

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO PLANNING COMMISSION
January 29, 2015**

A meeting of the Louisville Metro Planning Commission was held on Thursday, January 29, 2015 at 1:00 p.m. at the Old Jail Building, located at 514 W. Liberty Street, Louisville, Kentucky.

Commission members present:

Donnie Blake, Chair
David Proffitt, Vice Chair
Jeff Brown
Vince Jarboe
Robert Kirchdorfer
Clifford Turner
David Tomes
Robert Peterson
Chip White

Commission members absent:

Carrie Butler

Staff Members present:

Emily Liu, Director, Planning & Design Services
John G. Carroll, Legal Counsel
Jonathan Baker, Legal Counsel
David Wagner, Planner II
Julia Williams, Planner II
Jessica Wethington, Planning Information Specialist
Joseph Reverman, Planning Supervisor
Brian Davis, Planning & Design Supervisor
Christopher Brown, Planner II
Chris Cestaro, Management Assistant (minutes)

Others:

Pat Barry and David Johnson, MSD

The following matters were considered:

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Approval of Minutes

January 15, 2015 – 1:00 p.m. Planning Commission Regular Meeting

00:05:18 On a motion by Commissioner Proffitt, seconded by Commissioner Kirchdorfer, the following resolution was adopted:

RESOLVED, that the Planning Commission does hereby **APPROVE** the minutes of its meeting conducted on January 15, 2015.

The vote was as follows:

YES: Commissioners Proffitt, Brown, Jarboe, Kirchdorfer, Turner, and Tomes.

NO: No one.

NOT PRESENT: Commissioner Butler.

ABSTAINING: Commissioners Blake, Peterson, and White.

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Public Hearing

Case No. 14ZONE1045

Request: Change in zoning from R-5A to PRD with a variance and waiver; and a District Development Plan and a Subdivision Plan.

Project Name: Clover Trace

Location: 4806 Manslick Road

Owner/Applicant: CDJ Development LLC
Dan Smith, Representative
10122 Taylorsville Road
Louisville, KY 40299

Representative: William Bardenwerper
Bardenwerper, Talbott & Roberts PLLC
1000North Hurstbourne Parkway 2nd Fl.
Louisville, KY 40223

Engineers: Kathy Linares and David Mindel
Mindel, Scott & Associates
5151 Jefferson Boulevard Suite 101
Louisville, KY 40219

Jurisdiction: Louisville Metro
Council District: 15 – Marianne Butler

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

Agency Testimony:

00:06:00 Julia Williams presented the case and showed a Power Point presentation (see recording and staff report for detailed presentation.)

00:10:52 In response to a question from Commissioner Proffitt, Ms. Williams said that MSD representatives are present today to discuss drainage. She added that there have been conversations between the applicant, MSD, and residents in the area about that topic.

The following spoke in favor of the proposal:

William Bardenwerper, Bardenwerper, Talbott & Roberts PLLC, 1000North Hurstbourne Parkway 2nd Fl., Louisville, KY 40223

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Kathy Linares and David Mindel, 5151 Jefferson Boulevard Suite 101, Louisville, KY 40219

Summary of testimony of those in favor:

00:11:43 William Bardenwerper presented the applicant's case and showed a Power Point presentation.

00:16:29 David Mindel, with Mindel Scott & Associates, discussed drainage issues and whether the issues are the result of building on this site. He talked about the drainage basin, off-site cave-ins, bonds, erosion, and other land/drainage topics.

00:20:43 Mr. Mindel discussed when the detention basin will be re-graded.

00:22:52 Mr. Bardenwerper concluded the presentation and agreed to Items #2 through #6 as Conditions of Approval.

00:24:25 In response to a question from Commissioner White, Mr. Bardenwerper and Mr. Mindel clarified that the applicant could not get more than ten permits before October.

00:26:42 Kathy Linares, with Mindel Scott & Associates, discussed the variance and waiver requests (particularly the 25-foot rear yard) and the buffer along Manslick Road. Ms. Williams also added some clarification and discussed Binding Element #18.

00:29:39 Mr. Bardenwerper discussed Binding Element #17 (enhanced landscaping.)

The following spoke in opposition to the proposal:

No one spoke.

The following spoke neither for nor against the proposal:

Charles Horton, 4507 Naneen Drive, Louisville, KY 40216

Summary of testimony of those in neither for nor against:

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00:31:51 Charles Horton spoke neither for nor against. He gave a brief history of drainage and flooding issues in the immediate area; what was agreed to between MSD and the developers; and the completion of the basin.

00:42:55 In response to a question from Commissioner Proffitt, Pat Barry and David Johnson from MSD discussed Mr. Mindel's calculations and whether the drainage issues would be resolved in this area.

00:45:31 In response to a question from Commissioner White, Mr. Johnson discussed the collapse of the 27-inch pipe behind Mr. Horton's property, which he said is MSD's responsibility, not the developer's. He also discussed flooding.

00:49:49 In response to a question from Mr. Horton, Mr. Johnson addressed severe erosion/flooding on one particular property (nearby, but off-site.) Again, he reiterated that the problems are MSD's responsibility, not the developer's.

Rebuttal:

00:51:26 During Mr. Bardenwerper's rebuttal, he and Commissioner White discussed the binding elements (October 15, 2015 for the detention basin). Commissioner Brown read a proposed Binding Element into the record, as follows:

"The detention basin shall be re-graded as designed no later than October 1, 2015, or issuance of the 11th permit for the development, whichever is sooner."

Mr. Bardenwerper agreed to this proposed language.

Deliberation:

00:53:17 Commissioners' deliberation.

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

Zoning

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00:56:32 On a motion by Commissioner Proffitt, seconded by Commissioner White, the following resolution was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the site is located in the Neighborhood Form District. The Neighborhood Form is characterized by predominantly residential uses that vary from low to high density and that blend compatibly into the existing landscape and neighborhood areas. High-density uses will be limited in scope to minor or major arterials and to areas that have limited impact on the low to moderate density residential areas; and

WHEREAS, the Commission further finds that the Neighborhood Form will contain diverse housing types in order to provide housing choice for differing ages and incomes. New neighborhoods are encouraged to incorporate these different housing types within a neighborhood as long as the different types are designed to be compatible with nearby land uses. These types may include, but not be limited to large lot single family developments with cul-de-sacs, neo-traditional neighborhoods with short blocks or walkways in the middle of long blocks to connect with other streets, villages and zero lot line neighborhoods with open space, and high density multi-family condominium-style or rental housing; and

WHEREAS, the Commission further finds that the Neighborhood Form may contain open space and, at appropriate locations, civic uses and neighborhood centers with a mixture of uses such as offices, retail shops, restaurants and services. These neighborhood centers should be at a scale that is appropriate for nearby neighborhoods. The Neighborhood Form should provide for accessibility and connectivity between adjacent uses and neighborhoods by automobile, pedestrian, bicycles and transit; and

WHEREAS, the Commission further finds that Neighborhood streets may be either curvilinear, rectilinear or in a grid pattern and should be designed to invite human interaction. Streets are connected and easily accessible to each other, using design elements such as short blocks or bike/walkways in the middle of long blocks to connect with other streets. Examples of design elements that encourage this interaction include narrow street widths, street trees, sidewalks, shaded seating/gathering areas and bus stops. Placement of utilities should permit the planting of shade trees along both sides of the streets; and

WHEREAS, the Commission further finds that the proposal is for PRD which includes smaller lots and higher densities than what is found in the area. The

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proposal is not for a high density development but is located along an arterial. The proposal introduces a townhouse housing type to the area on single family lots. The single family lots proposed will be smaller than the nearby lots. The streets are designed with sidewalks to engage human interaction between the residents; and

WHEREAS, the Commission further finds that the proposal includes attached single family homes which make the development compact and efficient; and

WHEREAS, the Commission further finds that the proposal is for residential on single family lots which is the same use as the adjacent lots; and

WHEREAS, the Commission further finds that the proposal did not indicate it was for a specific elderly or disabled demographic; and

WHEREAS, the Commission further finds that, based on the evidence and testimony presented, the staff report, and staff's 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 body of Louisville Metro Government that the requested change in zoning from R-5A to PRD on property described in the attached legal description be **APPROVED**.

The vote was as follows:

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

NO: No one.

NOT PRESENT: Commissioner Butler.

ABSTAINING: No one.

Variance

00:56:36 On a motion by Commissioner Proffitt, seconded by Commissioner White, the following resolution was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the variance will not affect the public because the variance is only a result of subdividing the

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property instead of maintaining the previously approved patio home development; and

WHEREAS, the Commission further finds that the requested variance will not alter the essential character of the general vicinity. The homes will not be located closer to the property line than was previously approved when the site was a patio home development site; and

WHEREAS, the Commission further finds that the requested variance will not cause a hazard or nuisance to the public. The variance will not affect the public because the homes will not be located closer to the property line than was previously approved when the site was a patio home development site; 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 it is due to the creation of lot lines and not due to a new location of the structures; and

WHEREAS, the Commission further finds that the variance request arises from the developer wanting to subdivide the property instead of continuing with the patio home development where all the buildings were located on one lot; and

WHEREAS, the Commission further finds that the strict application would deprive the applicant of reasonable use of the land because the setbacks when the proposal was a patio home development were not an issue and the issue only arises from the creation of lot lines; and

WHEREAS, the Commission further finds that the circumstances are a result of the applicant wanting to create lot lines and have individual lots instead of one large patio home lot; and

WHEREAS, the Commission further finds that, based on the evidence and testimony presented today, the staff report, the applicant's presentation and staff's 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 permit encroachments into the rear yard setbacks

The vote was as follows:

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

NO: No one.

NOT PRESENT: Commissioner Butler.

ABSTAINING: No one.

Waiver

00:57:10 On a motion by Commissioner Proffitt, seconded by Commissioner White, the following resolution was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the requested waiver will not affect property owners because per the concept landscape plan landscaping will still be planted within the setback along Manslick Road; and

WHEREAS, the Commission further finds that Cornerstone 2020 will not be violated because planting and screening will be installed within the setback according to the concept landscape plan; and

WHEREAS, the Commission further finds that the extent of the waiver is necessary because the buffer is in addition to the setback which would push the proposed structures further into the development when the idea is only to subdivide the lots; and

WHEREAS, the Commission further finds that the strict application would deprive the applicant of reasonable use of the land because the 20' buffer is in addition to the setback which was not anticipated when the proposal was to be developed as patio homes; and

WHEREAS, the Commission further finds that, based on the evidence and testimony presented today, the staff report, the applicant's presentation and staff's 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 request to not provide the 20' LBA along Manslick Road.

The vote was as follows:

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

NO: No one.

NOT PRESENT: Commissioner Butler.

ABSTAINING: No one.

Detailed District Development Plan and Subdivision Plan

00:57:56 On a motion by Commissioner Proffitt, seconded by Commissioner White, the following resolution was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the site has no existing natural features; and

WHEREAS, the Commission further finds that the provisions for safe and efficient vehicular and pedestrian transportation both within the development and the community have been met. Sidewalks are being provided from the existing sidewalk to the interior lots 24-32; and

WHEREAS, the Commission further finds that the provision of sufficient open space (scenic and recreational) to meet the needs of the proposed development has been met. Open space lots are being provided throughout the development; and

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

WHEREAS, the Commission further finds that the proposed single family lots will be located adjacent to other single family lots; and

WHEREAS, the Commission further finds that, based on the evidence and testimony presented today, the staff report, the applicant's presentation and staff's 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 Detailed District Development plan/Subdivision plan, **SUBJECT** to the following Binding Elements:

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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 be in accordance with the approved Preliminary Subdivision Plan. No further subdivision of the land into a greater number of lots than originally approved shall occur without approval of the Planning Commission.
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 Louisville Metro Department of Inspections, Permits and Licenses, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
 - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in 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 major subdivision plat creating the lots and roadways as shown on the approved district development plan shall be recorded prior to issuance of any building permits.
 - e. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.

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5. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
6. 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.
7. Prior to the recording of the record plat, copies of the recorded documents listed below shall be filed with the Planning Commission.
 - a) Articles of Incorporation filed with the Secretary of State and recorded in the office of the Clerk of Jefferson County and the Certificate of Incorporation of the Homeowners Association.
 - b) A deed of restriction in a form approved by Counsel to the Planning Commission addressing (responsibilities for the maintenance of common areas and open space, maintenance of noise barriers, maintenance of WPAs, TPAs) and other issues required by these binding elements.
 - c) Bylaws of the Homeowner's Association in a form approved by the Counsel for the Planning Commission.
8. At the time the developer turns control of the homeowner's association over to the homeowners, the developer shall provide sufficient funds to ensure there is no less than \$3,000 cash in the homeowner's association account. The subdivision performance bond may be required by the Planning Commission to fulfill this funding requirement.
9. With the exception of vinyl accents, soffits, and trim, buildings shall feature 100% brick exteriors as shown in the renderings as presented at the January 29, 2015 Planning Commission meeting.

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10. A note shall be placed on the preliminary plan, construction plan and the record plat that states, "Construction fencing shall be erected prior to any grading or construction activities - preventing compaction of root systems of trees to be preserved. The fencing shall enclose the area beneath the dripline of the tree canopy and shall remain in place until all construction is completed. No parking, material storage, or construction activities shall be permitted within the fenced area."
11. All street signs shall be installed by the Developer, and shall conform with the Manual on Uniform Traffic Control Devices (MUTCD) requirements. Street signs shall be installed prior to the recording of the subdivision record plat or occupancy of the first residence on the street, and shall be in place at the time of any required bond release. The address number shall be displayed on a structure prior to requesting a certificate of occupancy for that structure.
12. Open space lots shall not be further subdivided or developed for any other use and shall remain as open space in perpetuity. A note to this effect shall be placed on the record plat.
13. The developer shall be responsible for maintenance of all drainage facilities and undeveloped lots ensuring prevention of mosquito breeding, until such time as the drainage bond is released.
14. After release of the drainage bond, mosquito abatement on open space lots shall be the responsibility of the Homeowners Association. Accumulations of water in which mosquito larvae breed or have the potential to breed are required to be treated with a mosquito larvicide approved by the Louisville Metro Health Department. Larvicides shall be administered in accordance with the product's labeling. This language shall appear in the deed of restrictions for the subdivision.
15. The signature entrance shall be submitted to the Planning Commission staff for review and approval prior to recording the record plat.
16. Improvements to Manslick Road as required by the Kentucky Transportation Cabinet and Public Works shall be completed prior to the issuance of the third building permit of a residential unit.
17. The Applicant shall install a continuous evergreen screen along the Dellwood Drive property line to provide a buffer between existing

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residential property and the development site. The applicant shall work with the owner of 1402 Dellwood Drive to develop a supplemental landscaping plan to install additional landscape materials on the 1402 Dellwood Drive side of the evergreen screen. This supplemental landscaping plan shall be finalized and approved by PDS staff within 60 days after the final approval by the legislative body. To the extent the supplemental landscape materials are located on the property at 1402 Dellwood Drive; the owner of that property shall be responsible for the maintenance of the landscaping.

18. The applicant will work with PDS staff to develop a landscaping plan to screen the units along Manslick Road from the roadway. This can be achieved through clustering of plantings, a continuous screen where appropriate, or other similar measures.

Binding Elements added at January 29, 2015 Planning Commission hearing:

19. A bond will be required at record plat approval. This means all drainage will be inspected and approved before MSD takes it over.
20. The ditchline along the north property line will be re-graded and erosion repaired no later than June 1, 2015.
21. The headwalls at the outlet behind the Horton property will be replaced with poured concrete (currently blocks) no later than June 1, 2015.
22. The detention basin shall be re-graded as designed no later than October 1, 2015, or prior to the issuance of the 11th building permit for the development, whichever is sooner. The basin does have the capacity for most of their development as it stands today.

The vote was as follows:

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

NO: No one.

NOT PRESENT: Commissioner Butler.

ABSTAINING: No one.

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Case No. 14ZONE1048

Request: Change in zoning from C-3 to EZ-1

Project Name: Market Street Mini-Warehouse

Location: 201 East Market Street

Owner: ADS Holdings, LLC
Vince Rosenblatt, Representative
1102 Rose Hill Lane
Louisville, KY 40299

Applicant: Column Group
Aaron Willis, Representative
129 Council Road
Louisville, KY 40207

Representative: William Bardenwerper
Bardenwerper, Talbott & Roberts PLLC
1000 North Hurstbourne Parkway 2nd Fl.
Louisville, KY 40223

Engineer/Designer: Kevin Young
Land Design & Development, Inc.
503 Washburn Avenue
Louisville, KY 40222

Jurisdiction: Louisville Metro
Council District: 4 – David Tandy

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

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.)

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Agency Testimony:

01:00:40 Julia Williams presented the case and showed a Power Point presentation (see recording and staff report for detailed presentation.)

The following spoke in favor of the proposal:

William Bardenwerper, Bardenwerper, Talbott & Roberts PLLC, 1000North Hurstbourne Parkway 2nd Fl., Louisville, KY 40223

Kevin Young, Land Design & Development, Inc., 503 Washburn Avenue, Louisville, KY 40222

Aaron Willis, 129 Council Road, Louisville, KY 40207

Summary of testimony of those in favor:

01:05:06 William Bardenwerper presented the applicant's case and showed a Power Point presentation.

01:08:35 Kevin Young, Land Design & Development, discussed the access issue and the site/building design.

01:10:32 Mr. Bardenwerper said the applicant has acknowledged the right of an adjacent property to be developed as a multi-story building higher than the subject building in this case.

01:14:02 Aaron Willis, the applicant, described the current windows on the building. Mr. Bardenwerper and Ms. Williams discussed the review process (National Register; DDRO, etc.)

The following spoke in opposition to the proposal:

No one spoke.

The following spoke neither for nor against the proposal:

No one spoke.

Rebuttal:

There was no rebuttal, since there was no opposition.

Deliberation:

01:16:44 Commissioners' deliberation.

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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.

Rezoning

01:18:58 On a motion by Commissioner White, seconded by Commissioner Kirchdorfer, the following resolution was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the intent of the proposal conforms to Guideline 1 – Community Form. The Community Form that this property is located in is the Downtown Form District; although the Downtown Form is comprised of predominantly office, commercial, civic, medical, high-density residential and cultural land uses, other uses also exist and are needed to fill out the mix of needs in order to create a vibrant, ever-improving population center, the initial (and possibly long term) self-storage use fits well into this diverse mix of uses, while preserving an historic building and while also not disturbing the grid pattern of the local street system, creating traffic congestion or disrupting traffic flows; and

WHEREAS, the Commission further finds that the intent of the proposal conforms to Guideline 2 – Centers. The Intents and applicable Policies 1, 2, 3, 4, 5, 6, 7, 11, 13, 14, 15 and 16 of this Guideline all pertain to how a variety of land uses mix, organize, relate to one another, utilize existing infrastructure, encourage vitality and revitalization, and overall promote investment in certain areas, especially the Downtown Form District, which is different than all others; and

WHEREAS, the Commission further finds that this application complies with this Guideline and Intents and applicable Policies as follows; the Downtown Form District is overall an "activity center" where there are pockets of more intense activities within the Downtown Form District, but it is an overall "activity center" in and of itself; developing a mix of potential uses within an activity center is what is encouraged; and there is nothing within this Guideline to suggest that self-storage does not fit alongside the other potentially future contemplated uses; it certainly is a use that contributes to all of the existing type uses described above as appropriate for the Downtown Form District; this use is also part of a compact form of development in the downtown area; to the extent that this use remains a self-storage facility, as contemplated from the beginning, parking will not be an issue; however, to the extent that it eventually becomes residential and/or retail as well, there exists on-street parking as well as nearby parking garages and

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parking lots that can be utilized for those uses that will require parking that self-storage does not; of course, utilities are all located downtown, and this is a built structure, thus this project relies almost entirely on that which already exists and not on something that is new, other than what is added to the interior of this particular space; and

WHEREAS, the Commission further finds that the proposal conforms to the intents of Guideline 3 – Compatibility. The Intents and applicable Policies 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 20, 21, 22, 23, 24, 28 and 29 of this Guideline all pertain to the issue of how a particular use or uses, especially if they involve a mix of uses, can be made compatible with other already existing or planned uses within a particular Form District; and

WHEREAS, the Commission further finds that this application complies with this Guideline and its Intents and applicable Policies as follows; as noted above, this project includes a possible mix of uses within this building, although possibly just one; but whether a mix or a single one within the building, that use or uses will be part of a large mix of land uses already existing within the Downtown Form District; because this project involves an adaptive reuse of an existing historic building, it is by definition compatible in design; the old building will be changed, in such a way as to possibly change out old damaged and/or leaking windows with similar style and design windows that are new and energy efficient; historic, architecturally significant elements of the building will be retained and improved; lower level architectural elements, especially at the street level, may be modified for an improved look, reminiscent of what the building probably looked like years ago or the way the City presumably wants buildings at street level to look, with attractive entryways and see-through or spandrel glass windows; to the extent that the building may be used as partly residential, this will not require a change other than residential style windows, hopefully with visibility on all sides, although it has been said that a building may be constructed to the east which could block light through and visibility from those windows thus there is no assurance of windows on the east side; as to the Policies of this Guideline pertaining to potential nuisances, nothing that has been mentioned herein would contribute to odors, traffic, noise, inappropriate lighting, negative visual impacts, different building setbacks or heights, excessive demands on parking, inappropriate signage or adverse impacts on existing or planned transportation facilities; and

WHEREAS, the Commission further finds that the intent of the proposal conforms to Guideline 5 – Scenic and Historic Resources. The Intents and applicable Policies 2, 4 and 5 of this Guideline pertain to the issues of older building like this that may have historic value, even though this building is

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not designated as a National or Local landmark and is not located within a Historic District; and it is located in the Downtown Development Review Overlay District; and

WHEREAS, this application complies with these Intents and applicable Policies of this Guideline as follows; the applicant and its professional representatives have met with the Metro Urban Design Administrator and his Historic Preservation colleagues with respect to elements of the building's exterior and what would be preserved; whereas use of the building in the future may be different than some of the uses in the past (notably when this was a paint manufacturing and storage facility), none of the uses suggested above are incompatible with the Intents and applicable Policies of this Guideline; the same is true of the unremarkable changes to the building's look (all which will be positive) and access, which have been coordinated with Metro Transportation Planning and Public Works; and

WHEREAS, the Commission further finds that the intents of the proposal conform to Guideline 6 – Economic Growth and Sustainability. The intents and applicable Policies 1, 2, 3, 5, 6 and 11 of this Guideline all pertain to assuring that work places are created and preserved, that activity centers are enhanced and strengthened, that investment is made in the Downtown Form District and done so in an appropriate way and that old buildings such as this one are adaptively used also in a positive way; and

WHEREAS, this application complies with the Intents and applicable Policies of this Guideline as follows; by saving an old, presently unused building from decay and by revitalizing it in an existing activity center not only preserves the building as a place of work that serves downtown interests, but it also helps to revitalize the existing activity center known as the Downtown as well the sub-activity center that this building is located in; it is an adaptive reuse, indeed a creative one as explained above, whereby the building can be put to an immediate use where there is a demonstrated demand for self-storage but also potentially long term to a residential and/or retail use as well as development of this area matures; and

WHEREAS, the Commission further finds that the intents of the proposal conform to Guidelines 7, 8, and 9 – Circulation, Transportation Facilities, and Bicycle, Pedestrian, and Transit Access. The intents and applicable Policies 1, 2, 3, 4, 10, 11, 13, 14, 15 and 16 of Guideline 7, plus Policies 7, 9, 10 and 11 of Guideline 8, plus Policies 1, 2, 3, 4 and 5 of Guideline 9 all pertain to the traffic management and transportation facility concerns of Metro Transportation Planning and Public Works; and those seek to assure that facilities, including those downtown, do not cause negative traffic impacts, continue to assure good

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circulation and safe access and promote bicycle, pedestrian and transit usage;
and

WHEREAS, the Commission further finds that this application complies with these Intents and applicable Policies of these Guidelines as follows; since this application does not involve new development, and especially does not involve new development in an outlying area where adequate transportation facilities do not exist or where lack of traffic management (because of traffic volumes and inadequate infrastructure) sometimes occurs, these issues are both narrower and easier to address at this location; Downtown streets, except perhaps during peak rush hour times, have adequate traffic- carrying capacity, and that is clearly so with Market and Brook Streets; even the alley, which could be a means of access to the overhead garage doors that will be needed to access the planned self-storage, appears adequate in which to accommodate continued usage by both nearby users of existing buildings as well as by this applicant with its proposed new use or uses; the main issue relating to these Guidelines that required careful review was relating to access as there will be access through large overhead doors into the building along Brook Street; Metro Transportation Planning and Public Works officials have reviewed and approved these access and circulation designs prior to public hearing; also, with this building being an existing one located right up on Market and Brook Streets, existing sidewalk infrastructure exists as do bike lanes on at least Market Street; and the applicant is counting on Metro Government to continue its work already undertaken to improve sidewalks in the downtown area by fixing the deteriorated sidewalk along Market Street; and

WHEREAS, the Commission further finds that the proposal conforms to Guidelines 10 and 11 – Flooding and Stormwater and Water Quality. The Intents and applicable Policies 1, 2, 3, 6, 7, 10 and 11 of Guideline 10 and Policies 3, 5 and 8 of Guideline 11 pertain to the issues of flooding, stormwater management and water quality; and

WHEREAS, the Commission further finds that this application complies with these Intents and applicable Policies of these Guidelines as follows; MSD is the public agency responsible for assuring compliance with its regulations pertaining to flooding, stormwater management and water quality; it has adopted regulations applicable in some instances, and not applicable in others, to these Guidelines and their Policies; to the extent that reutilization of this existing building, which involves no new outside construction, triggers any of these regulations, the applicant will comply; and

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WHEREAS, the Commission further finds that the proposal complies with the intents of Guideline 12 – Air Quality. The Intents and applicable Policies 1, 2, 3, 4, 5, 6, 7, 8 and 9 this Guideline all pertain to the issues of assuring no adverse consequences on air quality and, when possible, even taking measures to improve same; and

WHEREAS, the Commission further finds that this application complies with the Intents and applicable Policies of this Guideline as follows; the main ways that a project such as the one included in this application actually aids in improving air quality is by assuring that existing facilities in high density and intensity areas are utilized so that commuting distances can be minimized and by providing adequate storage facilities for businesses and residents in the Downtown Form District, this helps to assure that those businesses and residents don't have to travel to outlying areas to address their storage needs thus, limiting vehicle miles traveled; and

WHEREAS, the Commission further finds that the proposal conforms to the intents of Guideline 14 – Infrastructure. The Intents and applicable Policies 1, 2, 3, 4, 6 and 7 of this Guideline all pertain to assuring adequate infrastructure to support a new development project; and

WHEREAS, the Commission further finds that this application complies with the Intents and applicable Policies of this Guideline as follows; because this project involves adaptive reuse of an old building, and not new outside construction, in an already built up area with adequate infrastructure, this is the one place where adequate infrastructure is certain to exist; and

WHEREAS, the Commission further finds that the proposal conforms to the intents of Guideline 15 – Community Facilities. The Intents and applicable Policies 1, 4, 7, 9, 12, 15, 16, 17, 19 and 20 of this Guideline all pertain to the issue of when and where community facilities should be located and when and where existing community facilities are already adequate to serve a particular use or need to be expanded; the Downtown Form District, where this proposed project is located, where all of the referenced community facilities already exist, will not require the expansion of any of those, as this project will not over-burden them; and

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

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RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the legislative body of Louisville Metro Government that the requested change in zoning from C-3 to EZ-1 on property described in the attached legal description be **APPROVED**.

The vote was as follows:

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

NO: No one.

NOT PRESENT: Commissioner Butler.

ABSTAINING: No one.

District Development Plan

01:19:58 On a motion by Commissioner White, seconded by Commissioner Peterson, the following resolution was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that there are no natural features evident on the site. The proposal is for the renovation of a historic structure; and

WHEREAS, the Commission further finds that the provisions for safe and efficient vehicular and pedestrian transportation, both within the development and the community, have been met. Existing on street parking and sidewalks will be used for the proposal; and

WHEREAS, the Commission further finds that open space will be provided in the public areas of the plan in the form of the sidewalk; and

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

WHEREAS, the Commission further finds that the building is existing and no new construction is proposed; and

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

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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.
2. The development shall not exceed 87,500 square feet of gross floor area.
3. 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.
4. 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.
5. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
6. 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.

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The vote was as follows:

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

NO: No one.

NOT PRESENT: Commissioner Butler.

ABSTAINING: No one.

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Public Hearing

Case No. 14ZONE1039

***This case is CONTINUED from the January 15, 2015 Planning Commission public hearing**

Request: Change in zoning from C-1 to C-2 and a Revised Detailed District Development Plan

Project Name: OBC Lots C & D

Location: 9840 & 9850 Von Allmen Court

Owner/Applicant: McMahan Group Ventures LLC
Rory F. McMahan, Representative
3034 Hunsinger Lane
Louisville, KY 40220

Representative: Glenn A. Price, Jr.
Frost Brown Todd
400 West Market Street Floor 32
Louisville, KY 40202

Engineer/Designer: John Addington
BTM Engineering, Inc.
3001 Taylor Springs Drive
Louisville, KY 40220

Jurisdiction: Louisville Metro

Council District: 16 – Kelly Downard

Case Manager: Christopher Brown, Planner II

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.)

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Agency Testimony:

01:20:21 Commissioner Blake and Christopher Brown briefly reviewed the case. This case was continued from the January 15, 2015 Planning Commission public hearing. Compliance with Binding Element #10 is an issue.

Commissioner Peterson said that he was not as familiar with the case as most of the other Commissioners and offered to abstain from voting if necessary. Commissioner White said he has reviewed the minutes and felt comfortable with voting if necessary.

01:21:56 Mr. Brown reviewed the case and suggested continuing this case to a date uncertain to allow the applicant to apply for a General Plan binding element amendment (BE #10.)

The following spoke in favor of the proposal:

Glenn A. Price, Jr., Frost Brown Todd, 400 West Market Street Floor 32,
Louisville, KY 40202

Summary of testimony of those in favor of the proposal:

01:27:20 Glenn Price, the applicant's representative, showed a Power Point presentation and gave a history of this building and hearings held about it. He showed photos of other existing buildings currently in the Old Brownsboro Crossing development.

The following spoke in opposition to the proposal:

Steve Porter, 2406 Tucker Station Road, Louisville, KY 40299

Summary of testimony of those in opposition to the proposal:

01:42:06 Steve Porter, the representative for the Wolf Pen Preservation Association (in opposition), said he agreed with Mr. Brown's recommendation to continue this case to a date uncertain, particularly if there may be a proposed change in a binding element.

The following spoke neither for nor against the proposal:

No one spoke.

Deliberation:

The Commissioners, Mr. Brown, and the attorneys discussed continuing this case to the February 19, 2015 Planning Commission public hearing. Mr. Brown and the Commissioners discussed building materials, particularly as related to

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what is listed in Binding Element #10. Mr. Price described Alucabond; Mr. Porter said the question of the panels/building materials had come up at other meetings.

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.

01:59:32 On a motion by Commissioner White, seconded by Commissioner Proffitt, the following resolution was adopted:

RESOLVED, the Louisville Metro Planning Commission does hereby **CONTINUE** this case and any other associated cases to the **February 19, 2015** Planning Commission public hearing.

The vote was as follows:

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

NO: No one.

NOT PRESENT: Commissioner Butler.

ABSTAINING: No one.

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Public Hearing

Case No. 14SUBDIV1009

CONTINUED from the December 4, 2014 Planning Commission public hearing

Request: Preliminary Major Conservation Subdivision Plan and Floyds Fork Overlay District Review

Project Name: Stapleton Ridge

Location: 15528, 15314, & 15310 Aiken Road

Owner: Estates of Floyds Fork Creek, Inc.
4337 Pinnacle View Place, Unit 7C
Louisville, KY 40272

Applicant: Redwood Management Co., Inc.
James E. Frey, representative
23775 Commerce Park Suite 7
Beachwood, OH 44122

Representative: William Bardenwerper
Bardenwerper, Talbott & Roberts PLLC
1000North Hurstbourne Parkway 2nd Fl.
Louisville, KY 40223

Engineer/Designer: David Mindel / Kathy Linares
Mindel Scott & Associates
5151 Jefferson Boulevard
Louisville, KY 40219

Jurisdiction: Louisville Metro

Council District: 19 – Jerry Miller

Case Manager: David B. Wagner – Planner II

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

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part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

02:02:41 David Wagner presented the case and showed a Power Point presentation (see recording and staff report for detailed presentation.) He summarized the four major concerns from the last hearing: internal street connectivity, trails in the conservation areas, the amount of undisturbed land, and the viewshed from Aiken Road into the site. He described in detail the changes that the applicant has made to the plan.

The following spoke in favor of the proposal:

William Bardenwerper, Bardenwerper, Talbott & Roberts PLLC, 1000North Hurstbourne Parkway 2nd Fl., Louisville, KY 40223

David Mindel / Kathy Linares, Mindel Scott & Associates, 5151 Jefferson Boulevard, Louisville, KY 40219

Diane Zimmerman, Jacobs Engineering, 11940 Highway 42 Suite 1, Goshen, KY 40026

Summary of testimony of those in favor of the proposal:

02:11:00 William Bardenwerper, the applicant's representative, presented the applicant's case and showed a Power Point presentation.

02:14:30 Kathy Linares, Mindel Scott & Associates, pointed out and discussed each undisturbed open space and buffer area. Mr. Bardenwerper discussed density and gave more details about the design of the overall project.

The following spoke in opposition to the proposal:

Steve Porter, 2406 Tucker Station Road, Louisville, KY 40299

Gregg Dedrick, 2000 Forest Pointe Lane, Louisville, KY 40245

Wayne H. Hameloth, 2012 Forest Pointe Lane, Louisville, KY 40245

Summary of testimony of those in opposition to the proposal:

02:21:37 Stephen Porter, the representative for the opposition, presented the opposition's case and showed a Power Point presentation. He read LDC

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Conservation Subdivision regulations which he said related to this case. Floodplains were a particular concern.

02:35:47 Gregg Dedrick, a Forest Point subdivision resident who also owns property abutting the subject site, spoke in opposition. He said his Aiken Road property will be about 15 from the back of the subdivision with no buffer; also, he expressed concerns about water runoff, flooding, noise, and traffic.

02:43:48 Wayne Hameloth discussed Cornerstone 2020 as it relates to the case; also, clearing of forested areas.

02:58:21 Mr. Porter concluded the opposition's presentation.

The following spoke neither for nor against the proposal:

No one spoke.

Rebuttal:

02:59:35 Mr. Bardenwerper resumed the podium for rebuttal.

03:07:10 Ron Thomas, with Redwing Ecological Services, discussed water, wetlands, and endangered species.

03:12:28 Diane Zimmerman, with Jacobs Engineering, discussed the traffic study and trip generation.

03:14:36 In response to a question from Commissioner Jarboe, Mr. Bardenwerper discussed filling in a floodplain, water, drainage, and impact.

03:18:13 Mr. Porter objected that the Planning Commission does have some discretion with subdivisions.

Deliberation:

03:18:56 Commissioners' deliberation.

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

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Preliminary Major Conservation Subdivision Plan

03:27:54 On a motion by Commissioner Proffitt, seconded by Commissioner Jarboe, the following resolution was adopted:

WHEREAS, the Commission further finds that, based on the evidence and testimony presented today, the staff report, the applicant's presentation and staff's technical review and conclusions that all of the required policies are being met; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Preliminary Major Subdivision Plan with Conditions of Approval as read into the record by Commissioner Brown and as included in the staff report; and **SUBJECT to the following Conditions of Approval:**

1. The development shall be in accordance with the approved Preliminary Subdivision Plan. No further subdivision of the land into a greater number of lots than originally approved shall occur without approval of the Planning Commission.
2. 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.
3. 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 shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - d. A major subdivision plat creating the lots and roadways as shown on the approved district development plan shall be recorded prior to issuance of any building permits.

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e. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.

4. 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.

5. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.

6. 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.

9. Prior to the recording of the record plat, copies of the recorded documents listed below shall be filed with the Planning Commission.

a. Articles of Incorporation filed with the Secretary of State and recorded in the office of the Clerk of Jefferson County and the Certificate of Incorporation of the Homeowners Association.

b. A deed of restriction in a form approved by Counsel to the Planning Commission addressing responsibilities for the maintenance of common areas and open space, maintenance of noise barriers, maintenance of WPAs, TPAs and other issues required by these binding elements / conditions of approval.

c. Bylaws of the Homeowner's Association in a form approved by the Counsel for the Planning Commission.

10. At the time the developer turns control of the homeowner's association over to the homeowners, the developer shall provide sufficient funds to ensure there is no less than \$3,000 cash in the homeowner's association account. The

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subdivision performance bond may be required by the Planning Commission to fulfill this funding requirement.

11. All street name signs shall be installed prior to requesting a certificate of occupancy for any structure. The address number shall be displayed on a structure prior to requesting a certificate of occupancy for that structure.

12. A long-term encroachment permit and license agreement with Louisville Metro is required for the signature entrance to be located in the right-of-way.

The vote was as follows:

YES: Commissioners Blake, Proffitt, Brown, Jarboe, Kirchdorfer, Turner, and Peterson.

NO: No one.

NOT PRESENT: Commissioner Butler.

ABSTAINING: Commissioners White and Tomes.

Floyds Fork Overlay District Review

03:29:12 On a motion by Commissioner Proffitt, seconded by Commissioner Peterson, the following resolution was adopted:

WHEREAS, the Commission further finds that, based on the evidence and testimony presented today, the staff report, the applicant's presentation and staff's technical review and conclusions that all of the required policies are being met; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the Floyds Fork Overlay District Review.

The vote was as follows:

YES: Commissioners Blake, Proffitt, Brown, Jarboe, Kirchdorfer, Turner, and Peterson.

NO: No one.

NOT PRESENT: Commissioner Butler.

ABSTAINING: Commissioners White and Tomes.

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Public Hearing

Case No. 14DEVPLAN1036

NOTE: This case was continued from the December 18, 2014 Planning Commission public hearing.

Request: Revised Detailed District Development Plan and Land Development Code Waivers for a proposed Wal-Mart Supercenter

Project Name: Wal-Mart

Location: Multiple addresses on the southwest corner of West Broadway and Dixie Highway

Owner: Newbridge Development, LLC
2350 New Millenium Drive
Louisville, KY 40216

Applicant: Wal-Mart Real Estate Business Trust
P.O. Box 8050 MS 0515
Bentonville, AR 72712

Representative: Deborah Bilitski
Wyatt, Tarrant and Combs, LLP
500 West Jefferson Street Suite 2800
Louisville, KY 40207

Engineer/Designer: Pov Chin and Elizabeth Heiles
Carlson Consulting Engineers, Inc.
7068 Ledgestone Commons
Bartlett, TN 38133

Jurisdiction: Louisville Metro

Council District: **4 – David Tandy**

Case Manager: **Joseph Reverman, AICP**

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

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was available to any interested party prior to the public hearing. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

03:31:07 Joseph Reverman briefly re-introduced the case and showed a Power Point presentation (this case is CONTINUED from the December 18, 2014 Planning Commission public hearing.) He reviewed two binding elements that were agreed to by the applicant at the last hearing.

The following spoke in favor of the proposal:

John Gant, Louisville Metro Economic Development, 444 South 5th Street, Louisville, KY 40202

Deborah Bilitski, Wyatt, Tarrant and Combs, LLP, 500 West Jefferson Street Suite 2800, Louisville, KY 40207

Kevin Thompson, 1075 Broad Ripple Avenue #118, Indianapolis, IN 40220

Richard Wimsatt, Brown-Foreman Corp., 850 Dixie Highway, Louisville, KY 40210

DeVone Holt, 100 Fontaine Landing Court, Louisville, KY 40212

Milton C. Seymore, 2906 Aspendale Court, Louisville, KY 40241

Reverend Clay Calloway, 732 South 45th St., Louisville, KY 49211

Reverend Eric French Sr., 2807 Antone Parkway, Louisville, KY 40220

William M. Robinson, 620 South 22nd Street, Louisville, KY 40211

Roy H. Streeter, 11315 Top Walnut Loop, Louisville, KY 40229

Kirk Bush, 14707 Forest Creek Way, Louisville, KY 40245

Eddie Davis, 1324 South 43rd St, Louisville, KY 40211

Reverend Kevin Cosby, 47316 West Broadway, Louisville, KY 40210

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David Wilgus, 1408 NW K Street, Bentonville, Arkansas 72712

Toni Rodriguez, 321 Schoolside Drive, Brandenburg, KY 40108

Elizabeth Heiles, Carlson Consulting Engineers, 7068 Ledgestone Commons,
Bartlett, TN 38133

James Green, 749 South 43rd St., Louisville, KY 40211

Ron Thomas, 1139 South 4th St., Louisville, KY 40203

Summary of testimony of those in favor of the proposal:

03:36:54 John Gant, Director of Metro Economic Development, spoke in favor.

03:40:41 Deborah Bilitski, the applicant's representative, discussed the additions to the Waiver justification. She described in detail the three requested Waivers and described the changes/enhancements that have been made to the design.

03:58:06 Kevin Thompson, the Wal-Mart representative, discussed the plan.

03:59:35 Richard Wimsatt, representing the Brown Foreman Corporation, spoke in support.

04:02:25 DeVone Holt spoke in support.

04:06:47 Milton Seymore, representing the Justice Resource Center, spoke in support.

04:08:48 The Reverend Clay Calloway spoke in support.

04:11:13 The Reverend Eric French spoke in favor on behalf of Bates Memorial Church. He discussed the submitted petition and economic issues.

04:13:19 William Robinson was called but was not present.

04:13:33 Roy Streeter spoke in favor.

04:17:43 Kirk Bush spoke in favor.

04:18:39 Eddie Davis (Kentucky Alliance) spoke in favor.

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- 04:20:14 The Reverend Kevin Cosby spoke in support.
- 04:23:43 In response to a question from Commissioner Proffitt, Mr. Gant discussed the importance of the Land Development Code and the EZ-1 zoning category.
- 04:28:40 Commissioner Proffitt and Ms. Bilitski discussed the site design changes.
- 04:40:09 Commissioner Proffitt and Mr. Holt discussed waivers.
- 04:42:21 Commissioner Turner, Kevin Thompson and Elizabeth Heiles with Carlson Consulting Engineers discussed security issues and LED lighting in the parking lot.
- 04:47:05 In response to a question from Commissioner Jarboe, Mr. Thompson discussed the LDC waivers.
- 04:50:43 Ms. Heiles discussed utilities and infrastructure.
- 04:51:34 Stephen Porter cross-examined some of those in favor.

The following spoke in opposition to the proposal:

Steve Porter, 2406 Tucker Station Road, Louisville, KY 40299

Chanelle Helm, 2238 Farnsley Road, Louisville, KY 40216

Virginia Wilson, 1119 Windsor Drive, Jeffersonville, IN 47130

Cassia Herran, 335 East St. Catherine Street, Louisville, KY 40203

Cassandra Culin, 185 North Bellaire Avenue, Louisville, KY 40206 (signed in as "Other" but spoke against)

Jackie Green, 107 West Market Street, Louisville, KY 40202

Donovan Taylor, 1205 South 41st St., Louisville, KY 40211

Haven Harrington, 528 S. 10th St., Louisville, KY 40203

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John Owen, 620 North 28th St., Louisville, KY

Summary of testimony of those in opposition to the proposal:

04:56:09 Stephen Porter, representative for the opposition, presented the opposition's case and showed a Power Point presentation.

05:25:46 Virginia Wilson spoke against Wal-Mart.

05:28:11 Cassia Herran discussed urban planning and economic development.

05:31:30 Cassandra Culin spoke against the waiver requests (signed in as "Other" but spoke against.)

05:33:44 Jackie Green spoke in opposition.

05:36:54 Donovan Taylor expressed concerns, but stated that he supports the compromise idea as stated by Mr. Porter (moving the proposed outlots up to Broadway, in front of the Wal-Mart.)

05:42:45 Haven Harrington (sp) - President of the Russell Neighborhood Association.

05:46:46 John Owen - Portland Business Association.

Rebuttal:

06:09:28 Ms. Bilitski resumed the podium for rebuttal.

Deliberation:

06:13:37 Commissioners' deliberation

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

Waiver #1 - Waiver of section 5.5.1.A.3.a to allow a parking lot to be located in front of the building along W Broadway and Dixie Hwy.

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06:55:35 On a motion by Commissioner Turner, seconded by Commissioner Peterson, the following resolution was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the requested waiver of LDC Section 5.5.1.A.3.a. to allow the parking lot to be located in front of the proposed building on property bounded by W. Broadway on the north, Dr. J.W. Hodges Street (21st Street) on the west and Dixie Highway on the east will not adversely affect adjoining property owners because the subject property is zoned EZ-1 Enterprise Zone and is located in the Traditional Workplace Form District; and

WHEREAS, the Commission further finds that the subject property is surrounded by various commercial and industrial-zoned properties with varying setbacks and site designs. The former Philip Morris facility was designed with the building at the rear of the property and parking between the building and W. Broadway; the surrounding area consists of a variety of development patterns, including those with parking behind or beside buildings and those where parking is placed between the building and W. Broadway, with no predominant pattern; and the proposed redevelopment is consistent with the previous Philip Morris development pattern; and

WHEREAS, the Commission further finds the requested waiver will not violate the Comprehensive Plan because Traditional Workplaces allow a mixture of industrial, commercial and office uses. In order to encourage reinvestment, rehabilitation and redevelopment in Traditional Workplaces, the Comprehensive Plan encourages flexible and creative site design along with a respect for the traditional pattern of development in the surrounding area; the proposed development represents a significant investment in the redevelopment and rehabilitation of an older and declining neighborhood in a manner that is consistent with the Traditional Workplace Form District; the proposed development is consistent with the historical development pattern on the subject property, and is compatible with development in the surrounding area, which does not follow a predominant pattern; the subject property is adequately served by public transportation, incorporates sidewalks and walkways throughout the proposed development, and bicycle parking will be provided in accordance with the Land Development Code requirements and, therefore, the proposed development accommodates all modes of transportation; and the stormwater detention design is required to receive approval from MSD prior to construction of the proposed development, and an Erosion Prevention and Sediment Control Plan utilizing best management practices as recommended by MSD will be implemented prior to commencing construction of the development; and

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WHEREAS, the Commission further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant because the site is designed such that approximately 40% of the parking spaces is located to the side (behind the front façade) of the proposed structure; the proposed development maximizes parking that can feasibly be placed behind the front facade of the building facing W. Broadway considering the shape of the subject property, the location of the roads that lead into it and the shape and size of the proposed building; and the applicant has incorporated other design measures to compensate for noncompliance, including enhanced interior and perimeter landscaping, bioswales, and rain gardens throughout the development; and

WHEREAS, the Commission further finds that the strict application of the regulations would deprive the applicant of the reasonable use of the land and create an unnecessary hardship. Requiring all parking areas to be located to the side and rear of the building does not allow for adequate tractor-trailer maneuvering and delivery, and would create conflicts between delivery vehicles and customers. If the building were shifted toward Dixie Highway, the throat length of the entrance drive would be shortened, causing vehicles exiting the site to stack in front of the building, increasing the potential of conflicts between vehicles and pedestrians; and further, if the requested waiver is not granted, the applicant would be unable to reasonably develop the property in a manner consistent with surrounding properties; and

WHEREAS, the Commission further finds that, based on the evidence and testimony presented today, the applicant's presentation and the applicant's 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 of section 5.5.1.A.3.a to allow a parking lot to be located in front of the building along W Broadway and Dixie Hwy.

The vote was as follows:

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

NO: Commissioner Proffitt.

NOT PRESENT: Commissioner Butler.

ABSTAINING: No one.

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Waiver #2 - Waiver of section 5.5.1.A.1.b to waive the requirement to have a building entrance facing W Broadway and Dixie Hwy.

06:58:16 On a motion by Commissioner Turner, seconded by Commissioner Peterson, the following resolution was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the requested waiver of Section 5.5.1.A.1.b. to not provide a customer entrance facing Dixie Highway or a corner entrance will not adversely affect adjoining property owners because the subject property is located in a mixed commercial and industrial area along W. Broadway. The surrounding uses consist of a mixture of building types and sizes with varied setbacks and no consistent pattern of development. The building design will include two main entrances along the Broadway façade that will be glazed; a brick wall and ornamental metal fence will surround the garden center area, and raised planter boxes will also be incorporated into the front façade. The pharmacy drive-thru and loading dock are located along the Dixie Highway facing façade, therefore it is not feasible to incorporate an entrance along that façade; and the proposed entrances along the front of the building will provide for convenient access for customers and will have no negative impacts on surrounding properties; and

WHEREAS, the Commission further finds the requested waiver will not violate the Comprehensive Plan because Traditional Workplaces allow a mixture of industrial, commercial and office uses. In order to encourage reinvestment, rehabilitation and redevelopment in Traditional Workplaces, the Comprehensive Plan encourages flexible and creative site design along with a respect for the traditional pattern of development in the surrounding area; the proposed development represents a significant investment in the redevelopment and rehabilitation of an older and declining neighborhood in a manner that is consistent with the Traditional Workplace Form District; the proposed development is consistent with the historical development pattern on the subject property, and is compatible with development in the surrounding area, which does not follow a predominant pattern; the subject property is adequately served by public transportation, incorporates sidewalks and walkways throughout the proposed development, and bicycle parking will be provided in accordance with the Land Development Code requirements and, therefore, the proposed development accommodates all modes of transportation; and the stormwater detention design is required to receive approval from MSD prior to construction of the proposed development, and an Erosion Prevention and Sediment Control Plan utilizing best

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management practices as recommended by MSD will be implemented prior to commencing construction of the development; and

WHEREAS, the Commission further finds the requested waiver is the minimum necessary to afford relief to the applicant because the proposed development will significantly improve the overall aesthetics of the site, as well as pedestrian and vehicular access; Walmart has coordinated with Metro Transportation Planning to provide safe and efficient pedestrian access from all of the adjacent roadways to the building entrances, and transit stops and amenities will be incorporated in coordination with TARC; the strict application of the current zoning regulations would deprive the applicant of the reasonable use of the land and create an unnecessary hardship because providing an entrance along the Dixie Highway facade is not feasible due to the pharmacy drive-thru; and the proposed building entrances are located adjacent to the primary parking field to maximize customer safety, security, and accessibility; and

WHEREAS, the Commission further finds that, based on the evidence and testimony presented today, the applicant's presentation and the applicant's 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 of section 5.5.1.A.1.b to waive the requirement to have a building entrance facing W Broadway and Dixie Hwy.

The vote was as follows:

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

NO: Commissioner Proffitt.

NOT PRESENT: Commissioner Butler.

ABSTAINING: No one.

Waiver #3 - Waiver of section 5.6.1.C.1 to waive the requirement to have 50% of the wall surfaces at street-level consisting of clear windows and doors along W Broadway and Dixie Hwy.

06:59:19 On a motion by Commissioner White, seconded by Commissioner Tomes, the following resolution was adopted:

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WHEREAS, the Louisville Metro Planning Commission finds that the requested waiver of Section 5.6.1.C.1. of the Land Development Code to not provide 50% windows and doors at street level along the West Broadway and Dixie Highway facades will not adversely affect adjacent property owners because it will allow for the construction of a Walmart Supercenter to serve West Louisville with a high-quality building design that is compatible with buildings in the surrounding area. The building facades include a significant amount of red-blended Quik-Brik to complement buildings in the surrounding area, as well as additional variation in color and materials to create visual interest. The building design will include two main entrances along the Broadway façade that will be glazed; a brick wall and ornamental metal fence will surround the garden center area, and raised planter boxes will be incorporated into the Broadway-facing façade; extensive landscaping will be provided along the Broadway and Dixie Highway frontages in front of and to the east of the building, providing additional visual interest to the site; a significant amount of trees and landscape plantings will be provided along the Broadway frontage, as well as a row of end cap landscape islands along the northern end of the parking area. The pharmacy drive-thru and loading dock are located along the Dixie Highway-facing façade and a screen wall adjacent to the loading dock and enhanced landscaping will be provided along Dixie Highway to further break up the façade and buffer the view from that roadway; and

WHEREAS, the Commission further finds that the requested waiver will not violate the Comprehensive Plan because Traditional Workplaces allow a mixture of industrial, commercial and office uses. In order to encourage reinvestment, rehabilitation and redevelopment in Traditional Workplaces, the Comprehensive Plan encourages flexible and creative site design along with a respect for the traditional pattern of development in the surrounding area. The proposed development represents a significant investment in the redevelopment and rehabilitation of an older and declining neighborhood in a manner that is consistent with the Traditional Workplace Form District. The proposed development is consistent with the historical development pattern on the subject property, and is compatible with development in the surrounding area, which does not follow a predominant pattern. The subject property is adequately served by public transportation, incorporates sidewalks and walkways throughout the proposed development, and bicycle parking will be provided in accordance with the Land Development Code requirements, and therefore, the proposed development accommodates all modes of transportation; and the stormwater detention design is required to receive approval from MSD prior to construction of the proposed development, and an Erosion Prevention and Sediment Control Plan utilizing best management practices as recommended

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by MSD will be implemented prior to commencing construction of the development; and

WHEREAS, the Commission further finds that the requested waiver is the minimum necessary to afford relief to the applicant because compliance with this building design requirement is not possible due to ancillary tenants (*e.g.* food service) located inside the building along the front wall and internal merchandise layout; the exterior walls of the building are load bearing and cannot accommodate 50% windows and doors; the proposed building will contain two glass entry vestibule areas comprising approximately 10% of the front façade; and Walmart has designed the building to include glazing where appropriate and to include color variation to add visual interest to the façade; and

WHEREAS, the Commission further finds that the applicant has incorporated other design measures that exceed the minimums of the district and compensate for noncompliance with the requirement to be waived (net beneficial effect) because the proposed site design, building design, and landscape buffering will be a significant improvement over the existing site conditions. The building facades include a significant amount of red-blended Quik-Brik to complement buildings in the surrounding area, as well as additional variation in color and materials to create visual interest. A screen wall has been added at the loading dock and Quik-Brik has been extended to the face of the dock wall; a brick wall and ornamental fence will be provided around the lawn and garden center which wraps the northwest corner of the building. Currently there are no trees on the site and the proposed development will include planting approximately 165 new trees. The proposed development will result in a net reduction of approximately 71,514 square feet of impervious area; a new water-quality pond, a rain garden along Dixie Highway, and a bio-swale along the southern property line will help to manage and treat storm water runoff from the site; and the front building façade will include raised planter boxes, and enhanced landscaping will be provided along both the Broadway and, Dixie Highway frontages; and

WHEREAS, the Commission further finds that strict application of the requirement of the regulation would deprive the applicant of the reasonable use of the land and would create an unnecessary hardship on the applicant because it would prevent the applicant from using all of its interior space for merchandise, ancillary tenants, and other satellite functions (pharmacy, vision center, etc.), making the proposed building less efficient and raising the costs of the overall development; and

WHEREAS, the Commission further finds that, based on the evidence and testimony presented today, the applicant's presentation and the applicant's

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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 of section 5.6.1.C.1 to waive the requirement to have 50% of the wall surfaces at street-level consisting of clear windows and doors along W Broadway and Dixie Hwy.

The vote was as follows:

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

NO: Commissioner Proffitt.

NOT PRESENT: Commissioner Butler.

ABSTAINING: No one.

Revised Detailed District Development Plan and Amendment to Binding Elements

07:04:37 On a motion by Commissioner Turner, seconded by Commissioner White, the following resolution was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the revised detailed district development plan to construct a new 157,162 square foot retail building on property bounded by W. Broadway on the north, Dr. J.W. Hodges Street (21st Street) on the west and Dixie Highway on the east complies with the criteria for approval set forth in Section 11.4.7.E. of the Land Development Code because the subject property is not located within a floodplain, there are no slopes, streams, unstable soils, karst features, or historical or cultural resources on the property; an erosion prevention and sediment control plan will be implemented prior to construction utilizing best management practices as required by the Metropolitan Sewer District; the stormwater detention design is required to receive approval from MSD prior to construction of the proposed development; the proposed development will include planting approximately 165 new trees; and the proposed development will result in a net reduction of approximately 71,514 square feet of impervious area; and

WHEREAS, the Commission further finds that the development plan complies with all applicable Mobility requirements of the Land Development Code because the subject property is located at the intersection of two major arterial roadways, W. Broadway and Dr. W.J. Hodges Street, and a minor arterial, Dixie Highway

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and, therefore, the existing roadway infrastructure has adequate carrying capacity to handle traffic going to and from the development; the subject property is located on an existing major transit route; Walmart has coordinated with Metro Transportation Planning to provide safe and efficient pedestrian access from all of the adjacent roadways to the building entrances, including a 10-foot-wide uninterrupted walkway from W. Broadway to the front of the store; transit stops and amenities will be incorporated in coordination with TARC; and adequate parking spaces are provided on the subject property as required by the Land Development Code, including handicap accessible spaces as required by the ADA; accordingly, the proposal accommodates all modes of transportation, provides bicycle and pedestrian connections to surrounding properties, and is appropriately located for the proposed density and intensity; and

WHEREAS; the Commission further finds that, although there is no open space requirement for developments in the Traditional Workplace Form District, a large area in excess of one acre will be preserved as green space along the western side of the site, and will serve as a stormwater detention basin; and

WHEREAS, the Commission further finds that the proposed development is located on a site that will enable proper stormwater handling and release management that will not adversely affect adjacent and downstream properties; a new water quality pond, a rain garden along Dixie Highway, and a bio-swale along the southern property line will help to manage and treat storm water runoff from the site; the first 0.6" of rainfall will be captured and treated on-site through the use of these Green Management Practices; MSD has given preliminary approval of the proposed drainage facilities for the development; the final stormwater detention design is required to receive approval from MSD prior to construction of the proposed development, and will comply with MS4 water quality regulations and MSD's "Green Infrastructure Design Manual"; an Erosion Prevention and Sediment Control Plan utilizing best management practices as recommended by MSD will be implemented prior to commencing construction of the development; therefore, the proposed development ensures 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 proposed development is compatible in terms of the overall site design with the development in the surrounding area; the building facades include a significant amount of red-blended Quik-Brik to complement buildings in the surrounding area, as well as additional variation in color and materials to create visual interest; the building design will include two main entrances along the Broadway façade that will be

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glazed; a brick wall and ornamental metal fence will surround the garden center *area*, and raised planter boxes will be incorporated into the Broadway-facing façade; there will be extensive landscaping along the Broadway and Dixie Highway frontages in front and to the east of the building, providing additional visual interest to the site; a significant amount of trees and landscape plantings will be provided along the Broadway frontage, as well as a row of end cap landscape islands along the northern end of the parking area; the pharmacy drive-thru and loading dock are located along the Dixie Highway facing façade; and a screen wall adjacent to the loading dock an enhanced landscaping along Dixie Highway will further break up the façade and buffer view from that roadway; and

WHEREAS, the Planning Commission further finds that the revised development plan complies with the Cornerstone 2020 Comprehensive Plan because Traditional Workplaces allow a mixture of industrial, commercial and office uses. In order to encourage reinvestment, rehabilitation and redevelopment in Traditional Workplaces, the Comprehensive Plan encourages flexible and creative site design along with a respect for the traditional pattern of development in the surrounding area; the proposed development represents a significant investment in the redevelopment and rehabilitation of an older and declining neighborhood in a manner that is consistent with the Traditional Workplace Form District; the proposed development is consistent with the historical development pattern on the subject property, and is compatible with development in the surrounding *area*, which does not follow a predominant pattern; the subject property is adequately served by public transportation, incorporates sidewalks and walkways throughout the proposed development, and bicycle parking will be provided in accordance with the Land Development Code requirements *and*, therefore, the proposed development accommodates all modes of transportation; and the stormwater detention design is required to receive approval from MSD prior to construction of the proposed development, and an Erosion Prevention and Sediment Control Plan utilizing best management practices as recommended by MSD will be implemented prior to commencing construction of the development; and

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

Binding Elements

The following binding elements shall replace the existing binding elements of docket numbers 9-10-76 and 9-79-84 for the portions of the site proposed with

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this development. The existing binding elements of docket numbers 9-10-76 and 9-79-84 shall still be applicable to the portions of those sites that are not part of this development.

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
3. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
4. Before any permit (including but not limited to building, parking lot, change of use, site disturbance) 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 shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - d. A minor plat or legal instrument shall be recorded consolidating the property into one lot. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of the approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.

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- e. A street and/or alley closure approval for case 14STREETS1004 shall be approved by the Louisville Metro Council prior to requesting a building permit.
5. A certificate of occupancy must be received from the appropriate department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
6. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the December 18, 2014 Planning Commission meeting.
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. After the commencement of construction of the development, the applicant shall be required to contribute a proportionate share, not to exceed \$50,000 of the cost (excluding labor) of a traffic signal at the main entrance (also known as Anderson Street right-of-way) and Dixie Highway. The signal contribution shall be made within 30 days of request by the Director of Louisville Metro Public Works, which request shall not be made before construction commences on the subject property.
9. The applicant shall work with the staff of TARC and Planning and Design Services to finalize the locations of the TARC stops along the roadway frontages adjacent to the development site. No changes to the approved development plan shall be required to be made by the applicant as a result of the final TARC stop locations.

The vote was as follows:

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

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NO: Commissioner Proffitt.

NOT PRESENT: Commissioner Butler.

ABSTAINING: No one.

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STANDING COMMITTEE REPORTS

Land Development and Transportation Committee

No report given.

Legal Review Committee

No report given.

Planning Committee

No report given.

Policy and Procedures Committee


No report given


Site Inspection Committee

No report given.

ADJOURNMENT

The meeting adjourned at approximately 7:05 p.m.

vice 
Chairman


Division Director

