant to include a variety of stores, such as proposed here, serving a regional population, as this one will south to Bullitt County, west at least to Beulah Church Road, east at least to Billtown Road and north into all of Fern Creek; and

Guideline 2: Centers

WHEREAS, the proposed retail center rezoning, CUP and form district change comply with the applicable Intents and applicable Policies 1, 2, 3, 4, 5, 7, 8, 9, 11, 12, 13, 14, 15 and 16 of Guideline 2 because this retail center involves a mix of land uses organized around a compact activity center extending from the north side of the Snyder Freeway in the heart of Fern Creek to the south side of the Snyder Freeway near the beginning of the large residential population organized in a multiplicity of subdivisions, condo communities and apartment developments generally known as “Glenmary”; located as this retail center is, it reduces vehicle miles traveled

and thus commuting time and transportation-related air pollution, providing an opportunity for neighborhood centers and marketplaces that include a diversity of goods and services that are designed to be assets to the community and that encourage vitality and a sense of place in the neighborhoods generally found south of the Snyder Freeway along Bardstown Road and between Billtown Road and Beulah Church Road south to the Bullitt County line; and

WHEREAS, this proposed retail center is located at the intersection of an interstate highway (I-265) and major arterial level street (Bardstown Road), it is an ideal location for a retail center, especially because it is located on the better side of Bardstown Road which is the “going-home” side and at the approved new traffic signal planned at the entrance to this center across from Bates Elementary School and at the point of access to the long ago approved, but not yet constructed, Southpoint Center, which this proposed retail center will seek to assure a synergistic relationship; and

WHEREAS, this proposed retail center involves a compact and mixed, compatible group of uses in a well-designed center that includes a focal point and shared parking; the DDDP submitted with this application features shared parking and easy access to Bardstown Road, Cedar Creek Road and nearby residential areas; and

Guideline 3: Compatibility

WHEREAS, the proposed retail center rezoning, CUP and form district change comply with the applicable Intents and applicable Policies 1, 2, 4, 5, 6, 7, 8, 9, 12, 20, 21, 22, 23, 24 and 28 of Guideline 3 because it has been designed to insure that these retail land uses and related transportation facilities are organized and constructed to be compatible with nearby residential land uses in order to preserve the character of these existing neighborhoods” ; and

WHEREAS, design measures are included on the DDDP to protect the adjoining residential neighborhood with the berm, fencing and landscaping shown on the exhibits presented at the last neighborhood meetings and on the images shown at this public hearing; as such adjoining residential properties are well-screened and buffered; also lights and noise will not spill over onto nearby residential properties because of the layout of this retail center and due to the fact that the Land Development Code (LDC) assures, by law, not just by binding elements, that potentially negative impacts (such as lighting) are fully mitigated; in this particular case, significant efforts have been made to devise an acceptable plan to not just heavily screen the adjoining residential neighborhoods, but also to provide a secure access gate for residents and their guests to use at Bartley Drive, providing them a private residential enclave instead of an unprotected view of interchange traffic plus unprotected noise therefrom; and

WHEREAS, this proposed retail center also addresses the issues of design compatibility with an emphasis on size, scale and building materials as shown on the elevations presented at this public hearing; and

WHEREAS, the proposed retail center DDDP includes transitions, buffers, setbacks, signage and other design techniques to minimize adverse impacts from parking, loading, delivery and related transportation facilities; the DDDP includes buffering and bermed fence and landscaping that will mitigate adverse impacts on remaining adjoining residential properties; even though good transitions, buffers, setbacks and so forth are now incorporated as a matter of course in most new development plan (because of the Cornerstone 2020 LDC), special efforts, as explained above, and on the images shown at this public hearing go much further than the LDC requires; and

Guideline 4: Open Space

WHEREAS, the proposed retail center rezoning, CUP and form district change comply with the applicable Intents and applicable Policies 1, 4, 6 and 7 of Guideline 4 because the DDDP includes open space that meets the retail shopper's needs, as well as wide sidewalks and focal points; and

Guideline 5: Natural Areas

WHEREAS, the proposed retail center rezoning, CUP and form district change comply with the applicable Intents and applicable Policies 1 and 6 of Guideline 5 because the DDDP does not adversely impact sensitive natural features or blue line streams; and

Guideline 6: Economic Growth and Sustainability

WHEREAS, the proposed retail center rezoning, CUP and form district change comply with the applicable Intents and applicable Policies 2 and 6 of Guideline 6 because this proposed retail center is intended to address the need for retail services for the already existing and burgeoning regional population, especially within this lower Fern Creek area, since smart growth proposes to reduce travel time and distance to shopping and work and instead to locate convenient services near neighborhoods in order to assure the community's continued growth and a competitive marketplace; when relatively few retailers are all that is allowed, then those retailers are also allowed to act in anti-competitive ways which aren't good for the local economy or people's paychecks, which run contrary to sound economic theory and practice; and

WHEREAS, this proposed retail center is located, as described above, in an existing/expanding activity center along an arterial highway and interstate interchange where high traffic volumes already exist; this retail center is also ideally located because it is at a planned signalized intersection just off the Snyder Freeway at Bardstown Road across from Bates Elementary School with access points both on Bardstown Road and off Cedar Creek Road near its signalized intersection with Bardstown Road; and a growing activity center in this area of burgeoning residential population growth makes good sense for all the reasons set forth above; and

Guidelines 7, 8, 9 and 12: Circulation; Transportation Facility; Alternative Transportation Modes; and Air Quality

WHEREAS, the proposed retail center rezoning, CUP and form district change comply with the applicable Intents and applicable Policies 1, 2, 3, 4, 6, 9, 10, 11, 12, 13, 14, 16, 18 and 19 of Guideline 7; Policies 3, 4, 5, 6, 7, 8, 9, 10 and 11 of Guideline 8; Policies 1, 2, 3 and 4 of Guideline 9 and Policies 1, 2, 3, 4, 6, 7, 8 & 9 of Guideline 12 because they to insure a more balanced and comprehensive multi-modal transportation network that is coordinated with desired growth and development patterns and that provides for the movement of people and goods because of new sidewalks, TARC facilities and new road connection to Cedar Creek and Bardstown Roads leading to already existing retail businesses along the Bardstown Road corridor plus residential communities on and off that corridor; further, LD&D firm has prepared a DDDP that designs transportation facilities that are safe and efficient that minimize adverse impacts upon the community and that accommodate, where possible, all modes of travel; and

WHEREAS, the DDDP shows a main access at a planned signalized intersection plus other access points that are designed to be easy to and from Bardstown Road and from Cedar Creek Road; sidewalks are provided; and TARC stops are now typically provided at or within all new retail developments; and

WHEREAS, added Right of Way and major Bardstown Road lane improvements from the Snyder Freeway off-ramp to past Cedar Creek Road are included as Binding Elements adopted as part of this approval; the DDDP also includes multiple shared points of access; and the reviews and comments of Metro Transportation Planning and the Department of Public Works have been fully addressed to assure that no development is permitted to proceed until all of the Transportation Planning and Public Works transportation design standards are fully met; and

Guidelines 10 and 11: Flooding and Stormwater; Water Quality

WHEREAS, the proposed retail center rezoning, CUP and form district change comply with the applicable Intents and applicable Policies 1, 2, 5, 6, 7, 10 and 11 of Guideline 10 and Policies 3, 4, 5 and 9 of Guideline 11 because the DDDP has been designed with catch basins and detention to assure that post-development peak rates of run off do not exceed pre-development conditions; also the DDDP contemplates compliance with MSD's new water quality standards; and MSD's soil erosion and sediment control standards will be fully addressed and complied with during the construction stage of development; and

Guideline 13: Landscape Character

WHEREAS, the proposed retail center rezoning, CUP and form district change comply with the applicable Intents and applicable Policies 1, 2, 3, 4, 5 and 6 of Guideline 13 because the DDDP not only demonstrates full compliance with LDC landscaping and tree canopy requirements but also because the DDDP goes above and beyond LDC standards in order to more fully protect the adjoining residential community plus aesthetics interior to the site and along Bardstown Road; and

Guideline 14: Infrastructure

WHEREAS, the proposed retail center rezoning, CUP and form district change comply with the applicable Intents and applicable Policies 1, 2, 3, 4, 6 and 7 of Guideline 14 because water, sewer and other utilities are either available for connection nearby or can be cost effectively delivered to this site; because major new and improved road infrastructure will be added at the developers cost; and, perhaps most importantly because MSD expended significant tax dollars to extend sanitary sewer service to this southwest quadrant of Bardstown Road and the Snyder Freeway, thereby obviously contemplating significant residential and commercial growth within the immediate area; and

* * * * *

WHEREAS, for all the reasons explained at LD&T and the Planning Commission public hearing and also in the public hearing exhibit books on the approved detailed district development plan, this application also complies with all other applicable Guidelines and Policies of the Cornerstone 2020 Comprehensive Plan;

NOW, THEREFORE, the Louisville Metro Planning Commission hereby recommends to the Louisville Metro Council that it rezone the subject property from R-4 to C-1 and C-2 and the change in Form District from Suburban Neighborhood to Regional Center.

FURTHER, the Louisville Metro Planning Commission hereby approves the Detailed District Development Plan, and Conditional Use Permit.