

**Planning Commission Minutes  
January 16, 2014**

**Public Hearing**

**Case No. 13ZONE1012**

**Project Name:** Kenwood Business Center Lot 2

**Location:** 7001 Southside Drive

**Owner/Applicant:** Kenwood Business Center, LLC  
4852 Crittenden Drive  
Louisville, KY 40209

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

**Architect/Engineer:** Steve Scott  
Mindel Scott & Associates  
5151 Jefferson Boulevard  
Louisville, KY 40219

**Jurisdiction:** Louisville Metro

**Council District:** 13 – Vicki Aubrey Welch

**Case Manager:** **Julia Williams, AICP, Planner II**

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

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

**Request:**

Change in Form District from Traditional Neighborhood to Suburban Workplace; a change in zoning from R-4 Single Family Residential and C-1 Commercial to M-2 Manufacturing to permit a warehouse on property located at 7001 Southside Drive (Tax Block 1036, Lots 68, 69 & 70) containing 11.17 acres and being in Louisville Metro. A Revised Category 3 plan, a Variance to exceed the maximum setback from Southside Drive, and Land Development Code Waiver to omit a

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required 6-foot berm along the north property line are also being requested and are associated with 451 Kenwood Business Drive & 5539 National Turnpike.

**Agency Testimony:**

03:29:40 Julia Williams presented the case and showed a Power Point presentation, which included maps and photos of the site and surrounding areas (see staff report and audio-visual recording for detailed presentation.)

03:36:04 In response to a question from Commissioner Kirchdorfer, Ms. Williams clarified that the current form district could be deemed as inappropriate, due to the economic changes in the area. Therefore, the proposal is appropriate due to the changes in the area.

**The following spoke in favor of this request:**

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

Steve Scott and Todd Lanning, Mindel Scott & Associates, 5151 Jefferson Boulevard, Louisville, KY 40219

Jeff Robinson (applicant), Kenwood Business Center, 4852 Crittenden Drive, Louisville, KY 40209 (was introduced by Mr. Bardenwerper but did not speak)

**Summary of testimony of those in favor:**

03:37:32 William Bardenwerper, the applicant's representative, also showed a Power Point presentation explaining the proposal. He added that Steve Scott would address a drainage issue, which was raised as a concern by Councilwoman Vicki Aubrey-Welch at the neighborhood meeting.

03:43:42 Todd Lanning discussed screening, landscaping and setbacks proposed along the east property line. He said the applicant will submit a landscape plan to the Metro Council, which will likely include a wooden fence along the area where the waiver is being proposed. He described the landscaping in more detail (evergreen shrubs, deciduous trees, etc.) Mr. Bardenwerper added that the applicant has asked for the waiver of the required berm in order to preserve the existing trees on the site.

03:45:36 Steve Scott said that, at the neighborhood meeting, some questions had arisen regarding drainage issues for properties downstream,

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specifically for the Yorktown subdivision and areas further south. He said it was explained at the neighborhood meeting that there is a proposed detention basin on the south side of the site. It was approved by MSD and is already constructed. It was agreed between the applicant and MSD that the applicant would reduce the post-development flows below the level of the pre-development flows. The basin "was overdesigned by quite a bit" to detain and reduce water flow off the property.

03:48:15 In response to a question from Commissioner Blake about the Category 3 Plan, Ms. Williams explained that Category 3 proposal had changed from what was previously proposed. Some of the buildings on the existing M-2 portion of the site have changed slightly. She said the part of the site proposed for rezoning today will have its own development plan, be plan certain, and have its own set of binding elements. Those binding elements will not apply to the portion of the property already zoned M-2.

03:49:58 Commissioner Kirchdorfer asked if the rolling gate was tied in to the fencing on perimeter. Mr. Bardenwerper said the two would be tied together. In response to another question from Commissioner Kirchdorfer, Mr. Scott said the fence would be on the property line. There would be room between the building and the property line; there would be room between the building and the property line. The building belongs to another business and they would have room to access the back of the building and maintain their side of it.

**The following spoke in opposition to this request:**

No one spoke.

**The following spoke neither for nor against this request:**

No one spoke.

**Rebuttal:**

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

**Discussion:**

03:52:02 Commissioner Jarboe said he felt the proposal had been explained well and he had no further questions. He said he feels the rezoning is appropriate and the land use is appropriate. All the other Commissioners agreed, especially with statements about how the area has changed over the years.

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**An audio/visual recording of the Planning Commission hearing related to this case is available in the Planning & Design Services offices. Please contact the Customer Service staff to view the recording or to obtain a copy. The recording of this hearing will be found on the CD of the January 16, 2014 public hearing proceedings.**

**Zoning and Form District Change**

On a motion by Commissioner White, the following resolution was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the intent of Guideline 1 – Community Form. The current Community Form for some of this property is Traditional Neighborhood, which Division of Planning and Development Services (DPDS) staff asked this applicant to change to Suburban Workplace; as such, a Suburban Workplace Form District is characterized by predominantly industrial and office users where buildings are set back from the streets in a landscaped setting; and adequate transportation access, connected roads, public transportation and pedestrian facilities should be provided; and

**WHEREAS**, the Commission further finds that this application complies with this Guideline because the development plan accompanying this application shows that it is designed in accordance with these recommendations. The overall workplace development has buildings set back from the streets, it is landscaped, there are internal walkways and good connectivity to Southside Drive and National Turnpike; Southside Drive provides places for employees to enjoy lunch; having two points of access helps disperse traffic in all directions; and, although some nearby residents prefer only one access, generally speaking more connectivity is better, especially so in this case given that the directions of traffic flow are not entirely known but are likely to involve businesses headed in all directions; and

**WHEREAS**, the Commission further finds that the proposal meets the intent of Guideline 2 – Centers. The intents of this Guideline are to promote the efficient use of land and investment in existing infrastructure; to lower utility costs by reducing the need for extensions; to reduce commuting time and transportation-related air pollution; to encourage vitality and a sense of place; to restrict isolated commercial uses from developing along streets and noncommercial areas; and to encourage commercial revitalization in redeveloping areas; and

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**WHEREAS**, the Commission further finds that the application complies with all of these Intents of this Guideline of the Comprehensive Plan because infrastructure already exists in the area, because this is an area of fairly dense residential population, commuting distances should be easier for many people; with retail and restaurant facilities located close by, it is even possible for people to walk to lunch during their breaks; the old Kenwood Drive-In is a now unused facility that is appropriate for redevelopment; given that nearly two-thirds of the site is already zoned M-2, rezoning the balance of the site for the same purpose and having the good internal circulation and connectivity that is provided to the two major road systems (National Turnpike and Southside Drive) makes sense; this proposal involves a revitalization of an unused facility that will likely not be reutilized for its prior use as a drive-in theater; and the proposed business park use is the best use possible for this site, given the multiplicity of factors mentioned; and

**WHEREAS**, the Commission further finds that Policies 1, 2, 4, 5, 7, 11, 13, 14, 15 and 16 of Guideline 2 are applicable to this application in the following ways; activity centers are to be located at the intersections of arterial and collector streets that are not predominantly residentially utilized; they should be planned expansions of or within already existing activity centers; and they should be generally compact, include a mixture of compatible uses that are desirable to the area, that try to share parking, access and utilities, and parking should be safe and convenient with alternative forms of transportation encouraged or provided, as applicable; and

**WHEREAS**, the Commission further finds that this application complies with these applicable Policies of this Guideline because this whole area of Southside Drive and National Turnpike is full of highly active mixed land uses, some of an industrial/business park nature as this, others of a variety of commercial kinds and all compact and located along arterial roadways; this particular business park will also have good internal circulation between these two arterial roadways (National Turnpike and Southside Drive), include parking that can be shared as well as utilities that will be extended from existing locations throughout the site in a convenient, cost effective manner; parking is accessed off a main internal road connecting National Turnpike and Southside Drive; mass transit is available in the area; and other forms of transportation, including pedestrians by virtue of sidewalk connectivity, are provided; and

**WHEREAS**, the Commission further finds that the proposal meets the intent of Guideline 3 – Compatibility. The intents of this Guideline are to allow a mixture of land uses near each other as long as they are designed to be compatible; to

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prohibit the location of sensitive land uses where accepted standards for noise, lighting, odors or similar nuisances might be violated or visual quality significantly diminished; and to preserve the character of existing neighborhoods; and

**WHEREAS**, the Commission further finds that this application complies with these Intents of this Guideline of the Comprehensive Plan because this is a highly intense area with a large mixture of diverse uses; elements of the current Land Development Code (LDC) already address issues like noise and lighting, as well as aesthetics through landscaping, screening and buffering, which will be provided; and the neighborhood, containing a diverse mixture of uses from industrial to commercial to residential, will be preserved through the high level of design and adaptive reuse of this unused property; and

**WHEREAS**, the Commission further finds that Policies 1, 2, 5, 7, 8 and 9 of this Guideline pertain to the issues of adverse potential impacts that can be mitigated through design measures, conditions of approval (i.e., binding elements) and specific application of and compliance with the LDC. This application complies with all of these Policies of this Guideline because, located as this property is along two arterial roadways, mixed among a variety of equally or more intensive uses, most of which are older and thus not compliant with contemporary LDC provisions, potentially adverse consequences either do not exist or are fully mitigated; and to the extent that the Planning Commission is concerned that some potential uses could cause nuisances that are not otherwise addressed on the development plan filed with this application, conditions of approval are considered; and

**WHEREAS**, the Commission further finds that Policies 17, 18 and 19 of this Guideline pertain to industrial uses, especially those that might utilize or produce hazardous substances; this application complies with these Policies of this Guideline because it is not anticipated that the uses will be of the kinds that would involve the manufacture and/or use or production of hazardous substances; and

**WHEREAS**, the Commission further finds that Policies 21, 22, 23, 24 and 29 of this Guideline pertain to screening, buffering, setbacks and impacts of parking and other transportation facilities; the development plan accompanying this application demonstrates how this application complies with these Policies of this Guideline because adequate setbacks and good screening, through landscaping and appropriate placement of fencing, as well as location of parking, mostly internal to the site, evidence that these factors will also assure compatibility; and

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**WHEREAS**, the Commission further finds that the proposal meets the intent of Guidelines 4 and 13 – Open Space and Landscape Character. The Intents of these two Guidelines and specifically Policies 1, 2, 4 and 6 of Guideline 13 are designed to enhance the quality of aesthetics and to provide for good screening and buffering; and

**WHEREAS**, the Commission further finds that this application complies with these Intents and applicable Policies of these Guidelines of the Comprehensive Plan because the development plan accompanying this application demonstrates compliance with the LDC in terms of setbacks and the screening and landscaping within those buffer areas and also the landscaping within internal parking lot areas; and

**WHEREAS**, the Commission further finds that the proposal meets the intent of Guideline 6 – Economic Growth and Sustainability. The Intents of this Guideline are to assure the availability of necessary land to facilitate commercial and industrial development, to reduce public and private cost for land development, and to ensure regional scale workplaces and industrial land uses with good access to people, goods and services at appropriate locations; and

**WHEREAS**, the Commission further finds that this application complies with these Intents of this Guideline of the Comprehensive Plan because this already approximately two-thirds zoned M-2 business park is located in an area partially surrounded by other industrial and workplace uses with access to roads that have access to all parts of Metro Louisville and to interstate highways I-265, I-65 and the Watterson Expressway; by completing development of an already approximately two-thirds completed business park, this serves to reduce public and private costs for land development and greenfields areas; and located as this is in a densely populated area, this is a workplace center with good access to a workforce located nearby with easy access to transportation facilities to move goods and services throughout the community and to the UPS World Air Hub; and

**WHEREAS**, the Commission further finds that Policies 1, 2, 3, 4, 5, 6, 7, 8, 10 and 11 of this Guideline all pertain to these issues of preserving workplaces, investing in older industrial areas, locating industry near industry and with easy access to good transportation facilities and, of course, near the UPS World Air Hub; and

**WHEREAS**, the Commission further finds that this application complies with all of these applicable Policies of this Guideline because this is an already largely

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developed business park, and an older site at that may also help rejuvenate and support area small businesses, particularly restaurants because of more employees working in the area; it has good access to all of the major interstates through access points to both National Turnpike and Southside Drive; and

**WHEREAS**, the Commission further finds that the proposal meets the intent of Guidelines 7 and 8 – Circulation and Transportation Facility Design. The intents of these Guidelines are to provide for safe and proper functioning street networks; to ensure that developments do not exceed the traffic-carrying capacity of these streets; to ensure that there is good internal and external circulation to, from and throughout the proposed development; to assure that congestion and air quality are addressed in positive ways; and to make sure that transportation facilities internal and external to the development are safe and efficient for the movement of all forms of transportation; and

**WHEREAS**, the Commission further finds that this application complies with these Intents of these Guidelines of the Comprehensive Plan because the development plan accompanying this application has been laid out in compliance with applicable Metro Public Works and Transportation Planning policies and standards; in that regard, the external street systems were previously examined when the Phase I development of approximately two-thirds of this site was developed; at that time, the traffic study demonstrated that National Turnpike and Southside Drive had adequate traffic-carrying capacity; the type of development that is proposed here and the small addition that is involved to that already existing business park is not anticipated to yield such amounts of traffic that the carrying capacity of these two streets (National Turnpike and Southside Drive) will be diminished; air quality is largely addressed by reducing commuting distances, since this workplace is near a large support population; and traffic congestion will be better addressed once the new access points are constructed, especially the one at Southside Drive where the current access is at an odd angle to Southside Drive and will be straightened out; and

**WHEREAS**, the Commission further finds that Policies 1, 2, 3, 9, 10, 11, 12, 13 and 14 of Guideline 7 and Policies 4, 5, 7, 9, 10 and 11 of Guideline 8 are those very specific transportation Policies that are specifically reviewed in the context of the development plan submitted with this application by Metro Transportation Planning and Public Works; this application received approval from those agencies demonstrating compliance with all of these Policies of these Guidelines as well as the LWC and in particular Metro Public Works and Transportation Planning's design standards; and



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**WHEREAS**, the Commission further finds that the proposal meets the intent of Guideline 9 – Bicycle, Pedestrian and Transit. The intents and Policies 1, 2, 3 and 4 of this Guideline all pertain to ensuring that alternate forms of transportation are accommodated; in this case, Southside Drive is a transit route, and so employees can access this facility via transit; sidewalks are always provided in all new developments; and bicycles must be accommodated as well and will be as required; and

**WHEREAS**, the Commission further finds that the proposal meets the intent of Guideline 10 – Stormwater Management. The Intents and Policies 1, 3, 6, 7, 10 and 11 of this Guideline are intended to assure that stormwater is managed to the maximum extent practicable; and

**WHEREAS**, the Commission further finds that this application complies with these Intents and applicable Policies of this Guideline of the Comprehensive Plan because stormwater detention is provided on site; that is in addition to storm pipes that already exist along the perimeters that will connect into the new internal drainage system; although there will be more impervious surface in this development as a consequence thereof than in the property that presently exists, it will be engineered drainage flows instead of haphazard drainage flows which will assure that drainage enters into MSD approved drainage systems; the oversized detention basin near the National Turnpike side of the property assures that drainage flow will be slowed down during all applicable storm events before entering the drainage system, which ultimately flows into existing downstream facilities that the applicant has been told are operating at over-capacity; the applicant's engineers, by being more fully informed at the neighborhood meeting of these downstream issues, will do everything possible to assure that not only post-development rates of runoff do not exceed predevelopment conditions but that downstream facilities are not adversely impacted; and

**WHEREAS**, the Commission further finds that the proposal meets the intent of Guideline 12 – Air Quality. The Intents and Policies 1, 2, 3, 4, 6, 7, 8 and 9 of this Guideline are all intended to assure that new developments such as this do not have adverse impacts on air quality; and

**WHEREAS**, the Commission further finds that this application will comply with these Intents and applicable Policies of this Guideline of the Comprehensive Plan because, as stated, it is proposed for an area that has a significant support population; as a consequence, that can help reduce vehicle miles traveled for

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employees to these new places of employment; because it has great access to all of the major interstates through multiple routes, and as a consequence of the two major points of ingress and egress to and from this development to this development, traffic can and will be dispersed in multiple directions ultimately to several major road and interstate systems; and

**WHEREAS**, the Commission further finds that, based on the evidence and testimony presented, portions of the staff report, and the applicant's justification and findings of fact that all of the applicable Guidelines of Cornerstone 2020 and the Comprehensive Plan are being met; now, therefore  
be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby  
**RECOMMEND** to the legislative council of Louisville Metro Government that the change in form district from Traditional Neighborhood to Suburban Workplace, and a change in zoning from C-1, M-2 and R-4 to M-2 on property located at 7001 Southside Drive as described in the attached legal description, be  
**APPROVED**.

**The vote was as follows:**

**YES: Commissioners Blake, Brown, Tomes, Jarboe, Kirchdorfer, Turner, White, and Peterson.**

**NO: No one.**

**NOT PRESENT: Commissioners Hughes and Proffitt.**

**ABSTAINING: No one.**

**Variance to exceed the maximum setback from Southside Drive**

On a motion by Commissioner White, the following resolution was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that the requested variance will not adversely affect the public health, safety or welfare. The buildings additional setback will not affect the public because it locates the building in an area where there are other adjacent similarly sized structures; and

**WHEREAS**, the Commission further finds that the variance will not alter the character of the area because the site had previously been used as a drive-in theatre where there were no structures built within the required setback or to fit the traditional form; and

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**WHEREAS**, the Commission further finds that the additional setback of the building will not affect the public because it maintains the existing entrance to the site and provides sidewalk and pedestrian access to the site which did not exist before; and

**WHEREAS**, the Commission further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations. The variance is not unreasonable because the shape of the lot would not allow for sufficient use of the lot because the entrance is not very wide while the interior of the site is which allows for more building area. Not having a structure located within the required setback is consistent with what has occurred on the site for some time when the site was used as a drive in theatre; 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. The shape of the lot is unusual for the area which would be a special circumstance since there are no other similarly shaped lots in the vicinity; and

**WHEREAS**, the Commission further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant. Constructing a building within the required setback would limit the use of the rest of the site which would be a hardship on the applicant; and

**WHEREAS**, the Commission further finds that the circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought. The circumstances existed prior to the zoning regulations. Any structure that would have been required on the site would have to have been setback farther than required in order to maximize the use of the site; and

**WHEREAS**, the Commission further finds that, based on the evidence and testimony presented, portions of the staff report, and the applicant's justification and findings of fact that all of the applicable Guidelines of Cornerstone 2020 and the Comprehensive Plan are being met; now, therefore  
be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Variance to exceed the maximum setback from Southside Drive.

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**The vote was as follows:**

**YES: Commissioners Blake, Brown, Tomes, Jarboe, Kirchdorfer, Turner, White, and Peterson.**

**NO: No one.**

**NOT PRESENT: Commissioners Hughes and Proffitt.**

**ABSTAINING: No one.**

**Waiver from Chapter 5 to eliminate the 6' berm requirement from the LBA along the north property line**

On a motion by Commissioner White, the following resolution was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that eliminating the 6' berm will not adversely affect adjacent properties because it would allow for the existing vegetation to remain and be used for screening, buffering and to meet the tree requirements within the buffer; and

**WHEREAS**, the Commission further finds that eliminating the berm will not violate Cornerstone 2020 because the screening and planting materials will still be planted or existing materials will be used to meet LDC requirements. Cornerstone 2020 also promotes preservation of natural features on a site and preserving the existing trees will help to achieve that guideline; and

**WHEREAS**, the Commission further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant. Constructing a berm would require the applicant to remove existing vegetation and would alter the existing drainage facilities. Preserving the existing vegetation along the property line instead of constructing the berm benefits both the applicant and adjacent property owners; and

**WHEREAS**, the Commission further finds that the applicant has incorporated other design measures, mainly the preservation of existing vegetation to compensate for not providing the berm; and

**WHEREAS**, the Commission further finds that, based on the evidence and testimony presented, portions of the staff report, and the applicant's justification

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and findings of fact that all of the applicable Guidelines of Cornerstone 2020 and the Comprehensive Plan are being met; now, therefore  
be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Waiver from Chapter 5 to eliminate the 6' berm requirement from the LBA along the north property line

**The vote was as follows:**

**YES: Commissioners Blake, Brown, Tomes, Jarboe, Kirchdorfer, Turner, White, and Peterson.**

**NO: No one.**

**NOT PRESENT: Commissioners Hughes and Proffitt.**

**ABSTAINING: No one.**

**Detailed District Development Plan and Binding Elements**

On a motion by Commissioner White, the following resolution was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that the site is preserving existing vegetation instead of providing a 6 foot berm and is also preserving the drive-in theatres existing historic sign; and

**WHEREAS**, the Commission further finds that the site is providing for all types of transportation throughout the site; and

**WHEREAS**, the Commission further finds that open areas on the site are mainly to provide for buffers and existing trees and vegetation; and

**WHEREAS**, the Commission further finds that MSD has preliminarily approved the proposal; and

**WHEREAS**, the Commission further finds that the site is compatible with the adjacent lots as the site is providing all required buffers and is preserving existing trees on the site; and

**WHEREAS**, the Commission further finds that, based on the evidence and testimony presented, portions of the staff report, and the applicant's justification

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and findings of fact that all of the applicable Guidelines of Cornerstone 2020 and the Comprehensive Plan are being met; now, therefore be it

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

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. The development shall not exceed 160,542 square feet of gross floor area.
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 Inspections, Permits and Licenses, Louisville Metro Public Works and the Metropolitan Sewer District.
  - b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
  - c. A minor subdivision plat or legal instrument shall be recorded creating the lot lines as shown on the development plan. A copy of the recorded instrument shall be submitted to the Division of

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- Planning and Design Services; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
- d. 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.
  - 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; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
  - f. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
6. 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.
  7. 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.
  8. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
  9. 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

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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.

10. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the January 16, 2014 Planning Commission meeting.
11. No idling of trucks shall take place within 200 feet of single-family residences. No overnight idling of trucks shall be permitted on-site.
12. The historic sign shall be relocated within sight of Southside Drive to maintain the historic relationship to the road. In the event that a suitable location is not available at such time that the sign would be moved, property owner shall contact the Metro Historic Preservation Officer to find an appropriate site for relocation of the historic sign.

**The vote was as follows:**

**YES: Commissioners Blake, Brown, Tomes, Jarboe, Kirchdorfer, Turner, White, and Peterson.**

**NO: No one.**

**NOT PRESENT: Commissioners Hughes and Proffitt.**

**ABSTAINING: No one.**

**Revised Category 3 plan (13DEVPLAN1110)**

On a motion by Commissioner White, the following resolution was adopted:

**WHEREAS**, the Commission further finds that, based on the evidence and testimony presented, portions of the staff report, and the applicant's justification and findings of fact that all of the applicable Guidelines of Cornerstone 2020 and the Comprehensive Plan are being met; now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE** the Revised Category 3 Plan (Case No. 13DEVPLAN1110).

**The vote was as follows:**



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**YES: Commissioners Blake, Brown, Tomes, Jarboe, Kirchdorfer, Turner, White, and Peterson.**

**NO: No one.**

**NOT PRESENT: Commissioners Hughes and Proffitt.**

**ABSTAINING: No one.**