

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO PLANNING COMMISSION MEETING
MAY 24, 2018**

A meeting of the Louisville Metro Planning Commission was held on May 24, 2018 at 1:00 p.m. at the Old Jail Building, located at 514 W. Liberty Street, Louisville, KY 40202.

Commissioners present:

Vince Jarboe, Chair
Jeff Brown
Rich Carlson
Laura Ferguson
Lula Howard
Robert Peterson

Commissioners absent:

Marilyn Lewis, Vice Chair
David Tomes
Emma Smith

Staff members present:

Emily Liu, Director, Planning & Design Services
Brian Davis, Planning & Design Manager
Jay Lockett, Planner I
Laura Mattingly, Planner II
Joel Dock, Planner II
Julia Williams, Planning Supervisor
Beth Stuber, Transportation Planning
Tony Kelly, MSD
Paul Whitty, Legal Counsel
Chris Cestaro, Management Assistant

The following matters were considered:

**PLANNING COMMISSION MINUTES
MAY 24, 2018**

APPROVAL OF MINUTES

May 10, 2018 Planning Commission Hearing Minutes

00:03:46 On a motion by Commissioner Carlson, seconded by Commissioner Howard, the following resolution was adopted:

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the minutes of its meeting conducted on May 10, 2018.

The vote was as follows:

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

**PLANNING COMMISSION MINUTES
MAY 24, 2018**

CONSENT AGENDA

CASE NO. 18STREETS1011

Request:	Closure of public Right-of-Way
Project Name:	Aiken Road Closure
Location:	Aiken Road near the old alignment of Aiken Road
Owner:	Louisville Metro
Applicant:	Stapleton Development, LLC
Representative:	Mindel, Scott & Associates
Jurisdiction:	Louisville Metro
Council District:	19 – Julie Denton

Case Manager: **Jay Lockett, Planner I**

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

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

Agency Testimony:

00:04:47 Jay Lockett presented the case (see staff report and recording for detailed presentation.)

Deliberation

00:05:33 The Commissioners concur that the proposal is justified.

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.

Closure of Public Right-of-Way

00:06:24 On a motion by Commissioner Carlson, seconded by Commissioner Ferguson, the following resolution, Standard of Review and Staff Analysis and testimony heard today, was adopted:

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the requested **Closure of public Right-of-Way** on property described in the attached legal description be **APPROVED**.

The vote was as follows:

**PLANNING COMMISSION MINUTES
MAY 24, 2018**

CONSENT AGENDA

CASE NO. 18STREETS1011

**YES: Commissioners Brown, Howard, Carlson, Peterson, Ferguson, and Jarboe.
NOT PRESENT: Commissioners Lewis, Tomes, and Smith.**

**PLANNING COMMISSION MINUTES
MAY 24, 2018**

CONSENT AGENDA

CASE NO. 15STREETS1008

Request:	Street/Alley Closure of an unnamed 6813 square-foot L-shaped alley
Project Name:	Kindred Alley Closure
Location:	North of the intersection of West Broadway and South Fourth Street
Owner:	Louisville Metro
Applicant:	John Thomas – Sabak, Wilson & Lingo, Inc.
Representative:	Tim Martin – Frost Brown Todd
Jurisdiction:	Louisville Metro
Council District:	4 – Barbara Sexton Smith

Case Manager: **Laura Mattingly, AICP, Planner II**

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

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

Agency Testimony:

00:06:49 Laura Mattingly said she was available to answer any questions regarding the alley closure.

Deliberation

00:07:27 The Commissioners concur that the proposal is justified.

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

Street/Alley Closure

00:07:48 On a motion by Commissioner Carlson, seconded by Commissioner Peterson, the following resolution, based on the Standard of Review and Staff Analysis, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that adequate public facilities are available to serve existing and future needs of the community. The proposed closure does not result in an increase in demand on public facilities or services as this is an unimproved piece of right of way and it does not appear that any existing utilities will be affected. No property

**PLANNING COMMISSION MINUTES
MAY 24, 2018**

CONSENT AGENDA

CASE NO. 15STREETS1008

adjacent or abutting the rights-of-way to be closed will be left absent of public facilities or services, or be dispossessed of public access to their property; and

WHEREAS, the Commission further finds that, if any existing utilities within the right-of-way proposed for closure exist, they will be retained as an easement, relocated, or other arrangements made to ensure continued maintenance and provision of services to the property and community; and

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

WHEREAS, the Commission further finds that the request to close the right-of-way is in compliance the Goals, Objectives and Plan Elements of the Comprehensive Plan as Guideline 7, Policy 1 provides that those who propose new developments bear or reasonably share in the costs of the public facilities and services made necessary by development; Guideline 7, Policy 6 strives to ensure that transportation facilities of new developments are compatible with and support access to surrounding land uses, and contribute to the appropriate development of adjacent lands; Guideline 7, Policy 9 provides that the Planning Commission or legislative body may require the developer to dedicate rights-of-way for street, transit corridors, bikeway and walkway facilities within or abutting the development as set forth in the Land Development Code and/or an adopted urban mobility plan; Guideline 8, Policy 8 states that adequate street stubs for future roadway connections that support access and contribute to appropriate development of adjacent lands should be provided by new development and redevelopment; and Guideline 14, Policy 7 provides that the design and location of utility easements provide access for maintenance and repair and to minimize negative visual impacts. Any cost associated with the right-of-way to be closed will be the responsibility of the applicant or developer. Adequate public facilities are available to serve existing and future needs of the community. Any facility required to be placed in an easement or relocated will be done so by the developer. Transportation facilities are existing and will be unaffected by the proposed closure and will not dispossess property owners of public access. All adjacent residential lands maintain access to public infrastructure and utility services will continue to be provided to these lands; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the requested Street/Alley Closure on property described in the attached legal description be **APPROVED**.

The vote was as follows:

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

**PLANNING COMMISSION MINUTES
MAY 24, 2018**

BUSINESS SESSION

PDS FEE SCHEDULE

Request: PDS Fee Schedule

Case Manager: Emily Liu, Director, Planning & Design Services

Agency Testimony:

00:08:41 Emily Liu explained that a detailed recommendation will be brought back to the next Planning Commission in two weeks (**June 7, 2018** Planning Commission public hearing.)

No vote was taken.

**PLANNING COMMISSION MINUTES
MAY 24, 2018**

PUBLIC HEARING

CASE NO. 10-42-97

Request: Amendment to Declaration of Restrictions
Location: River Glen Subdivision
Applicant's Representative: Glen Price – Frost Brown Todd

Case Manager: Paul Whitty, County Attorney's Office

Agency Testimony:

No agency testimony.

The following spoke in favor of this request:

Glenn Price, Frost Brown Todd LLC, 400 West Market Street Suite 3200, Louisville, KY 40202

Summary of testimony of those in favor:

00:58:48 Glenn Price presented the case (see recording for detailed presentation.) In 1999, this subdivision required that any time the Declaration of Restrictions was amended, approval had to be obtained by the Oldham County Planning Commission and the Louisville Metro Planning Commission. Mr. Price said that the 23 lot owners now wish to amend the restrictions to eliminate this requirement.

01:00:46 in response to a question from Paul Whitty, legal counsel for the Planning Commission, Mr. Price discussed what the amendments relate to. These include: What type of landscaping is permitted on river-facing lots; improvements to property or house; etc.

The following spoke in opposition to this request:

No one spoke.

Deliberation:

01:01:49 Commissioner Peterson expressed concern that he felt unsure of what the Planning Commission was being asked to vote on. In response to a question from Commissioner Brown, Mr. Price said there had to be an 80% majority of homeowners who approved of this request – all but one property owner approved, and that property owner was out of town and could not be reached. He added that he had given Mr. Whitty a copy of all the restrictions prior to today's meeting. Commissioner Peterson noted that, as long as these restrictions do not affect binding elements or Conditions of Approval, which they do not, he had no problem voting on this.

01:04:34 The Commissioners concurred that the request is justified.

**PLANNING COMMISSION MINUTES
MAY 24, 2018**

PUBLIC HEARING

CASE NO. 10-42-97

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.

01:05:50 On a motion by Commissioner Howard, seconded by Commissioner Ferguson, the following resolution, based on the evidence and testimony presented today, was adopted:

RESOLVED, the Louisville Metro Planning Commission does hereby **AMEND** the Declaration of Restrictions for the River Glen subdivision.

The vote was as follows:

YES: Commissioners Brown, Howard, Carlson, Peterson, Ferguson, and Jarboe.

NOT PRESENT: Commissioners Lewis, Tomes, and Smith.

**PLANNING COMMISSION MINUTES
MAY 24, 2018**

PUBLIC HEARING

CASE NO. 16DEVPLAN1170

Request:	Revised Detailed District Development Plan and Waivers
Project Name:	Nelson Commercial Property
Location:	9609 National Turnpike
Owner(s):	Dan Nelson
Applicant:	Dan Nelson
Applicant's Representative:	Dan Nelson
Jurisdiction:	Louisville Metro
Council District:	13 – Vicki Aubrey Welch

Case Manager: **Joel Dock, Planner II**

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

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

Agency Testimony:

00:25:37 Joel Dock presented the case and handed out a revised set of binding elements. Changes to the binding elements occurred after the initial publication of the staff report. He also showed a Power Point presentation and reviewed the plan and binding elements in detail (see staff report and recording for detailed presentation.)

00:33:21 In response to a question from Commissioner Ferguson, Mr. Dock said the November 1st deadline was set because that is the best planting season for trees.

00:34:17 In response to a question from Commissioner Peterson, Mr. Dock discussed how the binding elements address a time limit of how long vehicles can remain on the site (see recording for detailed discussion.)

00:35:46 In response to a question from Commissioner Carlson, Mr. Dock said the work order is how Code Enforcement can determine whether a car is on the lot for repair or not. There is no time frame on how long a vehicle is in for repair; it is a matter of having five inoperable vehicles on the site. Commissioner Peterson and Mr. Dock discussed “junkyards” versus “auto repair garages”.

00:37:51 Paul Whitty, legal counsel for the Planning Commission, asked about binding element #12 which refers to “guests” – would “customers” be more appropriate? Mr. Dock discussed why the word “guests” was used.

00:38:32 Mr. Dock responded to a question from Commissioner Brown regarding binding element #8, and whether the date of the issuance of the building permit could conflict with the

**PLANNING COMMISSION MINUTES
MAY 24, 2018**

PUBLIC HEARING

CASE NO. 16DEVPLAN1170

November 1st deadline. Mr. Dock said it would not, and explained why. He added that he had a lengthy discussion last Tuesday on all of the binding elements and every component of the development plan.

The following spoke in favor of this request:

Paul Curry

Bill Schroll, 5450 Southview Drive, Louisville, KY 40214

Summary of testimony of those in favor:

00:40:19 Paul Curry, the applicant's representative, explained the waiver requests (see recording for detailed presentation.)

00:44:54 Commissioner Brown asked for further clarification about a requested Waiver of a landscape buffer because Mr. Curry said that the "existing conditions exceed what is required by the Land Development Code." Mr. Dock said there is much existing tree canopy at the rear and side of the site. The applicant stated that this justifies the waiver of required plantings because the existing trees mitigate the impacts of the development. There is a five-foot VUA landscaped area at the front of the parking lot.

00:46:25 In response to a question from Commissioner Carlson, Mr. Curry said the applicant has no issues with the revised binding elements - the November 1st timeline is fine. Mr. Dock explained the deadlines (for the applicant and the Commissioners.)

00:50:57 After some discussion, the Commissioners, Mr. Whitty, and Mr. Curry agreed that if the applicant wants a time extension, it should be applied for 30 days before the expiration. This information will be added to both binding elements that mention the November 1st deadline.

The following spoke in opposition to this request:

No one spoke.

Deliberation:

00:52:00 After much discussion, the Commissioners concurred that the request is justified.

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.

**PLANNING COMMISSION MINUTES
MAY 24, 2018**

PUBLIC HEARING

CASE NO. 16DEVPLAN1170

Waivers

00:55:15 On a motion by Commissioner Brown, seconded by Commissioner Peterson, the following resolution, based on conformance with Cornerstone 2020, the Standard of Review and Staff Analysis, the applicants' justification, and evidence and testimony heard today, was adopted:

(Waiver of LDC section 5.8.1.B to not provide sidewalk) WHEREAS, the Louisville Metro Planning Commission finds that This Waiver conforms to the Comprehensive Plan and the Land Development Code because the Code allows for the expansion of pre-existing, non-residential structures; and

WHEREAS, the Commission further finds that the Waiver will keep with the intent of the Land Development Code by keeping with the rural lot pattern where sidewalks are not useful or justified; and

WHEREAS, the Commission further finds that there would be no adverse impact on adjacent property owners due to the fact that the current conditions have been in place for many years, operating this way with no problems; and

WHEREAS, the Commission further finds that strict application would create unnecessary hardship due to the cost of placing sidewalks in an area that doesn't have connectivity to other sidewalks and property that has a land drainage ditch along the road; and

(Waiver of LDC section 5.5.2.A.1 to omit building design standards) WHEREAS, the Commission further finds that the Waiver will not adversely affect adjacent property owners because owner is utilizing current conditions that have been in place for many years; and

WHEREAS, the Commission further finds that the Waiver will not violate the comprehensive plan because building sits so far off the road that placing windows to allow views into the business impractical and unnecessary; and

WHEREAS, the Commission further finds that the extent of the Waiver is minimum necessary because it allows for the owner to continue utilizing the existing structures without the cost and disruption of construction to alter building; and

WHEREAS, the Commission further finds that the strict application would create unnecessary hardship on owner due to the cost and disruption of business to alter the building as well as the structural complications to redesign the building; and

(Waiver of LDC sections 5.6.1.B.1& C.1 to omit building design standards) WHEREAS, the Commission further finds that this Waiver will not adversely affect adjacent property owners because owner is utilizing current conditions that have been in place for many years; and

**PLANNING COMMISSION MINUTES
MAY 24, 2018**

PUBLIC HEARING

CASE NO. 16DEVPLAN1170

WHEREAS, the Commission further finds that the Waiver will not violate the comprehensive plan because building sits so far off the road that placing windows to allow views into the business impractical and unnecessary; and

WHEREAS, the Commission further finds that the extent of the Waiver is minimum necessary because it allows for the owner to continue utilizing the existing structures without the cost and disruption of construction to alter building; and

WHEREAS, the Commission further finds that the strict application would create unnecessary hardship on owner due to the cost and disruption of business to alter the building as well as the structural complications to redesign the building; and

(Waiver of LDC section 5.9.2 to not provide pedestrian connection) **WHEREAS**, the Commission further finds that the Waiver will not adversely affect adjacent property owners because conditions are existing and have been for some time. There are no sidewalks along National Turnpike and the building sits over 200 feet from the road; and

WHEREAS, the Commission further finds that the business is not a walk-in type business and has no pedestrian connectivity along a busy road in a predominantly residential surrounding. The current configuration keeps with the rural nature of the surrounding properties; and

WHEREAS, the Commission further finds that the extent of the Waiver is minimum to afford relief because there is no pedestrian traffic to or from the business; and

WHEREAS, the Commission further finds that the strict application would create an unnecessary hardship of cost; and

(Waiver of LDC section 10.2.4 to not provide landscape plantings and section 10.2.12 to not provide ILA) **WHEREAS**, the Commission further finds that the waiver will not adversely affect adjoining property owners as they have stated that they do not want the additional buffers, plantings, or screenings. There is existing tree canopy along most of this lot line creating an even better screen and more plantings than the landscape requirements would provide, preventing any potential noise or visual pollution. There are no proposed changes to the land use or buildings that would cause additional nuisances. The surrounding neighbors have worked collectively to improve the drainage to improve capacity in excess of what downstream systems provide. Fences would impair the neighborhood watch, providing hiding spots for criminal activity; and

WHEREAS, the Commission further finds that the Waiver will not violate the Comprehensive Plan, but instead promote its guidelines. Guideline 13 desires to promote native species of trees, encourage tree canopy as a community resource, and incorporate unique characteristics of natural landscape styles. This Waiver will allow the site to preserve the existing tree canopy, including species native to this region, and maintain the rural landscape of the surrounding area instead of planting a lone tree separate from the existing wooded areas on site. One or two

**PLANNING COMMISSION MINUTES
MAY 24, 2018**

PUBLIC HEARING

CASE NO. 16DEVPLAN1170

planted trees within a linear pattern would be visibly awkward in a rural setting and a violation of the intent of the Comprehensive Plan; and

WHEREAS, the Commission further finds that the extent of the waiver is the minimum necessary to afford relief to the applicant in order to become compliant while also respecting the wishes of the surrounding property owners. The applicant desires to honor the work of the neighbors previously completed to improve drainage, promote safety of the neighborhood by clearing obstructions a criminal could potentially use, clear out brush and trees to allow sunlight for their gardens and lawns, and maintain the naturally rural landscape of the area. The planting of trees along a lot line that has a 15' LG&E easement would further complicate compliance for the applicant and interfere with utility maintenance; and

WHEREAS, the Commission further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land because the land has been used for auto repair for some time without any nuisance to the neighbors. Additionally, it would create an unnecessary hardship on the applicant because the neighbors have worked together to create a landscape that is aesthetically pleasing to themselves and promotes safety with open views of buildings to dissuade criminal activity. Adding fences and trees that neighbors do not desire would be a financial hardship as well. By working together, the neighbors have created a sustainable infrastructure promoted by the landscape regulations; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Waivers, as follows:

- **Waiver** of Land Development Code, section 5.5.2.A.1 to omit building design standards
- **Waiver** of Land Development Code, sections 5.6.1.B.1& C.1 to omit building design standards
- **Waiver** of Land Development Code, section 5.8.1.B to not provide sidewalk
- **Waiver** of Land Development Code, section 5.9.2 to not provide pedestrian connection
- **Waiver** of Land Development Code, section 10.2.4 to not provide landscape plantings
- **Waiver** of Land Development Code, section 10.2.12 to not provide ILA

The vote was as follows:

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

Revised Detailed District Development Plan and Binding Elements

00:56:50 On a motion by Commissioner Brown, seconded by Commissioner Peterson, the following resolution, based on conformance with Cornerstone 2020, the Standard of Review and Staff Analysis, and evidence and testimony heard today, was adopted:

**PLANNING COMMISSION MINUTES
MAY 24, 2018**

PUBLIC HEARING

CASE NO. 16DEVPLAN1170

WHEREAS, the Louisville Metro Planning Commission finds that the site contains a large wooded area and a water course along the rear of the property, neither of which will be disturbed; and

WHEREAS, the Commission further finds that safe and efficient vehicular and pedestrian transportation is provided both within the development and the community because a wide drive with a large apron will provide ingress onto site; and

WHEREAS, the Commission further finds that sufficient open space (scenic and recreational) is provided to meet the needs of the proposed development because most of the site is greenspace or undeveloped; and

WHEREAS, the Commission further finds that provisions for adequate drainage facilities are provided on the subject site in order to prevent drainage problems from occurring on the subject site or within the community because the property owner and the adjoining property owners have worked to fix the poor drainage in the area; and

WHEREAS, the Commission further finds that the overall site design (location of buildings, parking lots, screening, landscaping) and land use or uses are compatible with the existing and projected future development of the area. The site fits with the characteristics of the area and no changes are being proposed; and

WHEREAS, the Commission further finds that the proposal is in conformance with the Comprehensive Plan and land Development Code. It maintains the rural setting of the area with the natural landscape; now, therefore be it

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

1. The development shall be in accordance with the approved district development plan and agreed upon binding elements unless amended pursuant to the Zoning District Regulations. No further development shall occur without prior approval from the Planning Commission.
2. The development shall not exceed **7,470** square feet of gross floor area. All existing covered areas as shown on the approved detailed district development shall be enclosed. Prior to the enclosure of these areas all necessary building permits shall be obtained and displayed on the property. Structures shall be enclosed prior to November 1, 2018, unless a request for an extension of this deadline is made in writing 30 days before expiration and approved by the Planning Commission.
3. Use of the property shall be limited to an automobile repair garage or single family residential, unless otherwise approved by the Planning Commission. An automobile repair garage shall be defined as a commercial establishment conducting repair and maintenance of automobiles including tune-ups, oil changes, tire replacement and

**PLANNING COMMISSION MINUTES
MAY 24, 2018**

PUBLIC HEARING

CASE NO. 16DEVPLAN1170

puncture repair, brake repair, brake drum turning, muffler repair and similar operations, body work, auto painting, major overhauling, tire re-treading, or the heavy grinding or milling of auto parts. Retail sale of fuel, motor oil or accessories is also permitted.

4. No outdoor advertising signs (billboards), small freestanding (temporary) signs, pennants or banners shall be permitted on the site.
5. There shall be no outdoor storage on the site, including the storage of heavy trucks.
6. Outdoor lighting shall be directed down and away from surrounding residential properties.
7. 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 Louisville Metro Department of Codes and Regulations Construction Permits and Transportation Planning Review 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/plantings shall be installed prior to November 1, 2018, unless a request for an extension of this deadline is made in writing 30 days prior to expiration and approved by the Planning Commission. A site inspection shall be conducted by Planning Staff on November 2, 2018, unless an extension has been granted.
 - 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. Right-of-way shall be dedicated by minor plat or other legal instrument within 60-days of development plan approval in the amount of 40 feet from the centerline of National Turnpike. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services for incorporation into this case file.
8. If a building permit is not issued within one year of the date of approval of the plan or rezoning, whichever is later, the property shall not be used in any manner unless a revised district development plan is approved or an extension is granted by the Planning Commission.
9. A certificate of occupancy must be received from the appropriate code enforcement office prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting a

**PLANNING COMMISSION MINUTES
MAY 24, 2018**

PUBLIC HEARING

CASE NO. 16DEVPLAN1170

issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.

10. The property owner/developer shall provide copies of these binding elements to tenants, contractors and other parties engaged in development of this project, and shall inform them of the content of these binding elements. Further, the property owner/developer shall require contractors to similarly notify all of their sub-contractors whose duties relate to the binding elements. The property owner/developer shall ensure their compliance with the binding elements
11. All waste material (including but not limited to oil, brake shoes, tires, fluids, metals) shall be disposed of in accordance with local, state and/or federal regulations.
12. All automobiles on-site shall be registered in the name of the property owner or guest(s) of the property owner. All other vehicles shall have a work-order for their repair. Documentation of said work-order shall be made available immediately upon request by any code enforcement officer or supervisor.

The vote was as follows:

**YES: Commissioners Brown, Howard, Carlson, Peterson, Ferguson, and Jarboe.
NOT PRESENT: Commissioners Lewis, Tomes, and Smith.**

**PLANNING COMMISSION MINUTES
MAY 24, 2018**

PUBLIC HEARING

CASE NO. 17STREETS1011

Request: Alley Closures
Project Name: Payne Street Alley Closure
Location: 113 S. Charlton Street / 1801 Payne Street
Owner: Right-of-Way
Applicant: Louisville Paving Co.
Representative: Nick Pregliasco – Bardenwerper, Talbott & Roberts PLLC
Jurisdiction: Louisville Metro
Council District: 9 – Bill Hollander

Case Manager: Joel Dock, Planner II

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

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

Agency Testimony:

01:07:00 Joel Dock presented the case and showed a brief Power Point presentation (see staff report and recording for detailed presentation.)

The following spoke in favor of this request:

Nick Pregliasco, Bardenwerper Talbott & Roberts PLLC, 1000 N. Hurstbourne Parkway, Louisville, KY 40223

Summary of testimony of those in favor:

01:08:47 Nick Pregliasco, the applicant's representative, presented the applicant's case and showed a brief Power Point presentation (see recording for detailed presentation.)

The following spoke in opposition to this request:

No one spoke.

Deliberation:

01:11:46 The Commissioners concur that the proposal is justified.

**PLANNING COMMISSION MINUTES
MAY 24, 2018**

PUBLIC HEARING

CASE NO. 17STREETS1011

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.

01:12:07 On a motion by Commissioner Peterson, seconded by Commissioner Carlson, the following resolution, based on the Comprehensive Plan and Cornerstone 2020, the Standard of Review and Staff Analysis, and evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that adequate public facilities are available to serve existing and future needs of the community. The alleys in question have not been improved for public purposes and are currently used as a component of private development; and

WHEREAS, the Commission further finds that no objections to the proposed closures by utility agencies have noted; and

WHEREAS, the Commission further finds that any cost associated with the rights-of-way to be closed will be the responsibility of the applicant or developer, including the cost of improvements to those rights-of-way and adjacent rights-of-way, or the relocation of utilities; and

WHEREAS, the Commission further finds that the proposed closures are in compliance with the Goals, Objectives and Plan Elements of the Comprehensive Plan. The request to close multiple rights-of-way is in compliance the Goals, Objectives and Plan Elements of the Comprehensive Plan as Guideline 7, Policy 1 provides that those who propose new developments bear or reasonably share in the costs of the public facilities and services made necessary by development; Guideline 7, Policy 6 strives to ensure that transportation facilities of new developments are compatible with and support access to surrounding land uses, and contribute to the appropriate development of adjacent lands; Guideline 7, Policy 9 provides that the Planning Commission or legislative body may require the developer to dedicate rights-of-way for street, transit corridors, bikeway and walkway facilities within or abutting the development as set forth in the Land Development Code and/or an adopted urban mobility plan; Guideline 8, Policy 8 states that Adequate street stubs for future roadway connections that support access and contribute to appropriate development of adjacent lands should be provided by new development and redevelopment; and Guideline 14, Policy 7 provides that the design and location of utility easements provide access for maintenance and repair and to minimize negative visual impacts. The alleys in question have not been improved for public purposes and are currently used as a component of private development; now, therefore be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the requested closures of a 20' alley to the North of 1801 & 1829 Payne Street, and a 15' alley to the rear of 113 S. Charlton Street, on property described in the attached staff report and legal description, be **APPROVED**.

The vote was as follows:

YES: Commissioners Brown, Howard, Carlson, Peterson, Ferguson, and Jarboe.

**PLANNING COMMISSION MINUTES
MAY 24, 2018**

PUBLIC HEARING

CASE NO. 17STREETS1011

NOT PRESENT: Commissioners Lewis, Tomes, and Smith.

**PLANNING COMMISSION MINUTES
MAY 24, 2018**

PUBLIC HEARING

CASE NO. 17ZONE1063

Request: Change in zoning from R-4 to C-N and a Detailed District Development Plan
Project Name: 9212 Mouser Property
Location: 9212 Preston Highway
Owner: Mouser Properties, LLC
Applicant: Kathryn Matheny – Cardinal Planning & Design, Inc.
Representative: Kathryn Matheny – Cardinal Planning & Design, Inc.
Jurisdiction: Louisville Metro
Council District: 24 – Madonna Flood

Case Manager: Laura Mattingly, AICP, Planner II

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

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

Agency Testimony:

00:12:50 Laura Mattingly presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.)

The following spoke in favor of this request:

David Mindel and Kent Gootee, Mindel Scott & Associates, 5151 Jefferson Boulevard, Louisville, KY 40219

Kathryn Matheny, Cardinal Planning & Design, Inc., 9009 Preston Hwy, Louisville, KY 40219

Summary of testimony of those in favor:

00:16:07 David Mindel, the applicant's representative, presented the applicant's case (see recording for detailed presentation.) Since there are no planned exterior changes, he asked that binding element #9 (regarding the submittal of exterior elevation/s prior to receiving construction permit approval) be eliminated. He also asked that binding element #6 be eliminated (regarding a Certificate of Occupancy) since the structure is already occupied.

00:19:22 Commissioner Carlson asked for clarification about the Certificate of Occupancy binding element (binding element #6.) He said that the building may be occupied now, but the use was going to be changing from residential to commercial. Mr. Mindel said he had no problem leaving that binding element in place.

**PLANNING COMMISSION MINUTES
MAY 24, 2018**

PUBLIC HEARING

CASE NO. 17ZONE1063

00:20:22 Kathryn Matheny asked that her Power Point presentation be entered into the record.

The following spoke in opposition to this request:

No one spoke.

Deliberation:

00:20:58 The Commissioners concur that the proposal is justified. They agreed to strike existing Binding Element #9, since it is not needed.

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

Change in zoning from R-4, Single Family Residential, to C-N, Commercial-Neighborhood on 0.53 acres

00:23:05 On a motion by Commissioner Howard, seconded by Commissioner Peterson, the following resolution, based on the Staff Analysis, Cornerstone 2020 Staff Checklist, the applicant's justification and evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that that the proposal meets the intents of Guideline 1 – Community Form because the proposal requests a rezoning for an existing structure. The structure will be used as a small commercial or office business. The only improvements would be to the entrance way and for a few parking spots in the rear. This type of reuse of an existing structure makes a change of use easily compatible with a neighborhood. The streetscape is not altered. The neighborhood benefits from a new service in a convenient location, thus making the requested zoning designation appropriate under Guideline 1, Policy B.3; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 3 Compatibility because this proposal complies with the intent and the policies of Guideline 3 for all the location reasons set forth above and below and because this is an existing home and proposed business use which is compatible with the neighboring uses. Further, the use is of low impact and is a service to the neighborhood. The requested rezoning designation is compatible because no discernible changes to the appearance of the neighborhood will occur by this project. The issue of appropriate size and shape of the structure, setbacks, transitions and visual impact to the neighborhood are basically non-existent because this home is existing and the streetscape will remain the same. For these reasons, the proposal is consistent with Guideline 3, Policies 1, 4, 9, 22 and 23. The proposal is of low impact to the neighborhood. The current zoning is R-4 with commercial zoning on either side. The proposed use should not

**PLANNING COMMISSION MINUTES
MAY 24, 2018**

PUBLIC HEARING

CASE NO. 17ZONE1063

generate any nuisances or create any new traffic issues for the area. The business or office will operate during normal business hours, thus causing no noise or disturbance to the neighborhood to the rear in the evenings. The house will have minimal outside lighting consistent with lighting on residential buildings. Therefore, the proposal meets, Guideline 3, Policies 4, 6, 7, 8 and 24; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 5 Natural Area and Scenic and Historical Resources because this proposal complies with the intent and the policies of Guideline 5, Policy 2 because there are no historic features in the area. There are no other special districts or soil and slope issues facing this proposal; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 6 Economic Growth and Sustainability because the project is an investment in an older neighborhood using existing infrastructure; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 7 Circulation because its site plan provides adequate parking and connections for the size and location of the lot. Further, the site is in an area with access to mass transit and in an area served by sidewalks; and

WHEREAS, the Commission further finds that the proposal complies with Guidelines 8 and 9 – Transportation because it provides for appropriate circulation and safe and efficient ingress to and egress in rear parking area. The site's parking meets the LDC requirements. The proposal is also located near a TARC stop consistent with Guideline 9. The proposal does not impact any environmentally sensitive areas, scenic corridors or streetscape issues; and

WHEREAS, the Commission further finds that the proposal complies with the intent and the policies of Guidelines 10 and 11 Flooding and Storm water and Water Quality because it uses an existing structure so land disturbance is minimized. The only new construction is the addition of a parking area. Appropriate construction practices will be employed in constructing the building to protect water quality by the use of effective sediment and erosion practices in accordance with applicable regulations and best management practices. Further, no portion of the property to be developed is designated as floodplain or a blue line stream; and

WHEREAS, the Commission further finds that the proposal complies with the intent and the policies Guideline 12 Air Quality because this type of infill project will work to decrease vehicular miles traveled between home and trips to neighboring businesses. The site is also served by a TARC stop in the area, thus encouraging the use of mass transit reducing vehicular miles traveled by residents. Sidewalks are available in this area; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 13 Landscape Character because the intent of this guideline is to protect and enhance landscape character. This proposal has minimal site disturbance. Additional landscaping will be provided in the rear to buffer the homes behind the site. The proposed plan maintains the existing residential look of the area and is compatible with the lot pattern of the block; and

**PLANNING COMMISSION MINUTES
MAY 24, 2018**

PUBLIC HEARING

CASE NO. 17ZONE1063

WHEREAS, the Commission further finds that the proposal complies with the intent and the policies Guideline 14 Infrastructure because all necessary utilities are available nearby and will be connected via existing facilities; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 1: Community Form because the proposal is located within a small group of commercial uses and just north of a larger commercial center; the commercial properties that adjoin are of a similar scale to what is proposed; and Preston Hwy is a major arterial road; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 2: Centers because the proposal is near an activity center and is re-using an existing single family home that is adjoined on the north and south by commercial uses; the area has sufficient permanent population and transit to support the use. Residential neighborhoods surround the proposed use and existing activity center; the existing structure and site design is being re-used as is, making the proposal efficient and cost effective; the proposal adds a neighborhood serving use to an area with a mix of non-residential uses along Preston Highway; while the use itself is not mixed, it is in an area with a mix of non-residential and residential uses along the Preston Hwy corridor with established residential subdivisions surrounding the corridor; this is a small development; the curb cut for this use is existing and cross connection is not required as there is no new construction; utilities are existing; pedestrian access to the site is provided along with vehicular access; public sidewalk provides for access to transit. The nearest TARC stop is located approximately 500 feet north at the intersection of South Park Road and Preston Highway; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 3 – Compatibility because the proposal is completing a small corridor of commercial uses and has provided the required buffering and mitigation for this expansion by providing the 35' buffer adjacent to the residential property to the west; the western property line to the rear of the tract has adequate buffering to mitigate any potential odors or emissions from vehicles; this is a small development and does not appear to generate large amounts of traffic; lighting should be no more than is necessary to provide safety/security, and not be directed towards residential property; Preston Hwy is a transit corridor served by TARC route 45X; landscape areas appear to be provided as required; landscape buffering and screening is being provided as required along the rear property line; the existing building has a similar setback as the two properties to the north and south and is of a similar design and height; there is no parking or loading adjacent to residential; landscaping appears to be appropriate for the development and abutting uses; there is no parking garage included with this proposal; signs will be in conformance with Chapter 8 of the LDC; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 4: Open Space because designated open space is not required by the LDC; and the proposal preserves the existing trees on site; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 5: Natural Areas and Scenic and Historic Resources because the proposal preserves the existing

**PLANNING COMMISSION MINUTES
MAY 24, 2018**

PUBLIC HEARING

CASE NO. 17ZONE1063

trees on site; the applicant is preserving the existing structures; and the site does not appear to contain wetlands, floodplain or other hydric features; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 6 - Economic Growth and Sustainability because the site is not located downtown; the proposal is not industrial; and the site abuts other commercially zoned parcels and is located near an activity center, along a major arterial; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 7: Circulation because Transportation has reviewed the plan and determined that no roadway improvements are required in conjunction with this proposal; the site is located on a transit route where sidewalks exist and has proposed a pedestrian connection to the entrance of the office; the proposal is using an existing roadway and access is acceptable; pedestrian facilities are provided to accommodate walkers and transit riders; sufficient parking is being provided; a pedestrian connection to adjacent sites is not required; and as this is a small site, utilization of the public sidewalk to access adjacent sites is acceptable; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 8: Transportation Facility Design because the site is served by the existing street network and does not constitute the addition of any new public ROW; access is provided from an arterial roadway intersecting an interstate south of the site and an activity center; the proposal is using the existing roadway network; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 9: Bicycle, Pedestrian and Transit because pedestrian facilities are provided to accommodate walkers and transit riders; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 10: Flooding and Stormwater because MSD has given preliminary approvals; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 12: Air Quality because APCD has no comments on the proposal; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 13: Landscape Character because no natural corridors are present; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 14: Infrastructure because existing utilities would appear to be available, LWC has adequate infrastructure in place to supply the development as proposed; and the Health department has no comment at this time; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the requested Change in zoning from R-4, Single Family Residential, to C-N, Commercial-Neighborhood on 0.53 acres on property described in the attached legal description be **APPROVED**.

**PLANNING COMMISSION MINUTES
MAY 24, 2018**

PUBLIC HEARING

CASE NO. 17ZONE1063

The vote was as follows:

YES: Commissioners Brown, Howard, Carlson, Peterson, Ferguson, and Jarboe.

NOT PRESENT: Commissioners Lewis, Tomes, and Smith.

Detailed District Development Plan and Binding Elements

00:24:33 On a motion by Commissioner Howard, seconded by Commissioner Peterson, the following resolution, based on conformance with Cornerstone 2020, the Standard of Review and Staff Analysis, evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that, as there is no new construction with this proposal, all existing tree canopy will be preserved. LOJIC has not identified any other natural resources on site; and

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

WHEREAS, the Commission further finds that there is no open space requirement for this site; and

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

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

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

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the requested 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.

PLANNING COMMISSION MINUTES
MAY 24, 2018

PUBLIC HEARING

CASE NO. 17ZONE1063

2. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
3. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
4. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested:
 - a. The development plan must receive full construction approval from Develop Louisville, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
 - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - d. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
5. Prior to any site disturbance permit being issued and prior to any clearing, grading or issuance of a site disturbance permit, a site inspection shall be conducted by PDS staff to ensure proper placement of required tree protection fencing in accordance with the approved Tree Preservation Plan.
6. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
7. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
8. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and

**PLANNING COMMISSION MINUTES
MAY 24, 2018**

PUBLIC HEARING

CASE NO. 17ZONE1063

other parties engaged in development of the site, shall be responsible for compliance with these binding elements.

The vote was as follows:

**YES: Commissioners Brown, Howard, Carlson, Peterson, Ferguson, and Jarboe.
NOT PRESENT: Commissioners Lewis, Tomes, and Smith.**

**PLANNING COMMISSION MINUTES
MAY 24, 2018**

PUBLIC HEARING

CASE NO. 17ZONE1077

Request: Change in zoning from R-4 to C-2; Conditional Use Permit for mini-warehouse; variance; and a Detailed District Development Plan

Project Name: Stor-All

Location: 12113 Shelbyville Road

Owners: Cathy Snodgrass, Susan Billie and Timothy A. Mueller

Applicant: Stor-All – Aaron Eldridge

Representative: Nick Pregliasco – Bardenwerper Talbott & Roberts PLLC

Jurisdiction: City of Middletown

Council District: 19 – Julie Denton

Case Manager: Joel Dock, Planner II

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

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

Agency Testimony:

01:13:17 Joel Dock presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.)

The following spoke in favor of this request:

Nick Pregliasco, Bardenwerper Talbott & Roberts PLLC, 1000 N. Hurstbourne Parkway, Louisville, KY 40223

Ann Richard, Land Design & Development, 503 Washburn Avenue, Louisville, KY 40222

Summary of testimony of those in favor:

01:18:25 Nick Pregliasco, the applicant's representative, presented the applicant's case and showed a Power Point presentation (See recording for detailed presentation.)

01:23:00 Mr. Pregliasco said there is no street connectivity proposed. He also pointed out the location of a proposed WPA along the north and east portions of the property (see recording for exact location.)

01:27:52 In response to a question from Commissioner Ferguson, Mr. Pregliasco said lighting will meet LDC standards. He said the site will have 24-hour accessibility.

**PLANNING COMMISSION MINUTES
MAY 24, 2018**

PUBLIC HEARING

CASE NO. 17ZONE1077

The following spoke in opposition to this request:

Amy Oliver and Christopher Giesin, 12405 Aquarius Road, Louisville, KY 40243

Summary of testimony of those in opposition:

01:30:22 Amy Oliver, an Aquarius Road resident, named each goal and policy of Cornerstone 2020 which she feels are violated by this plan. She said the notice posting was not adequate - she said she did not receive notice about an April meeting, nor did her neighbors, and she said the signage was not adequate. Her concerns are that she feels the current residential designation is more appropriate; also, a residential development could provide connectivity. She said she did not believe the changes in the neighborhood warrant this change (see recording for her detailed presentation.) She requested a night hearing.

01:43:53 Christopher Giesin said the current zoning for this site is appropriate and positive for the community. He said he was never invited to a neighborhood meeting, nor were others in the nearby community. He is also concerned about the project encouraging loitering, inviting crime, and worsening daily traffic issues. Mr. Geisen also said that, if the community had more time to gather signatures, they could get enough signatures for a night hearing.

01:49:51 Commissioner Jarboe discussed notification with Ms. Oliver, particularly the invitation to the neighborhood meeting.

Rebuttal:

01:52:14 Mr. Pregliasco showed the notice map showing the homes that had notices sent to them, and discussed notification requirements. In addition, he emphasized that the City of Middletown will be having hearings about this project, which are at night and are located in Middletown. He addressed traffic and peak-hour trips. See recording for detailed rebuttal.

02:01:13 Commissioner Ferguson asked if the applicant would agree to a binding element stating that any revised plan would have to come back before the Planning Commission (another / more intense C-2 use.) Mr. Dock said binding element #1 covers almost every change of use for any a plan.

02:05:32 Commissioner Jarboe, asked Wade Johnson, an applicant's representative, about crime at storage facilities. Mr. Johnson said his company only builds and maintains the facilities, but does not run them.

Deliberation:

02:07:20 The applicant is ok with a new binding element stating that the ONLY C-2 use approved would be mini-storage; any other use needs to be approved by the Planning Commission. The Commissioners concurred that the proposal is justified.

**PLANNING COMMISSION MINUTES
MAY 24, 2018**

PUBLIC HEARING

CASE NO. 17ZONE1077

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

02:21:57 On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution, based on the Cornerstone 2020 Staff Checklist, the applicant's justification and evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the application complies with Guideline 1 – Community Form because both the Suburban Neighborhood and Marketplace form districts in which this property and proposed self-storage facility are located and because the proposed self-storage facility rounds out this existing activity center with a use that both fits and improves what currently is an old, past its prime office/retail building and mostly long vacant site; and

WHEREAS, the Commission further finds the application complies with the applicable Intents and Policies 1, 2, 3, 4, 5, 7, 10, 11, 13, 14, 15 and 16 of Guideline 2 – Centers because as an adoptive re-use of an old office/retail building and mostly vacant lot, the application promotes an efficient use of land and investment in existing infrastructure, lowers utility costs by reducing the need for extensions, reduces commuting time and transportation-related air pollution, provides an opportunity for neighborhood centers and marketplaces that include a diversity of goods and services and that are designed to be assets to the community, and encourages vitality and a sense of place in the larger neighborhood and community; most of all it does this by virtue of the proposed investment to put to better use a presently under-utilized/vacant lot and old building; and the PowerPoint shown at the neighborhood meetings and Planning Commission public hearing illustrate this; and

WHEREAS, the Commission further finds that proposed self-storage facility also improves the mix of land uses, and diversity of services available at this desirable and highly accessible Suburban Marketplace location by helping to promote shorter commute times for local businesses and residents with storage needs, thereby reducing transportation-related air pollution that might be generated if required to travel a farther distance, and works well with existing utilities available along Shelbyville Road; and

WHEREAS, the Commission further finds that part of a compact development pattern with a mixture of land uses the application ensures efficient traffic flow, fewer trips, and supports alternative modes of travel and multiple services which meet the day-to-day needs of nearby residents; it accomplishes this as a compact re-use that will also serve as a transition between more intense land uses along this stretch of Shelbyville Road; the central location and improved variety of services that the proposed self-storage facility will offer at this location will serve local business and residents' day-to-day needs, ensures fewer trips, as customers may stop here rather than traveling farther distances for their storage needs; and the applicant will provide

**PLANNING COMMISSION MINUTES
MAY 24, 2018**

PUBLIC HEARING

CASE NO. 17ZONE1077

sidewalk connections for better connectivity and will accommodate alternative modes of transportation; and

WHEREAS, the Commission further finds that the application complies with the applicable Intents and Policies 1, 2, 3, 5, 6, 7, 8, 9, 20, 21, 22, 23, 24, 28 and 29 of Guideline 3 – Compatibility because this application promotes a mixture of land uses and densities near each other which are designed to be compatible with each other and sensitive to adjoining residential properties by assuring that aesthetic and nuisance problems are eliminated or at least significantly diminished, thus preserving the character of existing neighborhoods; and

WHEREAS, the Commission further finds that compatibility is assured by virtue of this facility's scale, design and pattern of existing development as well as use of attractive building materials; traffic, parking, and appropriate transitions between uses and neighborhoods are also addressed on the DDDP accompanying this application; the proposed use is a very low traffic generating use, particularly during peak hours; building access and office will be oriented toward Shelbyville Road; the use provides a nice quiet transition between the more active commercial land uses next door and across Shelbyville Road and the residential neighborhoods to the rear of this site with substantial buffering; and

WHEREAS, the Commission further finds that this proposed self-storage facility does not produce noise, lighting or odors, diminish air quality or adversely affect traffic or aesthetics; the proposed self-storage facility, as described above, is oriented towards Shelbyville Road and away from adjoining properties; lighting will be internal to the development and directed down and away from adjoining properties and will meet Land Development Code requirements; the location of the proposed self-storage facility along Shelbyville Road near the Snyder Freeway reduces commuting time for those accessing the self-storage facility, thereby minimizing air quality issues related to longer vehicle trips or traffic delays that might be incurred if the center were located at a less convenient location; the impact of noise from self-storage facility activities is addressed by virtue of the fact that storage activities are by nature quiet and in this case oriented internal to the site and toward the activity center; also parking and entrance/exit activities will be from Shelbyville Road, thus reducing noise and activity impact on adjoining residential properties; and

WHEREAS, the application complies with the applicable Intents and Policies 1, 2, 3, 5, 6 and 11 of Guideline 6 – Economic Growth and Sustainability because this adaptive re-use of an old office/retail building and vacant lot helps ensure the availability of necessary usable land to facilitate commercial, industrial and residential development, and to reduce public and private costs for land development; and

WHEREAS, the Commission further finds that re-utilizing available, highly accessible and convenient land that is in an in-fill location along Shelbyville Road near the Snyder Freeway assures convenient services to nearby neighborhoods and businesses and reduces commuting time to services located farther away; and

**PLANNING COMMISSION MINUTES
MAY 24, 2018**

PUBLIC HEARING

CASE NO. 17ZONE1077

WHEREAS, the Commission further finds that application complies with the applicable Intents and Policies 1, 2, 6, 10, 11, 13, 14, 15 and 18 of Guideline 7, Policies 8, 9, 10 and 11 of Guideline 8, and Policies 1, 2, 3 and 4 of Guideline 9 (GUIDELINES 7, 8, 9 AND 12 – CIRCULATION, TRANSPORTATION FACILITY DESIGN, ALTERNATIVE MODES OF TRANSPORTATION AND AIR QUALITY) because the low traffic impacts of a self-storage facility, such as this one, assure the safe and proper functioning of the Shelbyville Road street network whose existing, adequate traffic-carrying capacity is not exceeded; efficient internal and external circulation through this new development and the assurance of transportation facilities that are safe and efficient are demonstrated on the DDDP accompanying this application; and air quality impacts are further minimized because of the alternative modes of transportation that TARC service and sidewalks along Shelbyville Road help provide; and

WHEREAS, the Commission further finds that the proximity of the subject property to area businesses and neighborhoods ensures that travel time will be minimal, further reducing traffic related air quality impacts; handicap parking spaces and safety crosswalks have been provided in accordance with the requirements of the Land Development Code; moreover, the DDDP accompanying this application must receive the preliminary stamp of approval from Metro Transportation Planning, thus demonstrating conformance with all standards governing access, site distances, internal circulation, parking, etc.; and

WHEREAS, the Commission further finds that the application complies with the applicable Intents and Policies 1, 6, 7, 10 and 11 of Guidelines 10 and 11 – Stormwater and Water Quality because the DDDP accompanying this application must assure that there shall be no increase in drainage runoff to Shelbyville Road and that all drainage facilities shall conform to MSD requirements, for example that post development peak rates of run-off to not exceed predevelopment conditions; the overall plan will receive MSD's preliminary stamp of approval prior to docketing, thus evidencing this fact; sanitary sewer service will be provided by connection; and

WHEREAS, the application complies with the applicable Intents and Policies 1, 2, 4, 5 and 6 of Guideline 13 – Landscape Character as follows the Land Development Code includes minimum interior, perimeter and tree canopy requirements that will be met; the landscape plan for the self-storage facility is being designed to include interior parking lot landscaping where required and also along Shelbyville Road and particularly between the proposed facility and adjoining residential neighborhoods; and the overall appearance of the self-storage facility will improve the landscape and aesthetic character of the site and area; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 1: Community Form because the proposed zoning district is located to the rear of a commercial corridor and incorporates itself into the commercial corridor through the addition of a new use and utilization of existing access, as well as the reuse of an existing commercial structure; the corridor consists of a mixture of uses of varying intensities; and the proposed zoning district is a high intensity district and is located to share access through sites having frontage along a major arterial roadway; and

**PLANNING COMMISSION MINUTES
MAY 24, 2018**

PUBLIC HEARING

CASE NO. 17ZONE1077

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 2: Centers because the proposal will not create a new center as it is incorporated into an existing commercial corridor. An existing structure will be reused for office space to serve the primary use; there is sufficient residential population in the area and population generated by the commercial corridor to support expanded commercial uses; the proposed site improvements result in an efficient use of land as the proposed use is a low generator of traffic both pedestrian and vehicular, as well as being a non-essential neighborhood use. It does not occupy viable street frontage for future commercial uses providing neighborhood or regional goods and services; the proposal introduces a new use to the corridor in a zoning district that is consistent with surrounding uses and districts along the corridor; the proposed land use does not detract from existing facilities or occupy space along the corridor that would detract from the use of alternative forms of transportation, vitality, or sense of place along the corridor; the development provides for an office along the frontage in an existing structure and new buildings to the rear away from the corridor; the development is a component of a commercial corridor and utilizes the full potential of the land available; the proposal shares entrance and parking facilities with adjacent uses to reduce curb cuts and surface parking, and locates parking to balance safety, traffic, transit, pedestrian, environmental and aesthetic concerns. The mini-storage facility is accessed through existing commercial infrastructure along the corridor and surface parking is being redesigned to better allow for direct access and safety for users; there would not appear to be an issue with connecting to existing utilities and infrastructure in the area; the proposed use is easily accessible for its primary form of transportation, the automobile; and the district, if proposed for different future uses, could easily be redesigned to accommodate multiple modes of transportation; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 3: Compatibility because The impact of new construction is minimized as these structures are not located along the street frontage and are furthered screened by the implementation of a woodland protection area; and the proposal constitutes a non-residential expansion into a residential area. Despite such an expansion a woodland protection area will be provided to afford for the permanent screening of abutting single-family homes; two stub roads will not be connected as a result of the proposed development; connection between these two areas is provided nearby, however. Commercial uses on the subject site will not have access to these local roads to preserve their hierarchy within the roadway network and to eliminate any adverse impact on single-family neighborhoods by eliminating the burdens of increased traffic from outside the area or potential cut-through traffic on local roadways; vehicles will not be left to idle within 200' of any residential property; the proposed land use does not generate excessive levels of traffic that would significantly impact the surrounding community. A zoning district such as the one proposed on a tract of land of this size may alter traffic patterns and have the potential to adversely impact traffic along the corridor and nearby neighborhoods, however; upon the development of the site for any other use then proposed a more thorough investigation of the impact on traffic and access may be warranted; lighting shall comply with applicable standards; the proposal is a higher intensity use and is located with primary access from a major arterial roadway. Access to local roads is not proposed and is prohibited; the proposal provides appropriate transitions between uses that are substantially different in scale and intensity or density of development such as landscaped buffer yards, vegetative berms,

**PLANNING COMMISSION MINUTES
MAY 24, 2018**

PUBLIC HEARING

CASE NO. 17ZONE1077

compatible building design and materials, height restrictions, or setback requirements. Woodland protection area and landscape buffering are being provided to preserve vegetation and reduce the impact upon abutting single-family homes; the proposal mitigates the impacts caused when incompatible developments unavoidably occur adjacent to one another by using buffers. Woodland protection area and landscape buffering are being provided to preserve vegetation and reduce the impact upon abutting single-family homes. Setbacks, lot dimensions and building heights are compatible with those of nearby developments that meet form district standards; parking, loading, and delivery areas are not located in areas that will impact residential properties; parking and maneuvering areas do not appear to impact roadways; no parking garages are proposed; and signs will be in compliance with Ch. 8 of the LDC as adopted by the City of Middletown; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 4: Open Space because the proposed woodland protection area aids in providing permanent area for tree canopy preservation; the proposed woodland protection area aids in providing permanent area for tree canopy preservation; and the proposed woodland protection area aids in providing permanent area for tree canopy preservation; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 5: Natural Areas and Scenic and Historic Resources because the proposal respects the natural features of the site through sensitive site design, avoids substantial changes to the topography and minimizes property damage and environmental degradation resulting from disturbance of natural systems. Stormwater will be handled on-site and woodland protection areas are provided to increase buffering and permanently protect tree stands along the property line; the proposal includes the preservation, use or adaptive reuse of the existing building fronting along Shelbyville Road; and the site does not appear to contain wet or highly permeable soils, severe, steep or unstable slopes with the potential for severe erosion; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 6: Economic Growth and Sustainability because the site is located in NFD; while the proposed use is warehouse and would otherwise be considered light-industrial, the land use proposed is most often placed at locations to take advantage of existing and future populations which are present and projected in the area; the proposed use is located along a major arterial roadway/commercial corridor and does not generate large amounts of traffic. In the event of a future use permitted by the proposed zoning district the site would be appropriately located along an arterial surrounded by commercial uses of varying intensities; and this light-industrial land use and high intensity commercial district is located along an arterial level roadway which can support a wide range of employees; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 7: Circulation because the proposal will provide all necessary dedications as indicated by agencies and proposed on the district development plan; the proposed land use does not necessarily detract or negatively impact the use of mass transit or bicycle and pedestrian use along the corridor; the proposal's transportation facilities are compatible with and support access to surrounding land uses, and contribute to the appropriate development of adjacent lands. Two

**PLANNING COMMISSION MINUTES
MAY 24, 2018**

PUBLIC HEARING

CASE NO. 17ZONE1077

stub roads will not be connected as a result of the proposed development. Connection between these two areas is provided nearby, however. Commercial uses on the subject site will not have access to these local roads to preserve their hierarchy within the roadway network and to eliminate any adverse impact on single-family neighborhoods by eliminating the burdens of increased traffic from outside the area or potential cut-through traffic on local roadways; the proposal will provide all necessary dedications as indicated by agencies and proposed on the district development plan; parking is sufficient to meet the needs of the development and is in compliance with Chapter 9 of the LDC; and access between the two sites from which access is gained to the rear is being opened by this proposal to allow for cross-connectivity; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 8: Transportation Facility Design because two stub roads will not be connected as a result of the proposed development. Connection between these two areas is provided nearby, however. Commercial uses on the subject site will not have access to these local roads to preserve their hierarchy within the roadway network and to eliminate any adverse impact on single-family neighborhoods by eliminating the burdens of increased traffic from outside the area or potential cut-through traffic on local roadways; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 9: Bicycle, Pedestrian and Transit because the proposal provides, where appropriate, for the movement of pedestrians, bicyclists and transit users around and through the development, provides bicycle and pedestrian connections to adjacent developments and to transit stops, and is appropriately located for its density and intensity. The subject site is located along a major arterial roadway, sidewalks are provided, and TARC facilities are nearby; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 10: Flooding and Stormwater because the proposal's drainage plans have been approved by MSD; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 12: Air Quality because The proposal has been reviewed by APCD and found to not have a negative impact on air quality; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 13: Landscape Character because No natural corridors are present that warrant additions and connections to a system of providing habitat areas or allow for migration; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 14: Infrastructure because utilities would appear to be available; the Middletown Fire Department has no objection to the proposed zoning change; concerns with the turning radiuses within the facility as they affect maneuverability were noted, but appear to be addressed through the addition of an on-site fire hydrant; each building will be sprinkled; the proposal will provide for an adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams; now, therefore be it

**PLANNING COMMISSION MINUTES
MAY 24, 2018**

PUBLIC HEARING

CASE NO. 17ZONE1077

RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the City of Middletown that the requested **Change-in-Zoning** from R-4, Single-Family Residential to C-2, Commercial on property described in the attached legal description be **APPROVED**.

The vote was as follows:

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

Conditional Use Permit (CUP) and Variance

02:22:43 On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution, based on the Staff Analysis, the applicant's justification and evidence and testimony heard today, was adopted:

(Conditional Use Permit) WHEREAS, the Louisville Metro Planning Commission finds that the proposal is consistent with the Comprehensive Plan as demonstrated in staff's analysis of the proposal in *Attachment 3*. The use itself does not occupy viable street frontage for future commercial uses providing neighborhood or regional goods and services. Further, the proposed land use does not detract from existing facilities or occupy space along the corridor that would detract from the use of alternative forms of transportation, vitality, or sense of place along the corridor. Appropriate transitions between uses that are substantially different in scale and intensity or density have been provided; and

WHEREAS, the Commission further finds that the proposal is compatible with surrounding uses and provides appropriate transitions between uses that are substantially different in scale and intensity or density of development such as landscaped buffer yards, vegetative berms, compatible building design and materials, height restrictions, or setback requirements. Woodland protection area and landscape buffering are being provided to preserve vegetation and reduce the impact upon abutting single-family homes; and

WHEREAS, the Commission further finds that necessary public facilities are available or being provided by the proposal as demonstrated on the detailed district development plan; and

WHEREAS, the Commission further finds that the proposal complies with the following specific standards required to obtain the conditional use permit requested: Mini-warehouses may be allowed in the C-2 District where the premises abut on a roadway classified as a collector or major or minor arterial as designated in the Comprehensive Plan for all of Jefferson County, Kentucky, upon the granting of a Conditional Use Permit and compliance with the listed requirements, as follows:

A. The property shall be landscaped so as to blend in with the surrounding area and shall be screened and buffered from adjacent uses of a non-industrial nature.

**PLANNING COMMISSION MINUTES
MAY 24, 2018**

PUBLIC HEARING

CASE NO. 17ZONE1077

B. No building, structure or pavement shall be located closer than 30 feet to side property lines or property lines abutting residential areas. This area is reserved as a landscape buffer area.

C. No outside storage shall be allowed on the property.

D. No storage of toxic or hazardous materials shall be allowed on the property. E. There shall be no retail or wholesale sales or distributing activities on site.

G. No structure on the site shall be taller than one story and shall not exceed 15 feet in height (except for one freestanding sign as allowed in H below).

H. Signs - Only one freestanding sign shall be allowed and shall conform to limits established for the form district in which the sign is located.

And;

(Variance) WHEREAS, the Commission further finds that the variance will not adversely affect the public health, safety or welfare because the setback only applies if the adjoining property is "residential", and the adjoining property is an office park such that the intent of the requirement does not truly apply; and

WHEREAS, the Commission further finds that the variance will not alter the essential character of the general vicinity because if the adjoining property were zoned anything other than an OR zoning district, that technically would allow a residential use in the future, just as would a C-1 or C-2 zoning district, this requirement would not be applicable; and

WHEREAS, the Commission further finds that the variance will not cause a hazard or a nuisance to the public because it is only requested due to a prior interpretation as the LDC provision requiring the setback; and

WHEREAS, the Commission further finds that the variance will not allow an unreasonable circumvention of the requirements of the zoning regulations because the intent of the requirement is to have additional setbacks when the proposal adjoins a residential property, which is not the case here; and

WHEREAS, the Commission further finds that the Variance arises from special circumstances, which do not generally apply to land in the general vicinity because this property is adjacent to an OR zoned property for which this additional setback is being required; and

WHEREAS, Commission further finds that 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 many other developments have been approved without requiring the additional setback on the potential that the site could in the future be used for residential; and

**PLANNING COMMISSION MINUTES
MAY 24, 2018**

PUBLIC HEARING

CASE NO. 17ZONE1077

WHEREAS, the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the regulation because the adjoining property was approved for, and built as, an office condominium project; and

WHEREAS, the Commission further finds that the requested variance will not adversely affect the public health, safety or welfare as the abutting uses are currently being used for non-residential purposes and sufficient landscaping has been provided as required by the Land Development code; and

WHEREAS, the Commission further finds that the requested variance will not alter the essential character of the general vicinity as appropriate transitions between uses that are substantially different in scale and intensity or density have been provided; and

WHEREAS, the Commission further finds that the requested variance will not cause a hazard or nuisance to the public the movement of pedestrians and vehicles will not be impacted by the request and adequate spacing is provided between uses to ensure safety; and

WHEREAS, the Commission further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the *OR* district is commonly used for non-residential purposes and the existing development is built out in this manner; and

WHEREAS, the Commission further finds that the requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone as the *OR* district is commonly used for non-residential purposes and the existing development is built out in this manner; and

WHEREAS, the Commission further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as the *OR* district is commonly used for non-residential purposes and the existing development is built out in this manner. The application of the totality of the setback would reduce the project size in an arbitrary fashion by requiring a reduction of 1,500 square feet or one percent of the total project size; and

WHEREAS, the Commission further finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as no development has occurred; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Conditional Use Permit (CUP) for mini-warehouse, Land Development Code (LDC), section 4.2.35; and a Variance of Section 5.3.1.C.5, Table 5.3.2 to allow the building to encroach into the 50 ft setback.

The vote was as follows:

YES: Commissioners Brown, Howard, Carlson, Peterson, Ferguson, and Jarboe.

**PLANNING COMMISSION MINUTES
MAY 24, 2018**

PUBLIC HEARING

CASE NO. 17ZONE1077

NOT PRESENT: Commissioners Lewis, Tomes, and Smith.

Detailed District Development Plan and Binding Elements

02:23:44 On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution, based on the Standard of Review and Staff Analysis, and evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the proposed development plan provides a woodland protection area for the permanent protection of resources; and

WHEREAS, the Commission further finds that provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community are provided as sidewalks along the frontage will provided and access from the site will be restricted to the major arterial road; thus, eliminating any adverse impacts of its traffic on residential property; and

WHEREAS, the Commission further finds that a woodland protection area for the permanent protection of resources is provided; and

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

WHEREAS, the Commission further finds that appropriate transitions between uses that are substantially different in scale and intensity or density have been provided by way of wood land protection areas, landscape buffering, and access prohibitions; and

WHEREAS, the Commission further finds that the development plan for mini-warehouse is in conformance with applicable policies of the comprehensive plan as the subject site is located to the rear of a commercial corridor consisting of a mixture of uses of varying intensities. The use itself does not occupy viable street frontage for future commercial uses providing neighborhood or regional goods and services. Further, the proposed land use does not detract from existing facilities or occupy space along the corridor that would detract from the use of alternative forms of transportation, vitality, or sense of place along the corridor. Appropriate transitions between uses that are substantially different in scale and intensity or density have been provided; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the City of Middletown that the proposed Detailed District Development Plan be **APPROVED**, subject to the following binding elements:

**PLANNING COMMISSION MINUTES
MAY 24, 2018**

PUBLIC HEARING

CASE NO. 17ZONE1077

1. The development shall be in accordance with the approved district development plan/alternative landscape 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. There shall be no direct vehicular access to Allison Road or Aquarius Road. No construction traffic shall be allowed from these roads.
3. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
4. 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.
5. 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 Louisville Metro Department of Codes and Regulations Construction Permits, Transportation Planning Review, and the Metropolitan Sewer District.
 - b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways for all work within the right-of-way.
 - 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 on proposed Tract 2 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 reciprocal access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be created between the adjoining property owners and recorded. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services.
6. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting

**PLANNING COMMISSION MINUTES
MAY 24, 2018**

PUBLIC HEARING

CASE NO. 17ZONE1077

issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.

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 site shall be developed in accordance with the woodland protection areas delineated on the site plan, tree preservation plan and related notes. Any modification of the woodland protection area requires notification of adjoining property owners and LD&T action.
9. The applicant shall provide deeds of restriction ensuring that WPAs will be permanently protected in a manner consistent with these binding elements and the approved plan. The form of the deed restrictions shall be approved by Planning Commission counsel. Deed Restrictions must be recorded prior to tree preservation approval. All plans setting out woodland protection areas must contain the following notes:
 - A. Woodland Protection Areas (WPAs) identified on this plan represent portions of the site on which selected trees as shown on the plan shall be permanently preserved. All clearing, grading, and fill activity in these areas must be in keeping with restrictions established at the time of development plan approval. No further clearing, grading, construction or other land disturbing activity shall take place within designated WPAs beyond pruning to improve the general health of the tree or to remove dead or declining trees that may pose a public health and safety threat. As trees are lost thru natural causes new trees shall be planted in order to maintain minimum tree canopy as specified in Chapter 10, Part 1 of the LDC and as shown on the approved Tree Canopy/Landscape Plan.
 - B. Dimension lines have been used on this plan to establish the general location of WPAs and represent the minimum boundary of the designated WPAs. The final boundary for each WPA shall be established in the field by the applicant, developer, or property owner to include canopy area of all trees at or within the dimension line.
 - C. Tree protection fencing shall be erected adjacent to all WPAs prior to Site Disturbance Approval (Clearing & Grading) to protect the existing tree stands and their root systems. The fencing shall be located at least three (3) feet from the outside edge of the tree canopy and shall remain in place until all construction is completed.
 - D. No parking, material storage or construction activities are permitted within WPAs

**PLANNING COMMISSION MINUTES
MAY 24, 2018**

PUBLIC HEARING

CASE NO. 17ZONE1077

E. During all construction activity (includes clearing, grading, building construction, and VUA construction) a copy of the approved Tree Preservation Plan shall be on-site.

F. The site shall be developed in accordance with the Woodland Protection Areas delineated on the site plan and related notes. Any modification of Woodland Protection Areas requires notification of adjoining property owners and LD&T action.

G. Prior to any site disturbance permit being issued and prior to any clearing, grading, or the issuance of a site disturbance permit, a site inspection shall be conducted by PDS staff to ensure proper placement of required tree protection fencing in accordance with the approved Tree Preservation Plan.

10. The only C-2 use permitted shall be mini-warehouse, unless approved by the Louisville Metro Planning Commission and the City of Middletown.

The vote was as follows:

**YES: Commissioners Brown, Howard, Carlson, Peterson, Ferguson, and Jarboe.
NOT PRESENT: Commissioners Lewis, Tomes, and Smith.**

PLANNING COMMISSION MINUTES
MAY 24, 2018

STANDING COMMITTEE REPORTS

Land Development & Transportation Committee

No report given.

Site Inspection Committee

No report given.

Planning Committee

No report given.

Development Review Committee

No report given.

Policy & Procedures Committee


No report given.

CHAIRPERSON/DIRECTOR'S REPORT

No report given

ADJOURNMENT

The meeting adjourned at approximately 4:27 p.m.



Chairman



Division Director