

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO PLANNING COMMISSION
August 16 2018**

A meeting of the Louisville Metro Planning Commission was held on August 16, 2018 at 1:00 p.m. at the Old Jail Building, located at 514 W. Liberty Street, Louisville, Kentucky.

Commission members present:

Vince Jarboe, Chair
Marilyn Lewis, Vice Chair
Jeff Brown
Rich Carlson
Lula Howard
Robert Peterson
Emma Smith
David Tomes

Commission members absent:

Donald Robinson

Staff Members present:

Emily Liu, Director, Planning and Design Director
Joe Reverman, Planning and Design Assistant Director
Brian Davis, Planning and Design Manager
Julia Williams, Planning Supervisor
Ken Baker, Planning Manager, Advanced Planning
Joel Dock, Planner II
Jay Lockett, Planner I
Beth Stuber, Transportation Planning
John Carroll, Legal Counsel
Travis Fiechter, Legal Counsel
Tony Kelly, MSD
Pamela M. Brashear, Management Assistant (Minutes)
Chris Cestaro, Management Assistant

The following matters were considered:

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APPROVAL OF MINUTES

JULY 30, 2018 PLANNING COMMISSION NIGHT HEARING MINUTES

On a motion by Commissioner Brown, seconded by Commissioner Smith, the following resolution was adopted.

RESOLVED, that the Planning Commission does hereby **APPROVE** the minutes of its meeting conducted on July 30, 2018.

The vote was as follows:

YES: Commissioners Brown, Lewis, Smith, Tomes and Jarboe
NOT PRESENT FOR THIS CASE: Commissioners Howard and Robinson
ABSTAINING: Commissioners Carlson and Peterson

AUGUST 2, 2018 PLANNING COMMISSION REGULAR MEETING MINUTES

On a motion by Commissioner Tomes, seconded by Commissioner Brown, the following resolution was adopted.

RESOLVED, that the Planning Commission does hereby **APPROVE** the minutes of its meeting conducted on August 2, 2018.

The vote was as follows:

YES: Commissioners Brown, Smith and Tomes
NOT PRESENT FOR THIS CASE: Commissioners Howard and Robinson
ABSTAINING: Commissioners Carlson, Lewis, Peterson and Jarboe

04:51:35

AUGUST 16, 2018 PLANNING COMMISSION CASE NO. 17ZONE1073 ONLY

On a motion by Commissioner Carlson, seconded by Commissioner Brown, the following resolution was adopted.

RESOLVED, that the Planning Commission does hereby **APPROVE** the minutes of August 16, 2018 Case No. 17ZONE1073 ONLY.

The vote was as follows:

YES: Commissioners Brown, Carlson, Howard, Lewis, Peterson, Smith and Jarboe
NOT PRESENT FOR THIS CASE: Commissioners Robinson and Tomes

PLANNING COMMISSION MINUTES
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BUSINESS SESSION:

commissioner header

Request: Appointment of Ruth Daniels to the Planning Commission
Staff Case Manager: Emily Liu, AICP, Planning and Design Director

Discussion

00:06:35 Ms. Liu gave some background information on the candidate, Ruth Daniels for Planning Commission member. Also, a biography was provided.

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.

On a motion by Commissioner Tomes, seconded by Commissioner Carlson, the following resolution was adopted.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the application to appoint Ruth Daniels to the Planning Commission with the expiration of her term being October 1, 2019.

The vote was as follows:

YES: Commissioners Brown, Carlson, Lewis, Peterson, Smith, Tomes and Jarboe
NOT PRESENT AND NOT VOTING: Commissioner Robinson
ABSTAINING: Commissioner Howard

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PUBLIC HEARING

CASE NO. 18NEIGHPLAN1002 and 18NEIGHPLAN1003

Request: Lower Hunters Trace Town Center Plan
Project Name: Lower Hunters Trace Town Center Plan
Location: Dixie Highway, approximately between Blanton Lane and Saint Andrews Church Road
Applicant: Louisville Metro Planning Commission
Jurisdiction: Louisville Metro
Council District: 12 – Rick Blackwell
Case Manager: Kendal Baker, AICP, Neighborhood Planning Manager

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:

00:56:01 Mr. Baker presented the case with a power point presentation.

The following spoke in favor of this request:

Charles Cash, 815 West Market Street, Suite 302, Louisville, Ky. 40202
Liz McQuillan, 601 West Jefferson Street, Louisville, Ky. 40202

Summary of testimony of those in favor:

00:58:54 Mr. Cash gave a power point presentation. The document adopted in 2012 had 3 goals to create a safer and more functional corridor, improving commercial opportunities and trying to create a distinct and unifying character for Dixie Highway. There's been a lot of discussion with the residents to help prepare models for a possible future Dixie Highway.

01:10:06 Ms. McQuillan is representing Councilman Blackwell, district 12. Infrastructure changes on Dixie are needed in the short-term, but also the long-term. This plan should help achieve the goals for Dixie.

01:12:17 Commissioner Brown reminded staff of an error on the table regarding minimum/maximum lane width.

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01:12:58 Commissioner Tomes asked if there will be an overall master plan. Mr. Cash said yes, it is encouraged. The PDD zoning is an incentive to build what the master plan calls for.

Deliberation

01:18:34 Commissioner Carlson stated it will be a dramatic change to the area and there will be some nice opportunities. The Louisville Code of Ordinances Neighborhood Plan process is being followed.

01:19:52 Commissioner Peterson stated it's a nice plan and will transform that entire corridor.

01:20:20 Commissioner Tomes stated he hopes the plan is implemented and be the first of many.

01:20:55 Commissioners Brown, Lewis and Smith support the plan.

01:21:43 Commissioner Howard stated this plan encourages redevelopment for the project area and surrounding area. It also provides development alternatives, which includes infill development and the side streets with connectivity to Dixie Highway.

01:22:13 Chair Jarboe agrees with the other commissioners.

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.

Review and Approval of Dixie Highway Town Center – Lower Hunters Trace Plan - 18NEIGHPLAN1002

On a motion by Commissioner Howard, seconded by Commissioner Tomes, the following resolution based on staff's presentation, staff report, developer of the consultant's presentation and the Master Plan booklet was adopted.

WHEREAS, the Louisville Metro Planning Commission finds, the Dixie Highway Town Center - Lower Hunters Trace Plan is in conformance with the Cornerstone 2020 comprehensive plan. More specifically, the recommendations support the following plan elements and policies of the comprehensive plan:

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WHEREAS, the Louisville Metro Planning Commission finds the proposal meets Guideline 1 Community Form because the proposed Land Use/Community Form recommendations in the Dixie Highway Town Center - Lower Hunters Trace Plan promote new development and redevelopment that will be designed to be compatible with the scale, rhythm, form and function of the existing development as well as with the pattern of uses. The plan promotes the Town Center form, which is a traditional and preferred form and forms a focal point of activity. Cornerstone 2020 encourage the creation of new town centers; and

WHEREAS, the Louisville Metro Planning Commission finds the proposal meets Guideline 2 Centers because the plan encourages mixed land uses organized around a compact activity center. The proposed Lower Hunters Trace Town Center plan encourage vitality and a sense of place; it encourages commercial revitalization that will result in efficient land use and cost-effective infrastructure investment; and

WHEREAS, the Louisville Metro Planning Commission finds the proposal meets Guideline 3 Compatibility because the plan proposes recommendations for promoting the commercial corridor while maintaining the existing residential and natural character of the area. The proposed recommendations will minimize impacts to existing residences, schools and other areas in the neighborhood; and

WHEREAS, the Louisville Metro Planning Commission finds the proposal meets Guideline 4 Open Space because the plan proposes recommendations for enhancing and connecting open spaces serving the neighborhood and area. Plan proposes the creation of a recreation destination at the Southwest Government Center. This would enhance the quality of life of the neighborhood and the region through the provision of accessible and functional open space; and

WHEREAS, the Louisville Metro Planning Commission finds the proposal meets Guideline 5 Natural Areas and Scenic and Historic Resources because the plan recommends efforts to cultivate interaction with the area's natural amenities and enhance the streetscape of the neighborhood; and

WHEREAS, the Louisville Metro Planning Commission finds the proposal meets Guideline 6 Economic Development and Sustainability because the plan encourages growth and development along the corridor and the establishment of a town center; and

WHEREAS, the Louisville Metro Planning Commission finds the proposal meets Guideline 7 Circulation because the proposed recommendations include improvements to multi-modal functionality and safety that is coordinated with desired growth and development patterns; and

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WHEREAS, the Louisville Metro Planning Commission finds the proposal meets Guideline 9 Bicycle, Pedestrian and Transit because the plan recommendations encourage improvements to the current street and sidewalk networks to support access to community facilities via walking and biking. The recommendations also would provide for enhanced access to public transit; and

WHEREAS, the Louisville Metro Planning Commission finds the proposal meets Guideline 12 Air Quality because the plan encourages development with densities and mixtures of land uses that encourage mass transit; and

WHEREAS, the Louisville Metro Planning Commission finds the proposal meets Guideline 13 Landscape Character because the plan ensures appropriate landscape design standards for different land uses within urbanized area; and

WHEREAS, the Louisville Metro Planning Commission finds the proposal meets Guideline 15 Community Facilities because the plan encourages the design of community facilities to ensure the high quality design and compatibility with existing development; and

WHEREAS, the Louisville Metro Planning Commission further finds the proposal meets the proposed goals, objectives, recommendations in the Dixie Highway Town Center - Lower Hunters Trace Plan and the Executive Summary are in conformance with the Neighborhood Plan Ordinance (Chapter 161) and Cornerstone 2020 Plan Elements and Guidelines. Based upon the information in the staff report, the testimony and evidence provided at the public hearing, the Planning Commission must determine if the proposal is in conformance with the Comprehensive Plan.

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to Metro Council that the Dixie Highway Town Center, Lower Hunters Trace Plan be **APPROVED**.

The vote was as follows:

YES: Commissioners Brown, Carlson, Howard, Lewis, Peterson, Smith, Tomes and Jarboe

NOT PRESENT AND NOT VOTING: Commissioner Robinson

Executive Summary of Plan to be Amendment to Cornerstone 2020 - 18NEIGHPLAN1003

On a motion by Commissioner Howard, seconded by Commissioner Smith, the following resolution based on the staff report and testimony heard today was adopted.

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WHEREAS, the Louisville Metro Planning Commission finds, the plan is consistent with the format of all neighborhood/small area plans (and as required in Chapter 161, the Neighborhood Plan Ordinance), the executive summary includes the Vision Statement for the Dixie Highway Town Center – Lower Hunters Trace Plan and a summary of recommendations from the plan (Section B: Planned Development District and Section C: Implementation).

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to Metro Council that the Executive Summary of the plan to be an amendment to Cornerstone 2020, which includes the Master Plan narrative; also, it's in conformance with Chapter 161 Neighborhood Plan Ordinance be **APPROVED**.

The vote was as follows:

YES: Commissioners Brown, Carlson, Howard, Lewis, Peterson, Smith, Tomes and Jarboe

NOT PRESENT AND NOT VOTING: Commissioner Robinson

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PUBLIC HEARING

CASE NO. 18SUBDIV1009

Request: Major Preliminary subdivision with a variance
Project Name: Cedar Brook Section 4
Location: 8209 Cooper Chapel Road
Owner: Select Homes, LLC.
Applicant: Greenberg Enterprises
Representative: Land Design and Development
Jurisdiction: Louisville Metro
Council District: 22 – Robin Engel
Case Manager: Jay Lockett, Planner I

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:

01:25:35 Mr. Lockett discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Mike Hill, Land Design and Development, 503 Washburn Avenue, Louisville, Ky. 40222

Summary of testimony of those in favor:

01:31:03 Mr. Hill gave a power point presentation. There is a stream in the middle of the property and will screen on either side of it. One driveway will be shared between 3 lots and will be built over the stream (as little disturbance as possible). The KTC alignment shifted the access to the site.

Deliberation

01:40:38 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.

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PUBLIC HEARING

CASE NO. 18SUBDIV1009

Variance of Land Development Code section 5.1.12.B.2.a to allow a home to exceed the infill front setback requirement by approximately 45 ft.

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

WHEREAS, the Louisville Metro Planning Commission finds, the requested variance will not adversely affect the public health, safety or welfare since it will allow for protection of the existing stream on the subject site; and

WHEREAS, the Louisville Metro Planning Commission finds, the requested variance will not alter the essential character of the general vicinity since the proposed home will be on the end of a dead end street, with larger non-uniform lots beyond it; and

WHEREAS, the Louisville Metro Planning Commission finds, the requested variance will not cause a hazard or nuisance to the public since the home will be constructed up to all applicable building code; and

WHEREAS, the Louisville Metro Planning Commission finds, the requested variance will not allow an unreasonable circumvention of the zoning regulations since the protection of the stream and associated buffer is required; and

WHEREAS, the Louisville Metro Planning Commission finds, the course of the stream and associated buffer prevent a home from being constructed at the required infill setback on this lot; and

WHEREAS, the Louisville Metro Planning Commission finds, the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land, as proposed lot 6 would be unbuildable; and

WHEREAS, the Louisville Metro Planning Commission further finds the circumstances are the not result of action of the applicant taken subsequent to the adoption of the zoning regulations from which relief is sought.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the variance of the Land Development Code section 5.1.12.B.2.a to allow a home to exceed the infill front setback requirement by approximately 45 feet.

The vote was as follows:

YES: Commissioners Brown, Carlson, Howard, Lewis, Peterson, Smith, Tomes and Jarboe

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CASE NO. 18SUBDIV1009

NOT PRESENT AND NOT VOTING: Commissioner Robinson

Major Preliminary Subdivision Plan

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

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the Major Preliminary Subdivision Plan, **SUBJECT** to the following Conditions of Approval:

1. The development shall be in accordance with the approved Residential Development Preliminary Plan. No further subdivision of the land into a greater number of lots than originally approved will occur without approval of the Planning Commission.
2. The applicant shall submit a plan for approval by Planning Commission staff showing trees/tree masses to be preserved prior to beginning any construction procedure (i.e. clearing, grading, demolition). Adjustments to the tree preservation plan which are requested by the applicant may be approved by Planning Commission staff 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/tree masses existing on the site as shown by aerial photo or LOJIC maps.
 - d. Location of construction fencing for each tree/tree mass designated to be preserved.
3. An original stamped copy of the approved Tree Preservation Plan shall be present on site during all clearing, grading, and construction activity and shall be made available to any DPDS inspector or enforcement officer upon request.
4. A note shall be placed on the preliminary plan, construction plan and the record plat that states, "Construction fencing shall be erected prior to any grading or construction activities - preventing compaction of root systems of trees to be preserved. The fencing shall enclose the area beneath the dripline of the tree canopy and shall remain in place until all construction is completed. No parking,

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material storage, or construction activities shall be permitted within the fenced area."

5. All street signs shall be installed by the Developer, and shall conform with the Manual on Uniform Traffic Control Devices (MUTCD) requirements. Street signs shall be installed prior to the recording of the subdivision record plat or occupancy of the first residence on the street, and shall be in place at the time of any required bond release. The address number shall be displayed on a structure prior to requesting a certificate of occupancy for that structure.
6. The developer shall be responsible for maintenance of all drainage facilities and undeveloped lots ensuring prevention of mosquito breeding, until such time as the drainage bond is released.
7. After release of the drainage bond, mosquito abatement on open space lots shall be the responsibility of the Homeowners Association. Accumulations of water in which mosquito larvae breed or have the potential to breed are required to be treated with a mosquito larvacide approved by the Louisville Metro Health Department. Larvacides shall be administered in accordance with the product's labeling. This language shall appear in the deed of restrictions for the subdivision.
8. Trees will be preserved and/or provided on site and maintained thereafter as required by Chapter 10, Part 1 of the Land Development Code and as indicated in the Tree Canopy Calculations on the Preliminary Subdivision Plan. The applicant shall submit a landscape plan for approval by Planning Commission staff for any trees to be planted to meet the Tree Canopy requirements of Chapter 10, Part 1 of the Land Development Code. A tree preservation plan shall be submitted for review and approval for any trees to be preserved to meet the Tree Canopy requirements of Chapter 10.
9. The applicant shall submit a landscape plan for approval by Planning Commission staff showing plantings and/or other screening and buffering materials to comply with the Chapter 10 of the Land Development Code prior to recording the record plat. The applicant shall provide the landscape materials on the site as specified on the approved Landscape Plan prior to issuance of Certificates of Occupancy for the site.
10. Prior to the recording of the record plat, copies of the recorded documents listed below shall be filed with the Planning Commission.
 1. Articles of Incorporation in a form approved by Counsel for the Planning Commission and the Certificate of Incorporation of the Homeowners Association.

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2. A deed of restriction in a form approved by counsel of the Commission outlining responsibilities for the maintenance of open space.
3. Bylaws of the Homeowners' Association in a form approved by Counsel for the Planning Commission.

11. At the time the developer turns control of the homeowners association over to the homeowners, the developer shall provide sufficient funds to ensure there is no less than \$3,000 cash in the homeowners association account. The subdivision performance bond may be required by the planning Commission to fulfill this funding requirement.

12. When limits of disturbance are shown on the plan, a note shall be placed on the preliminary plan, construction plan and the record plat that states, "Construction fencing shall be erected at the edge of the limits of disturbance area, prior to any grading or construction activities. The fencing shall remain in place until all construction is completed. No parking, material storage, or construction activities shall be permitted within the fenced area."

13. There shall be no direct vehicular access to Cooper Chapel Rd from any lot in the subdivision.

The vote was as follows:

YES: Commissioners Brown, Carlson, Howard, Lewis, Peterson, Smith, Tomes and Jarboe
NOT PRESENT AND NOT VOTING: Commissioner Robinson

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PUBLIC HEARING

CASE NO. 18ZONE1015

Request: Change in zoning from R-4, Single Family Residential to CM, Commercial- Manufacturing with setback variance, landscape and building design waivers, and detailed district development plan

Project Name: Bluegrass Lawn and Garden

Location: 6502 Blevins Gap

Owner: James Kilgore

Applicant: James Kilgore

Representative: Dinsmore & Shohl, LLP.

Jurisdiction: Louisville Metro

Council District: 14- Cindi Fowler

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:

01:45:55 Mr. Dock discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Cliff Ashburner, Dinsmore and Shohl, LLP, 101 South 5th Street, Suite 2500, Louisville, Ky. 40202

Sarah Beth Sammons, Land Development and Design, 503 Washburn Avenue, Louisville, Ky. 40222

Summary of testimony of those in favor:

01:52:58 Mr. Ashburner gave a power point presentation. Some of the issues brought up by staff have been addressed. The area the trucks will most likely use is not in an area significantly lower in intensity and the frequency of the trips does not constitute a significant nuisance. There will be no chemicals, it's mainly equipment. The landscaping plan has changed and the issue was not resolved before today – have spoken with county attorney to remedy.

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CASE NO. 18ZONE1015

02:08:04 Vice Chair Lewis asked a question regarding truck deliveries and size of the trucks.

02:08:13 Ms. Sammons explained the truck routes, maneuvering and sizes.

02:16:22 Mr. Ashburner spoke with his client and if truck maneuvering becomes a problem, he will eliminate 53 foot trailers from this site. It may be hard to enforce as a binding element.

02:18:20 Commissioner Carlson said he asked (at last LD&T meeting) for an example of a fence the applicant will be using. Mr. Ashburner said it will be a standard 6 foot solid wood fence. Ms. Sammons added, the gate will match the fence.

02:19:50 Commissioner Brown stated the geometry used on the truck maneuvering doesn't match what's shown on the development plan (entrance).

The following spoke neither for nor against the request:

Councilwoman Cindi Fowler, 601 West Jefferson Street, Louisville, Ky. 40202

Summary of testimony of those neither for nor against:

02:24:13 Councilwoman Fowler stated she hopes the applicant can work out the issues.

Deliberation

02:25:14 Commissioner Carlson wants to know if the trees will be in front of or behind the fence (answer at next meeting).

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.

On a motion by Commissioner Carlson, seconded by Commissioner Howard, the following resolution was adopted.

RESOLVED, that the Louisville Metro Planning Commission does hereby **CONTINUE** this case to the September 6, 2018 Planning Commission meeting.

The vote was as follows:

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PUBLIC HEARING

CASE NO. 18ZONE1015

**YES: Commissioners Brown, Carlson, Howard, Lewis, Peterson, Smith, Tomes
and Jarboe**

NOT PRESENT AND NOT VOTING: Commissioner Robinson

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PUBLIC HEARING

CASE NO. 18ZONE1013

Request: Change in form district from Neighborhood to Suburban Marketplace Corridor, a change in zoning from R-4 to C-2, a Revised District Development Plan, a waiver and a variance

Project Name: Swope Dealership

Location: 6780 Dixie Highway and 4530 Kerrick Lane

Owner: Swope Development LLC

Applicant: Swope Development LLC

Representative: BTM Engineering Inc.

Jurisdiction: Louisville Metro

Council District: 12- Rick Blackwell

Case Manager: Julia Williams, RLA, AICP, Planning Supervisor

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:

02:27:33 Ms. Williams discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

John Addington, BTM Engineering, 3001 Taylor Springs Drive, Louisville, Ky. 40220

Summary of testimony of those in favor:

02:36:38 Mr. Addington gave a power point presentation.

Deliberation

02:41:03 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.

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CASE NO. 18ZONE1013

Change in Form District from Neighborhood to Suburban Marketplace Corridor

On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution based on the Cornerstone 2020 Staff Analysis and testimony heard today was adopted.

WHEREAS, the Louisville Metro Planning Commission finds, the proposed form district/rezoning change complies with the applicable guidelines and policies of Cornerstone 2020.

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** that Metro Council **APPROVE** the change in Form District from Neighborhood to Suburban Marketplace Corridor.

The vote was as follows:

YES: Commissioners Brown, Carlson, Howard, Lewis, Peterson, Smith, Tomes and Jarboe

NOT PRESENT AND NOT VOTING: Commissioner Robinson

Zoning Change from R-4 to C-2

On a motion by Commissioner Brown, seconded by Commissioner Smith, the following resolution based on the Cornerstone 2020 Staff Analysis and testimony heard today was adopted.

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Community Form guideline because the proposal is consistent with existing development along Dixie Hwy in this area, which consists largely of auto sales. Other commercial uses include restaurants, retail and financial institutions; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Community Form guideline because there are existing sidewalks along the site frontage and a proposed pedestrian connection. This proposal is located near a high frequency transit corridor with a TARC stop on Dixie near the access easement to this property. The Dixie Hwy plan calls for pedestrian facilities especially where transit stops are located; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Community Form guideline because the proposal is utilizing an existing access

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easement and is sharing an entrance with the adjoining parcels to the east along Dixie;
and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Community Form guideline because the use is compatible with those along the corridor and a sufficient buffer is provided between the development and adjacent residential; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Community Form guideline because the proposal is not located within the bounds of the existing Suburban Marketplace Corridor but is providing adequate transitions and will not be accessed through areas of lower intensity. The proposal will not disrupt the established residential as this portion of Kerrick lane already has a mix of commercial zoning to this point; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Centers guideline because the Dixie Hwy corridor is surrounded by residential development and has good accessibility from other parts of the city; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Centers guideline because the development is efficiently utilizing the available space and is near other similar uses; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Centers guideline because C-2 zoning allows for a variety of compatible commercial land uses. Transit is available on Dixie and no access will be from Kerrick Lane; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Centers guideline because this site shares an entrance with adjacent developments and has crossover access to adjacent properties; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Centers guideline because utilities could be shared; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Centers guideline because vehicular and pedestrian access is provided to the site;
and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Compatibility guideline because the building materials are a mix, which is similar to the area; and

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WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Compatibility guideline because this proposal is a non-residential expansion into a residential area but buffering is provided and access will only be from Dixie Hwy, and not through Kerrick Lane; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Compatibility guideline because APCD has no issues with the proposal; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Compatibility guideline because the proposal will have shared and crossover access; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Compatibility guideline because lighting will meet LDC requirements; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Compatibility guideline because Dixie Hwy is a major arterial with transit access and a well-developed commercial corridor. The development is located near several commercial centers; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Compatibility guideline because buffer yards and setbacks are being provided on the site. There are some encroachments that are being mitigated by the landscape and screening requirements for those buffers. A 30' buffer is being provided along Kerrick to reduce the impact of the site along that roadway and adjacent neighborhood; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Compatibility guideline because setbacks meet the requirements. An encroachment is being mitigated through proposed landscaping and screening; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Compatibility guideline because signs will meet LDC requirements; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Open Space guideline because open space is provided in the form of LBAs and setbacks; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Open Space guideline because no natural features are evident on the site. Tree canopy requirements will be met; and

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WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Natural Areas and Scenic Historic Resources guideline because soils are not an issue for the proposal; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Economic Growth and Sustainability guideline because Dixie Hwy, a major arterial, is a highly trafficked commercial corridor; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Circulation guideline because the proposal promotes pedestrian use via a sidewalk and pedestrian way from Dixie to the site. Amenities are provided for pedestrians to safely navigate the site. Vehicles are provided for on the site; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Circulation guideline because cross access to adjacent sites is adequate; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Circulation guideline because dedication of right of way along Kerrick Lane is proposed; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Circulation guideline because adequate parking is provided; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Transportation Facility Design guideline because access is being achieved with an access easement from Dixie Hwy, a major arterial and access from Kerrick Lane, a local road is avoided; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Transportation Facility Design guideline because this proposal is located on an existing roadway network that is sufficient; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Bicycle, Pedestrian and Transit guideline because the proposal promotes pedestrian use via a sidewalk and pedestrian way from Dixie to the site. Amenities are provided for pedestrians to safely navigate the site. Vehicles are provided for on the site; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Flooding and Stormwater guideline because MSD has preliminarily approved the proposal; and

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WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Air Quality guideline because APCD has no issues with the proposal; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Infrastructure guideline because this area is fully developed and has adequate existing infrastructure for the proposal; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Infrastructure guideline because LWC has not indicated any issues with the proposal; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Infrastructure guideline because the health department has not indicated any issues with the proposal.

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-2, Commercial on 3.41 acres on property described in the attached legal description be **APPROVED**.

The vote was as follows:

YES: Commissioners Brown, Carlson, Howard, Lewis, Peterson, Smith, Tomes and Jarboe

NOT PRESENT AND NOT VOTING: Commissioner Robinson

Variance from 5.3.2.C.2.b to encroach 21' into the required 25' setback between the subject site and the Farris Property

WHEREAS, the Louisville Metro Planning Commission finds, the requested variance will not adversely affect public health safety or welfare since an 8' fence is proposed in the area of encroachment and the adjacent property, while residentially used, is zoned C-2; and

WHEREAS, the Louisville Metro Planning Commission finds, the requested variance will not alter the essential character of the general vicinity since the site will be screened from adjacent residential uses; and

WHEREAS, the Louisville Metro Planning Commission finds, the requested variance will not cause a hazard or nuisance to the public since the site will be screened from adjacent residential uses; and

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WHEREAS, the Louisville Metro Planning Commission finds, the requested variance will not allow an unreasonable circumvention of the zoning regulations since the site will be screened from adjacent residential uses; and

WHEREAS, the Louisville Metro Planning Commission finds, the requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone because the adjacent site while zoned commercial is a residential use; 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 since the adjacent site while zoned commercial is a residential use. The residential use will be appropriately screened; 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 since the applicant has no control over whether a property owner uses a property as residential or commercial as it is zoned.

Waiver from Chapter 10.2.10.A to permit the encroachment of VUA into the 5' VUA LBA along the Farris Property.

WHEREAS, the Louisville Metro Planning Commission finds, the waiver will not adversely affect adjacent property owners since the site will be screened from the adjacent residentially used property; and

WHEREAS, the Louisville Metro Planning Commission finds, Guideline 3, Policy 9 of Cornerstone 2020 calls for protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigation when appropriate. Guideline 3, Policies 21 and 22 call for appropriate transitions between uses that are substantially different in scale and intensity or density, and mitigation of the impact caused when incompatible developments occur adjacent to one another through the use of landscaped buffer yards, vegetative berms and setback requirements to address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances. Guideline 3, Policy 24 states that parking, loading and delivery areas located adjacent to residential areas should be designed to minimize impacts from noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered. Guideline 13, Policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. Guideline 13, Policy 6 calls for

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screening and buffering to mitigate adjacent incompatible uses. The intent of landscape buffer areas is to create suitable transitions where varying forms of development adjoin, to minimize the negative impacts resulting from adjoining incompatible land uses, to decrease storm water runoff volumes and velocities associated with impervious surfaces, and to filter airborne and waterborne pollutants. Since the adjacent property is being screened, Cornerstone 2020 is not being violated; and

WHEREAS, the Louisville Metro Planning Commission finds, the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since the landscape requirements and buffering will still be met in the area of the encroachment; and

WHEREAS, the Louisville Metro Planning Commission further finds the strict application of the provisions of the regulation would deprive the applicant of reasonable use of the land since the adjacent property is being screened as required and the encroachment is minimal.

Revised District Development Plan

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

WHEREAS, the Louisville Metro Planning Commission finds, provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community has been provided, and Metro Public Works has approved the preliminary development plan; and

WHEREAS, the Louisville Metro Planning Commission finds, there are no open space requirements pertinent to the current proposal; and

WHEREAS, the Louisville Metro Planning Commission finds, 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 overall site design and land uses are compatible with the existing and future development of the area.

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Appropriate landscape buffering and screening will be provided to screen adjacent properties and roadways. Buildings and parking lots will generally meet all required setbacks; and

WHEREAS, the Louisville Metro Planning Commission further finds the development plan conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** a variance from 5.3.2.C.2.b to encroach 21 feet into the required 25 foot setback between the subject site and the Farris Property, a waiver from chapter 10.2.10.A to permit the encroachment of VUA, vehicular use are into the 5 foot VUA LBA, landscape buffer area along the Farris Property and the Revised Detailed District Development Plan **SUBJECT** to the following Binding Elements:

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
3. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
4. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested:
 - a. The development plan must receive full construction approval from Develop Louisville, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.

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- c. A minor plat or legal instrument shall be recorded consolidating the property into one lot. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of the approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
 - 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. The developer shall provide Planning and Design staff Kentucky State level 1 documentation for the historic home at 6780 Dixie Highway before demolition of the home. Documentation must be received and approved by Planning and Design staff prior to demolition.
5. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
 6. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
 7. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
 8. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the August 16, 2018 Planning Commission meeting.
 9. No idling of trucks shall take place within 200 feet of single-family residences. No overnight idling of trucks shall be permitted on-site.
 10. There shall be no direct access from Kerrick Lane to the proposed site.
 11. No junked or inoperable vehicles are to remain on the site for more than 24 hours.

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12. The landscaping shall comply substantially with what has been presented at the August 16, 2018 Planning Commission meeting.
13. The 8 foot tall fence abutting the Moreland property will be a solid white PVC fence.
14. The applicant shall work with Transportation Planning to provide any necessary signs and markings that deal with circulation around the parking lot, and that the encroachment permit required for the improvements at Dixie Highway include the improvements along the off –site frontage to the north of the sandfill property to improve the sidewalk connectivity.

The vote was as follows:

YES: Commissioners Brown, Carlson, Howard, Lewis, Peterson, Smith, Tomes and Jarboe

NOT PRESENT AND NOT VOTING: Commissioner Robinson

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Request: Change in zoning from R-7, Multi-Family Residential, to C-1, Commercial and a Detailed District Development Plan with Variances and Waivers

Project Name: Marshall Avenue Retail

Location: 101 and 103 Marshall Drive and 4425 Shelbyville Road

Owner: Triple T Shelbyville Road Properties, LLC

Applicant: Triple T Shelbyville Road Properties, LLC

Representative: Bardenwerper, Talbott & Roberts, PLLC

Jurisdiction: Louisville Metro

Council District: 7 – Angela Leet

Case Manager: Julia Williams, AICP, Planning Supervisor

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:

02:48:19 Ms. Williams discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

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

Kevin Young, Land Design and Development, 503 Washburn Avenue, Louisville, Ky. 40222

David Cobb, 1325 South 4th Street, Louisville, Ky. 40208

Kelly Carls, 206 Marshall Drive, Louisville, Ky. 40207

Summary of testimony of those in favor:

02:56:34 Mr. Talbott gave a power point presentation. The plan complies with the Comprehensive Plan and the variances and waivers are justified.

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03:15:57 Mr. Young continued the power point presentation. The existing entrance is being utilized. Some pavement will be removed, gaining some green space.

Mr. Young explained the trucks routes.

03:18:51 Mr. Cobb explained the mission of Goodwill.

03:21:44 Mr. Talbott stated a brick wall is incorporated into the building and there will be an 8 foot fence.

03:47:02 Mr. Carls is here on behalf of the mayor. The applicant has been very accommodating working out issues. The community is very supportive of Goodwill.

The following spoke neither for nor against the request:

Jon Gustel, 214 Marshall Drive, Louisville, Ky. 40207

Summary of testimony of those neither for nor against:

03:52:26 Mr. Gustel said Marshall Dr. has 2 catch basins but get overwhelmed with a moderate rain, creating standing water. The green space needs to remain. Will the pipes being put in be able to handle the current and potential flooding? Mr. Young explained how the drainage will be handled.

03:58:40 Mr. Talbott and Mr. Young answered questions from the commissioners.

Deliberation

04:05:43 Commissioner Peterson stated the wall for buffering and signature entrance helps him support the plan. There's not a lot of opposition from residents or the city.

Commissioner Tomes stated the request doesn't infringe on the neighbors because there's already C-1 and C-2 lots. This is retail that's neighborhood-serving. Also, Beechwood Village supports it.

Commissioner Brown stated C-1 is appropriate but has trouble with the site design.

Commissioner Lewis supports the project.

Commissioner Smith stated she thinks Goodwill will be an addition to the neighborhood.

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Commissioner Howard stated we've already allowed intrusion into the neighborhood. Goodwill is an appropriate use and the building should be oriented toward Shelbyville Rd. Also, the drainage will be improved.

Chair Jarboe said he agrees with staff. There are issues with design and building orientation.

Commissioner Carlson said if they add some creativity to the front of the building, it may help.

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

Change in zoning from R-7, Multi-Family Residential, to C-1, Commercial on 1.1 acres

On a motion by Commissioner Brown, seconded by Commissioner Tomes, the following resolution based on testimony heard today and the applicant's Statement of Compliance was adopted.

WHEREAS, this property has been one of the remaining decent size residential properties on Shelbyville Road surrounded by recent developments, and most recently the new BWM auto dealership across Marshall Drive; the properties have good access off Shelbyville Road and are already an "activity center" location because of the proximity to the surrounding commercial developments on both sides of Shelbyville Road; this rezoning involves a proposal to demolish three old apartment buildings and replace them with a Goodwill location; and two neighborhood meetings were held and the City of Beechwood Village supports and approves of the rezoning and development plan, as expressed by its Mayor and City Council, with the efforts to reduce and mitigate various impacts to the residential areas; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Community Form guideline because, the application complies with the Neighborhood Form District description of an area characterized by *predominantly* residential uses but that also includes, at appropriate locations, a mixture of uses, such as offices, retail shops, restaurants and services to serve the residential areas; the proposed use is at a scale appropriate for the nearby neighborhood and in appropriate locations along the major Shelbyville Road corridor; this small retail center is precisely what is contemplated by the Neighborhood Form District, which will replace the aged, multi-family housing, while at

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the same time provide much improved buffering from the higher intensity use and the busy Shelbyville Road corridor; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Centers guideline because, the application complies with the Intents and applicable Policies 1, 2, 3, 4, 5, 7, 8, 9, 11, 13, 14, 15 and 16 of this Guideline because the subject property adjoins the mixture of commercial, high-density residential apartment and single-family residential uses, placing it in the activity center that already exists in and around this location; with goods and services available in close proximity to the site and the residential uses mentioned above, this small retail center adds to the vitality and sense of place among the mostly disconnected nearby neighborhoods, some of whose residents will be able to walk to this small center to work and shop; others will find it a convenient stop on their ways home; the ingress and egress will be shifted to the major arterial of Shelbyville Road and shared with the other density residential apartments to reduce curb cuts and will also be easily accessible by pedestrian and alternative modes of transportation; the rezoning and development plan expand the commercial corridor in a manner that is compatible with adjacent uses and meets Form District Guidelines; the development plan is of an intensity, size and design that is appropriate and comparable to character and scale of the surrounding uses; and it conforms to a “neighborhood center” in that this area along Shelbyville Road acts currently and will continue to compliment the area of intensity for the commercial “center” of Beechwood Village where it belongs along Shelbyville Road; and further it is similar in character and intensity to the surrounding neighborhood, appropriately located at an intersection of a major arterial and the neighborhood; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Centers guideline because, as an “activity center”, it is appropriately located along Shelbyville Road and Marshall Ave, and it is designed to be of intensity, density, size and mix of uses appropriate for a small neighborhood center; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Compatibility guideline because, the application complies with the Intents and applicable Policies 1, 2, 4, 5, 6, 7, 8, 9, 11, 12, 20, 21, 22, 23, 24 and 28 of this Guideline because this is a small neighborhood-serving retail center; it will have an attractive look and feel in accordance with the style and design concepts accompanying this application and in a character consistent with nearby properties; no significant noise is anticipated as the retail portion is not anticipated to have any form of late hours, but to the extent any exists it will be mitigated by an eight-foot brick wall and landscaping buffering it from the single family residential properties; lighting will follow restrictions of the Land Development Code (LDC) and thus be directed down and away from nearby residential properties, with 90 degree cut-off at property lines; loading and delivery will be located and/or screened so as to

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minimize impacts on nearby properties; and signage will be in conformance with the LDC; and the applicant has agreed to certain Binding Elements further restricting the property beyond the demands of the LDC; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Economic Growth and Sustainability guideline because, the application complies with the Intents and applicable Policies 2, 5, and 6 of this Guideline because this site represents a small expansion at a high-traffic location to accommodate a retail center in an area already adjacent to an activity center and the major arterial of Shelbyville Road; the location has good access to transportation and where nuisances and activities of the use will not adversely affect adjacent areas with the impact mitigation and Binding Elements provided, including an attractive brick wall to further shield this area and the impacts of it from the residential property; and this use reduces costs of land development and further promotes an existing employment center with good access to a support population that will visit this retail center; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Circulation, Transportation Facility Design and Bicycle, Pedestrian and Transit guideline because, the application complies with the Intents and applicable Policies 1, 2, 4, 6, 9, 10, 11, 12, 13, 16 and 18 of Guideline 7; Policies 1, 4, 5, 7, 9, 10 and 11 of Guideline 8; and Policies 1, 2, 3 and 4 of Guideline 9 because this site is located at the intersection of the major arterial of Shelbyville Road and Marshal Drive, which has adequate traffic-carrying capacity for business growth; the road systems are adequate for this site and they address the issues on the Detailed District Development Plan (“DDDP”) accompanying this application; the DDDP accompanying this application satisfies all of the design requirements of Metro Public Works and Transportation planning which are inherent in all three of these Guidelines and provide adequate bicycle and pedestrian access to the adjoining residential areas; the DDDP received the preliminary stamp of approval from these agencies prior to public review; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Flooding and Stormwater guideline because, the application complies with the Intents and applicable Policies 1, 3, 4, 6, 7, 9, 10 and 11 of this Guideline because MSD requires that post development peak rates of runoff do not exceed pre-development conditions and that adjacent properties are not adversely affected by the subject site’s new and through drainage from storm water run-off, all of which is addressed by this DDDP; underground “honeycomb” water storage will be utilized on the site for detainage; and the DDDP received MSD’s preliminary stamp of approval prior to public review; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Water Quality guideline because, the application complies with the Intents and applicable Policies 3, 5 and 8 of this Guideline because MSD has promulgated both soil

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erosion/sedimentation control regulations and even newer ones with respect to water quality; and construction plans for this center will require compliance with these regulations prior to obtaining building permits; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Air Quality guideline because, the application complies with the Intents and applicable Policies 2, 4, 7 and 8 of this Guideline because as to all of the Policies associated with air quality, they are always addressed when commuting times and distances are reduced when new activities congregate, as here, in and near an existing activity center; and new and improved pedestrian and bicycle access and is included, reducing automobile trips from the surrounding residential areas; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Landscape Character guideline because, the application complies with the Intents and applicable Policies 1, 2, 4, 5 and 6 of this Guideline because as the concept landscape plan will be included in the eventual landscape plan filed with DPDS post zoning approval, that this site will not just comply with, but rather exceed, LDC landscape requirements; and as mentioned above as respects stormwater management, enhanced landscaping, screening and buffering are added next door where not required; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Infrastructure guideline because, the application complies with the Intents and applicable Policies 2, 3, 4, 6 and 7 of this Guideline because this DDDP will have underground storm water detainage, access to water and utilities already existing along Shelbyville Road; it will retain the utility easements to provide access for repair and maintenance; and as a part of the Binding Elements, the applicant has agreed to replace the drainage ditch along Shelbyville Road, and install an underground pipe, subject to the conditions set forth in the Binding Elements, which will improve safety and water flow; 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.

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND to** the Louisville Metro Council the change in zoning from R-7, Multi-Family Residential to C-1, Commercial on 1.1 acres on property described in the attached legal description be **APPROVED**.

The vote was as follows:

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YES: Commissioners Brown, Carlson, Howard, Lewis, Peterson, Smith, Tomes and Jarboe

NOT PRESENT AND NOT VOTING: Commissioner Robinson

On a motion by Commissioner Brown, seconded by Commissioner Peterson, the following resolution based on the testimony heard today and the applicant's justification statement was adopted.

Variances:

1. Section 5.1.12.B.2.e to vary the front setback from the range of the two nearest lots along Shelbyville Road

WHEREAS, the variance will not adversely affect the public health, safety or welfare because the trade-off of added setback for better screen and landscaping is one that benefits the City of Beechwood Village and its residential areas as much as or more so than the applicant; the applicant is going to construct an 8-foot brick wall attached to the building façade to match future the brick wall across Marshall Dr. at the new BMW site which was rezoned in 2017, along with providing matching landscaping, to make the site and entrance into Beechwood Village onto Marshall Dr. symmetrical on both sides of the street; further the variance for the street side (facing Shelbyville Road) will not have any negative affect because the variance needed is created by the property having a very large right-of-way along Shelbyville Rd., which is much larger than most of the commercial sites in this area; allowing the variance will allow the applicant to greatly enhance the entrance to the City of Beechwood Village with matching buffering and landscaping, which ultimately is the intent of the regulation, and to have symmetry and consistency in the plan with the surrounding land uses and character; and without this variance, the applicant could not commit to as much screening and landscaping; and

WHEREAS, the variance will not alter the essential character of the general vicinity because there remains a significant setback along Marshall Drive and, because of special landscaping commitments to the City of Beechwood Village made by this applicant, and an attractive streetscape along Marshall Drive; and the off-set for added screening and landscaping results in a positive net benefit for residential areas of the City of Beechwood Village; and

WHEREAS, the variance will not cause a hazard or a nuisance to the public because both the "excess" of the Marshall Drive right-of-way and most of this property's street side yard will be intensively and attractively landscaped outside with an 8 foot tall brick wall attached to the building façade in order to provide an attractive Marshall Drive streetscape and to eliminate views from Marshall Drive of the single family homes into the site; and

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WHEREAS, the variance will not allow an unreasonable circumvention of the requirements of the zoning regulations because the City of Beechwood Village has requested the screen and landscape buffer described above and on the exhibits presented with this application to the Planning Commission at LD&T and public hearing; and

WHEREAS, the variance arises from special circumstances, which do not generally apply to land in the general vicinity because it is only this side of Marshall Drive at Shelbyville Road that is presently affected by the proposed development with variances for this heavily landscaped and screened area, which apart from this screening and landscaping proposal, is an open view of an existing, already zoned car sales lot; also, the brick wall façade will be constructed to match the wall on the opposite side of Marshall Drive and to isolate the commercial property from the single-family residential properties, making it much more important to match the “infill” site to the other commercial properties along Shelbyville Road, rather than the single-family homes separated by the landscaping and brick wall; 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 trade-off of added setback for better screen and landscaping is one that benefits the City of Beechwood Village as much as or more so than the applicant; and without this variance, the applicant could not commit to as much screening and landscaping; and

WHEREAS, the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the regulation but are the result of screening and buffering requests by the City of Beechwood Village in order to fully mitigate any potential adverse impacts;

2. Section 5.3.1.C.5 to encroach into the 30’ required non-residential to residential side setback on the northern property line

WHEREAS, the variance will not adversely affect the public health, safety or welfare because this trade off of added setback for better screen and landscaping is one that benefits the City of Beechwood Village as much as or more so than the applicant; the applicant is going to construct an 8-foot brick wall to match the wall across Marshall Dr. at the new BMW site, along with matching landscaping, to make the site and entrance onto Marshall Dr. symmetrical on both sides closely matching the BMW site across the street, and further to extend the brick wall appearance on the rear of the site to mitigate any impacts and shield the single-family homes from the commercial site and activity on Shelbyville Road; further the variance for the street side (facing Shelbyville Road) and

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rear of the site will not have any negative affect because the variance need is created by the property having a very large right-of-way along Shelbyville Rd., which is much larger than most of the commercial sites in this area and simply because of the extension of parking, which will be properly buffered with landscaping; allowing the variance will permit the applicant to greatly enhance the entrance to the City of Beechwood Village with closely matching buffering and landscaping, and also to protect the single family homes from the activity on Shelbyville Road; and

WHEREAS, the variance will not alter the essential character of the general vicinity because there remains a significant setback along Marshall Drive and because of special landscaping commitments to the City of Beechwood Village made by this applicant, notably an attractive streetscape along Marshall Drive; and the off-set of screening and landscaping results in a positive net benefit for Beechwood Village residents; and

WHEREAS, the variance will not cause a hazard or a nuisance to the public because both the “excess” of the Marshall Drive right-of-way and most of this property’s street side yard will be intensively and attractively landscaped outside of an 8 foot tall wall attached to the side façade closely matching the wall on the opposite side of Marshall Drive, in order to provide an attractive Marshall Drive streetscape and to eliminate views from Marshall Drive of the single family homes into the site; and

WHEREAS, the variance will not allow an unreasonable circumvention of the requirements of the zoning regulations because the City of Beechwood Village has requested the screen and landscape buffer described above and on the exhibits presented with this application to the Planning Commission at LD&T and public hearing; and

WHEREAS, the Variance arises from special circumstances, which do not generally apply to land in the general vicinity because it is only this side of Marshall Drive at Shelbyville Road that is presently affected by the proposed development with variances for this heavily landscaped and screened area, which apart from this screening and landscaping proposal, is an open view of an existing, already zoned car sales lot; 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 this trade off of added setback for better screen and landscaping is one that benefits the City of Beechwood Village as much as or more so than the applicant; without this variance, the applicant could not commit to as much screening and landscaping; and

WHEREAS, the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the regulation but are the result of screening and buffering

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requests by the City of Beechwood Village in order to fully mitigate any potential adverse impacts;

3. Section 5.3.1.C.5 to encroach into the 30' required non-residential to residential side setback on the eastern property line

WHEREAS, the variance will not adversely affect the public health, safety or welfare because this trade off of added setback for better screen and landscaping is one that benefits the City of Beechwood Village as much as or more so than the applicant; the applicant is going to construct an 8-foot brick wall to match the wall across Marshall Dr. at the new BMW site, along with matching landscaping, to make the site and entrance onto Marshall Dr. symmetrical on both sides closely matching the BMW site across the street, and further to extend the brick wall appearance on the rear of the site to mitigate any impacts and shield the single-family homes from the commercial site and activity on Shelbyville Road; further the variance for the street side (facing Shelbyville Road) and rear of the site will not have any negative affect because the variance need is created by the property having a very large right-of-way along Shelbyville Rd., which is much larger than most of the commercial sites in this area and simply because of the extension of parking, which will be properly buffered with landscaping; allowing the variance will permit the applicant to greatly enhance the entrance to the City of Beechwood Village with closely matching buffering and landscaping, and also to protect the single family homes from the activity on Shelbyville Road; and

WHEREAS, the variance will not alter the essential character of the general vicinity because there remains a significant setback along Marshall Drive and because of special landscaping commitments to the City of Beechwood Village made by this applicant, notably an attractive streetscape along Marshall Drive; and the off-set of screening and landscaping results in a positive net benefit for Beechwood Village residents; and

WHEREAS, the variance will not cause a hazard or a nuisance to the public because both the "excess" of the Marshall Drive right-of-way and most of this property's street side yard will be intensively and attractively landscaped outside of an 8 foot tall wall attached to the side façade closely matching the wall on the opposite side of Marshall Drive, in order to provide an attractive Marshall Drive streetscape and to eliminate views from Marshall Drive of the single family homes into the site; and

WHEREAS, the variance will not allow an unreasonable circumvention of the requirements of the zoning regulations because the City of Beechwood Village has requested the screen and landscape buffer described above and on the exhibits presented with this application to the Planning Commission at LD&T and public hearing; and

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WHEREAS, the Variance arises from special circumstances, which do not generally apply to land in the general vicinity because it is only this side of Marshall Drive at Shelbyville Road that is presently affected by the proposed development with variances for this heavily landscaped and screened area, which apart from this screening and landscaping proposal, is an open view of an existing, already zoned car sales lot; 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 this trade off of added setback for better screen and landscaping is one that benefits the City of Beechwood Village as much as or more so than the applicant; without this variance, the applicant could not commit to as much screening and landscaping; and

WHEREAS, the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the regulation but are the result of screening and buffering requests by the City of Beechwood Village in order to fully mitigate any potential adverse impacts;

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** Variances: 1. Section 5.1.12.B.2.e to vary the front setback from the range of the two nearest lots along Shelbyville Road; 2. Section 5.3.1.C.5 to encroach into the 30' required non-residential to residential side setback on the northern property line; and 3. Section 5.3.1.C.5 to encroach into the 30' required non-residential to residential side setback on the eastern property line.

The vote was as follows:

YES: Commissioners Brown, Carlson, Howard, Lewis, Peterson, Smith, Tomes and Jarboe

NOT PRESENT AND NOT VOTING: Commissioner Robinson

On a motion by Commissioner Brown, seconded by Commissioner Tomes, the following resolution based on the applicant's justification statement and the testimony heard today was adopted.

Waivers:

- 1. Section 10.2.4 to allow the building and parking to encroach into the required 25' property perimeter landscape buffer area on the northern property line**

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WHEREAS, the waiver will not adversely affect adjacent property owners as the proposal includes mitigation measures that will adequately screen the building and vehicles from the single family uses to the north; and

WHEREAS, Guideline 3, Policy 9 of Cornerstone 2020 calls for protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigation when appropriate. Guideline 3, Policies 21 and 22 call for appropriate transitions between uses that are substantially different in scale and intensity or density, and mitigation of the impact caused when incompatible developments occur adjacent to one another through the use of landscaped buffer yards, vegetative berms and setback requirements to address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances. Guideline 3, Policy 24 states that parking, loading and delivery areas located adjacent to residential areas should be designed to minimize impacts from noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered. Guideline 13, Policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. Guideline 13, Policy 6 calls for screening and buffering to mitigate adjacent incompatible uses. The intent of landscape buffer areas is to create suitable transitions where varying forms of development adjoin, to minimize the negative impacts resulting from adjoining incompatible land uses, to decrease storm water runoff volumes and velocities associated with impervious surfaces, and to filter airborne and waterborne pollutants. These guidelines are not violated as the 8' masonry wall and enhanced landscaping will provide for appropriate transitions to the single family subdivision to the north; and

WHEREAS, the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the encroachments are needed for the proposed building size and vehicle use area and have been adequately mitigated; and

WHEREAS, the applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived with the enhanced landscaping and 8' masonry wall.

2. Section 10.2.4 to allow the building and parking to encroach into the required 25' property perimeter landscape buffer area on the eastern property line

WHEREAS, the partial waiver for the 25' perimeter LBA along the rear and east side of the site for parking spaces should be granted as they will not adversely affect the adjacent property owners; an 8 foot brick wall is being constructed along the rear of the site, as requested by the City of Beechwood Village, mitigating any impacts to the rear and the

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waiver along the east side of the site for parking is to allow a building currently on the site to be removed, again mitigating any impacts; additionally, trees and landscape buffering will be used to further mitigate any impacts; and

WHEREAS, the requested waivers will not violate the Comprehensive Plan for all the reasons set forth in the detailed Statement of Compliance, and also because all impacts are either mitigated or reduced by the construction of the 8 foot brick wall, the landscape buffering being utilized, and the removal of the building on the east side of the property for additional parking; and

WHEREAS, the extent of waivers of the regulations is the minimum necessary to afford relief to the applicant because the large right of way off of Shelbyville Road pushing the site further back and because of the effort to move the infill building as far away from the apartments on the east side and to still protect and buffer the other properties with the construction of the brick wall; and

WHEREAS, strict application of the provisions of the regulation would deprive the applicant of a reasonable use of the land or would create an unnecessary hardship on the applicant because the efforts to accommodate the neighbors' request for the wall and to also keep the building as far away from the apartments which are not behind the wall causes the need for the parking to encroach into the landscape buffer otherwise required; and

3. Section 5.5.2 to not provide the display windows, glazing, and entrances on the façade facing Marshall Ave and to not provide an entrance facing Shelbyville Road

WHEREAS, the waiver will not adversely affect adjacent property owners, but will rather benefit the adjacent residential property owners, because this location is situated at a corner with two public streets, the major arterial of Shelbyville Road and the neighborhood entrance of Marshall Drive, both having markedly different characteristics and purposes; the waiver from Section 5.5.2 is sought only for the side of the building facing Marshall Drive purposefully to create a park-like setting at the entrance to the neighborhood, mimicking the development approved for the opposite side of Marshall Drive, with sidewalks, trees, benches and a brick wall-like facade, again with the intention of buffering and shielding the residential uses from the commercial activity; the side of the building facing Shelbyville Road will comply with the window and glazing requirements as is intended; the purposes of this waiver is being requested to mitigate the impacts of the commercial activity from the neighborhood and adjacent residences, while at the same time greatly improving the entrance to the neighborhood along Marshall Drive and to develop effectively a defined "plaza" of open space, landscaping, and benches, matching

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what is being developed on the west side of Marshall Drive, to compliment and define the neighborhood center for the surrounding residential areas; and

WHEREAS, the waiver will not violate the Comprehensive Plan for all the reasons set forth in the Detailed Statement of Compliance with all applicable Guidelines and Policies of the Cornerstone 2020 Comprehensive Plan filed with the original rezoning application; the waiver complies with Compatibility Guideline 3 and all applicable Intents thereunder and specifically Policies 3.3, 3.8, 3.9, 3.21, and 3.22 because the most important value that the development should advance is to maintain compatibility with and reduce impacts to the adjacent neighborhood and to provide appropriate transitions between the residential and commercial uses, which is effectively done by allowing the park-like, plaza setting, without windows and glazing, along Marshall Drive; and

WHEREAS, the extent of waiver of the regulation is the minimum necessary to afford relief to the applicant to accommodate and satisfy specific requests from Beechwood Village residents, preserving and improving the neighborhood setting along Marshall Drive, while at the same time providing a focal point and visual interest for the commercial use along the more heavily travelled arterial of Shelbyville Road; and

WHEREAS, strict application of the provisions of the regulation would deprive the applicant of a reasonable use of the land and would create an unnecessary hardship on the applicant and surrounding residential property owners because it would not allow the compensating factors to be incorporated into the development site to transition and reduce impacts between the differing property uses;

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** Waivers: 1. Section 10.2.4 to allow the building and parking to encroach into the required 25' property perimeter landscape buffer area on the northern property line 2. Section 10.2.4 to allow the building and parking to encroach into the required 25' property perimeter landscape buffer area on the eastern property line and 3. Section 5.5.2 to not provide the display windows, glazing, and entrances on the façade facing Marshall Ave and to not provide an entrance facing Shelbyville Road.

The vote was as follows:

YES: Commissioners Brown, Lewis, Peterson, Smith, Tomes and Jarboe

NO: Commissioner Carlson and Howard

NOT PRESENT AND NOT VOTING: Commissioner Robinson

Detailed District Development Plan and Binding Elements

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On a motion by Commissioner Brown, seconded by Commissioner Peterson, the following resolution based on the applicant's Statement of Compliance and the testimony heard today was adopted.

WHEREAS, this property has been one of the remaining decent size residential properties on Shelbyville Road surrounded by recent developments, and most recently the new BWM auto dealership across Marshall Drive; the properties have good access off Shelbyville Road and are already an "activity center" location because of the proximity to the surrounding commercial developments on both sides of Shelbyville Road; this rezoning involves a proposal to demolish three old apartment buildings and replace them with a Goodwill location; and two neighborhood meetings were held and the City of Beechwood Village supports and approves of the rezoning and development plan, as expressed by its Mayor and City Council, with the efforts to reduce and mitigate various impacts to the residential areas; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Community Form guideline because, the application complies with the Neighborhood Form District description of an area characterized by *predominantly* residential uses but that also includes, at appropriate locations, a mixture of uses, such as offices, retail shops, restaurants and services to serve the residential areas; the proposed use is at a scale appropriate for the nearby neighborhood and in appropriate locations along the major Shelbyville Road corridor; this small retail center is precisely what is contemplated by the Neighborhood Form District, which will replace the aged, multi-family housing, while at the same time provide much improved buffering from the higher intensity use and the busy Shelbyville Road corridor; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Centers guideline because, the application complies with the Intents and applicable Policies 1, 2, 3, 4, 5, 7, 8, 9, 11, 13, 14, 15 and 16 of this Guideline because the subject property adjoins the mixture of commercial, high-density residential apartment and single-family residential uses, placing it in the activity center that already exists in and around this location; with goods and services available in close proximity to the site and the residential uses mentioned above, this small retail center adds to the vitality and sense of place among the mostly disconnected nearby neighborhoods, some of whose residents will be able to walk to this small center to work and shop; others will find it a convenient stop on their ways home; the ingress and egress will be shifted to the major arterial of Shelbyville Road and shared with the other density residential apartments to reduce curb cuts and will also be easily accessible by pedestrian and alternative modes of transportation; the rezoning and development plan expand the commercial corridor in a manner that is compatible with adjacent uses and meets Form District Guidelines; the development plan is of an intensity, size and design that is appropriate and comparable to character and scale of the surrounding uses; and it conforms to a "neighborhood

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center” in that this area along Shelbyville Road acts currently and will continue to compliment the area of intensity for the commercial “center” of Beechwood Village where it belongs along Shelbyville Road; and further it is similar in character and intensity to the surrounding neighborhood, appropriately located at an intersection of a major arterial and the neighborhood; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Centers guideline because, as an “activity center”, it is appropriately located along Shelbyville Road and Marshall Ave, and it is designed to be of intensity, density, size and mix of uses appropriate for a small neighborhood center; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Compatibility guideline because, the application complies with the Intents and applicable Policies 1, 2, 4, 5, 6, 7, 8, 9, 11, 12, 20, 21, 22, 23, 24 and 28 of this Guideline because this is a small neighborhood-serving retail center; it will have an attractive look and feel in accordance with the style and design concepts accompanying this application and in a character consistent with nearby properties; no significant noise is anticipated as the retail portion is not anticipated to have any form of late hours, but to the extent any exists it will be mitigated by an eight-foot brick wall and landscaping buffering it from the single family residential properties; lighting will follow restrictions of the Land Development Code (LDC) and thus be directed down and away from nearby residential properties, with 90 degree cut-off at property lines; loading and delivery will be located and/or screened so as to minimize impacts on nearby properties; and signage will be in conformance with the LDC; and the applicant has agreed to certain Binding Elements further restricting the property beyond the demands of the LDC; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Economic Growth and Sustainability guideline because, the application complies with the Intents and applicable Policies 2, 5, and 6 of this Guideline because this site represents a small expansion at a high-traffic location to accommodate a retail center in an area already adjacent to an activity center and the major arterial of Shelbyville Road; the location has good access to transportation and where nuisances and activities of the use will not adversely affect adjacent areas with the impact mitigation and Binding Elements provided, including an attractive brick wall to further shield this area and the impacts of it from the residential property; and this use reduces costs of land development and further promotes an existing employment center with good access to a support population that will visit this retail center; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Circulation, Transportation Facility Design and Bicycle, Pedestrian and Transit guideline because, the application complies with the Intents and applicable Policies 1, 2, 4, 6, 9, 10, 11, 12, 13, 16 and 18 of Guideline 7; Policies 1, 4, 5, 7, 9, 10 and 11 of Guideline 8;

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and Policies 1, 2, 3 and 4 of Guideline 9 because this site is located at the intersection of the major arterial of Shelbyville Road and Marshal Drive, which has adequate traffic-carrying capacity for business growth; the road systems are adequate for this site and they address the issues on the Detailed District Development Plan (“DDDP”) accompanying this application; the DDDP accompanying this application satisfies all of the design requirements of Metro Public Works and Transportation planning which are inherent in all three of these Guidelines and provide adequate bicycle and pedestrian access to the adjoining residential areas; the DDDP received the preliminary stamp of approval from these agencies prior to public review; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Flooding and Stormwater guideline because, the application complies with the Intents and applicable Policies 1, 3, 4, 6, 7, 9, 10 and 11 of this Guideline because MSD requires that post development peak rates of runoff do not exceed pre-development conditions and that adjacent properties are not adversely affected by the subject site’s new and through drainage from storm water run-off, all of which is addressed by this DDDP; underground “honeycomb” water storage will be utilized on the site for detainage; and the DDDP received MSD’s preliminary stamp of approval prior to public review; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Water Quality guideline because, the application complies with the Intents and applicable Policies 3, 5 and 8 of this Guideline because MSD has promulgated both soil erosion/sedimentation control regulations and even newer ones with respect to water quality; and construction plans for this center will require compliance with these regulations prior to obtaining building permits; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Air Quality guideline because, the application complies with the Intents and applicable Policies 2, 4, 7 and 8 of this Guideline because as to all of the Policies associated with air quality, they are always addressed when commuting times and distances are reduced when new activities congregate, as here, in and near an existing activity center; and new and improved pedestrian and bicycle access and is included, reducing automobile trips from the surrounding residential areas; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Landscape Character guideline because, the application complies with the Intents and applicable Policies 1, 2, 4, 5 and 6 of this Guideline because as the concept landscape plan will be included in the eventual landscape plan filed with DPDS post zoning approval, that this site will not just comply with, but rather exceed, LDC landscape requirements; and as mentioned above as respects stormwater management, enhanced landscaping, screening and buffering are added next door where not required; and

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WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Infrastructure guideline because, the application complies with the Intents and applicable Policies 2, 3, 4, 6 and 7 of this Guideline because this DDDP will have underground storm water detainage, access to water and utilities already existing along Shelbyville Road; it will retain the utility easements to provide access for repair and maintenance; and as a part of the Binding Elements, the applicant has agreed to replace the drainage ditch along Shelbyville Road, and install an underground pipe, subject to the conditions set forth in the Binding Elements, which will improve safety and water flow; 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.

RESOLVED, that 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, 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 City of Beechwood Village for review and 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. Signage:
 - a. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site. Temporary way finding signs, construction-related signs or directional signs are permitted. Plans for all proposed freestanding signage shall be submitted to the City of Beechwood Village for review, with it being understood that the primary monument sign will be approximately 4 feet tall and 12 feet long, a donation sign will be approximately 10 inches tall and up to 12 feet long, a building sign with logo, and size appropriate directional signs are permitted.
 - b. No median, street signage or other structure in the City of Beechwood Village right of way can be installed or removed without review and coordination with the City of Beechwood Village.

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- c. The property owner shall be responsible for reimbursing the City of Beechwood Village for legal fees incident to any and all necessary signage enforcement on the City's part.
 - d. Appropriate signs will be installed clearly indicating no drop-offs of donated goods after operating hours attached to the building or structure. Further, the applicant will make reasonable efforts to remove any donated goods dropped-off in violation of this directive.
3. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
4. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit) is requested:
 - a. The development plan must receive full construction approval from Develop Louisville, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
 - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - d. A minor plat or legal instrument shall be recorded consolidating the property into one lot. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of the approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
 - e. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
5. 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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6. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system permitted on the site.
7. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements. Should the property owner lease the property to an entity operating something other than a Goodwill store, the property owner will use good faith, reasonable efforts to find a tenant acceptable to the City Council of Beechwood Village.
8. No overnight idling of trucks shall be permitted on-site. No service vehicles or trucks shall use the streets in Beechwood Village.
9. Hours of Operation:
 - a. Commercial Deliveries: 7am-7pm Monday- Friday; 9am-5pm Saturday and Sunday
 - b. Trash Pick-Up: 7am-6pm Monday-Friday
 - c. Construction: 7am-7pm Monday- Friday; 8am-5pm Saturday and Sunday
 - d. Business Hours: 9am- 9pm Monday-Saturday; Sunday 10am-6pm.
10. The only permitted use of the subject property shall be a retail store. Any changes in use shall be reviewed and approved by the Planning Commission or its designee. Thirty (30) days advance notice of any Planning Commission or designee decision shall be given to the City of Beechwood Village and 1st tier adjacent property owners.
11. The applicant shall provide a copy of the plan and application to the City of Beechwood Village, within one week of filing to Planning and Design Services, of all Revised Detailed District Development Plans, Amendment to Binding Elements, Change of Zoning or Conditional Use Permit requests, Waivers, and Variances.
12. Dumpster shall be enclosed as required by the Land Development Code, be lidded and the lid shall not be made of metal. The dumpster shall be placed as close to Shelbyville Road as allowed by the Planning Commission and shown on

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the DDDP. The applicant shall not have a trash compactor on the site. No trash compactor will be installed on the site.

13. Landscaping shall be installed pursuant to the "Detailed Landscape Plan" presented at the August 16, 2018 Planning Commission hearing and presented to the City of Beechwood Village on January 16, 2018. Any and all landscaping shall be maintained, including mowing, trimming, pruning, replacing all bushes, trees, grass, and or plantings. Any replacement landscaping shall be of similar quality and size as approved by Planning and Design services staff. All landscaping approved by the Planning and Design Services staff shall be installed following the exact specifications of the approved final landscaping plan.

14. Lighting:

- a. At the time a building permit for the parking lot construction is requested, the applicant/developer shall submit a certification statement to the permit issuing agency, from an engineer, or other qualified professional stating that the lighting of the proposed development is in compliance with Chapter 4 Part 1.3 of the Land Development Code and shall be maintained accordingly thereafter. No permits shall be issued unless such certification statement is submitted.
- b. Outdoor lighting shall be directed down and away from surrounding residential properties. Lighting fixtures shall assure that no light source is visible off site. Lighting levels attributable to the fixtures located on the subject site shall not exceed 0.25 foot candles at the property line. Light shall be LED or equivalent, no more than 4000 Kelvin or its equivalent. Light poles shall be no taller than 14 foot from ground level to the top of the light apparatus.

15. Proper drainage of storm water and water run-off from site shall not overflow and encroach onto neighboring private property owners, City of Beechwood Village or its right of way. If water encroaches or ponds onto said properties, land owner shall take immediate action to remedy the situation. Storm water shall drain according to MSD and in accordance with MSD approved construction documents. Any storm water runoff is sole responsibility of property owner. Owner shall take appropriate actions to meet recommended site drainage specifications as approved by MSD.

16. An 8-foot tall (at top of columns) masonry wall shall be installed as located on the DDDP pursuant to the "brick wall detail" (except for height as noted herein) presented at the August 16, 2018 Planning Commission Public Hearing. The wall shall be maintained by the property owner. All reasonable efforts shall be made to have brick match the brick used in wall across Marshall Drive, if installed, and

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if not, then all reasonable efforts to match as closely as possible the brick used in the development at 4505 and 4507 Shelbyville Road which is also in Beechwood Village.

17. Construction Schedule: The applicant, developer, or property owner shall begin and complete the project in a commercially timely fashion, with the general anticipated time frames set forth below beginning no later than thirty (30) days following of approval of the plan, the passing of all appeal periods with no appeal being filed:
- a. Four (4) months to obtain all necessary permits for construction and demolition;
 - b. Two (2) months to obtain bids for project, hire a general contractor and to begin demolition and construction;
 - c. Three (3) months to complete site work and demolition;
 - d. Nine (9) months to complete construction.

The initiation of the times set forth above will begin after all governmental approvals for the rezoning and the development plan are completed, including the passing of all appeal time periods. In the event there is an appeal of the rezoning, development plan, or a legal challenge to the demolition, then the time periods shall be tolled until such appeal or challenge is completed in favor of the applicant, developer, and/or property owner. The time periods above shall also be tolled for inclement weather or other acts of God, and tolled for time periods necessary to remove any tenants from the property. In the event of any claimed violation, Beechwood Village will provide written notice and a commercially reasonable time to cure.

18. The applicant agrees to pipe the ditch along the US 60 frontage of the property, subject to necessary governmental approval, including but not limited to all appropriate governmental agencies, the Kentucky Department of Transportation and Louisville Metro Public Works and Metropolitan Sewer District (MSD). The time periods in BE #17 above may be tolled in the event there is any delay on government approvals of the ditch.
19. Building materials used on the site shall be primarily red brick consistent with the materials used in other residential and commercial buildings in the City of Beechwood Village and the roof shall be black, brown, tan, or another dark or neutral color consistent with the area of the City of Beechwood Village. In no event will the roof be white or blue.

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20. The garbage dumpster shall be placed as close to Shelbyville Road as allowed by the Planning Commission.

The vote was as follows:

YES: Commissioners Brown, Howard, Lewis, Peterson, Smith, Tomes and Jarboe

NOT PRESENT AND NOT VOTING: Commissioner Robinson

ABSTAINING: Commissioner Carlson

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STANDING COMMITTEE REPORTS

Land Development and Transportation Committee

No report given.

Site Inspection Committee

No report given.

Planning Committee

No report given.

Development Review Committee

No report given.

Policy and Procedures Committee

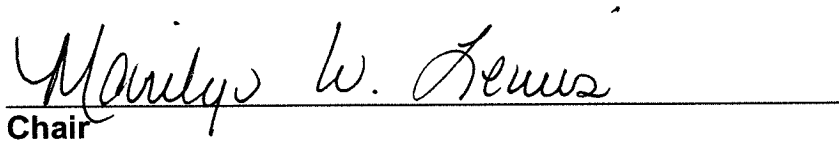
No report given.

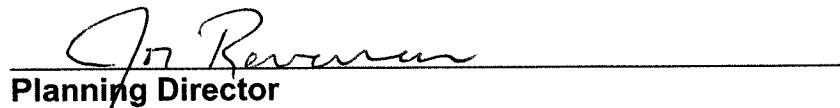
CHAIRPERSON/DIRECTOR'S REPORT

No report given.

ADJOURNMENT

The meeting adjourned at approximately 6:10 p.m.


Chair


Planning Director