

**Planning Commission Minutes
April 21, 2016**

Public Hearing

Case No. 15ZONE1052

Request: Zoning map amendment from C-2 to EZ-1 on 0.867 acres; Waivers; Variances; and a Detailed District Development Plan for a 31,006 sf distillery

Project Name: Rabbit Hole Distilling

Location: 711 East Jefferson Street and 724 East Market Street

Owner/Applicant: Rabbit Hole Spirits, LLC
Kaveh Zamanian, Representative
1452 Cherokee Road
Louisville, KY 40204

Representatives: Ashley Brock
Luckett & Farley
737 South Third Street
Louisville, KY 40202

Jurisdiction: Louisville Metro

Council District: 4 – David Tandy

Case Manager: **Brian Davis, AICP, Planning Manager
Presented by Julia Williams, RLA, 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.)

An audio/visual recording of the Land Development and Transportation Committee meeting 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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Agency Testimony:

00:15:45 Julia Williams presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.) Ms. Williams noted changes to the staff report: the square footage should read "32,000" and the height variance is to allow 65 feet, not 45 feet.

The following spoke in favor of the proposal:

Phil Gambrell, Luckett & Farley, 737 South Third Street, Louisville, KY 40202

Rebecca Matheny, Louisville Downtown Partnership, 556 South Fourth Street, Louisville, KY 40202

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

Kaveh Zamanian, 1452 Cherokee Road, Louisville, KY 40204

Ashley Brock, Luckett & Farley, 737 South Third Street, Louisville, KY 40202

Douglas Pierson, 1159 East Hyde Park Boulevard, Inglewood, CA 90302

Summary of testimony of those in favor of the proposal:

00:25:14 Phil Gambrell, the applicant's representative, presented the applicant's case (see recording for detailed presentation.) He addressed the main issues from the technical review, including: the parking study, the loading dock, and pedestrian counts. He said that documentation has been submitted.

00:26:36 Rebecca Matheny, Executive Director of Louisville Downtown Partnership, spoke in support of the project.

00:27:14 John Gant, Director of Louisville Metro Economic Development, spoke in favor of the project.

00:28:36 Ashley Brock, Civil Engineer for the project, said she was available to answer questions.

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00:28:55 Douglas Pierson, the architect for the project, said he was available to answer questions.

00:29:46 Commissioner Brown and Ms. Williams discussed transportation issues, specifically regarding the loading dock area.

00:32:55 Ashley Brock responded to Commissioner Brown's concerns re. the loading area. Ms. Brock said there would be loading and unloading

00:38:19 Commissioner Brown proposed two additional binding elements, to read as follows:

- "No trucks shall be permitted to encroach into the public right-of-way."
- "No truck maneuvering to *back into* the loading dock shall occur between 7:00 a.m. and 9:00 a.m. or 4:00 p.m. and 6:00 p.m."

00:39:03 Commissioner Jarboe asked about the parking agreement, which had been brought up at LD&T. Ms. Brock said that had been resolved, and said that and the full parking study had been included in the Commissioners' packets. She explained about the parking agreement.

00:41:01 In response to a question from Commissioner Brown, Ms. Brock said there was no ROW dedication and said Brian Davis, the Case Manager, had confirmed that that would not be necessary.

The following spoke in opposition to the proposal:

No one spoke.

The following spoke neither for nor against the proposal ("Other"):

No one spoke.

Rebuttal:

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

Deliberation:

00:42:04 Commissioners' deliberation

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00:44:40 On a motion by Commissioner Brown, seconded by Commissioner Tomes, the following resolution was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the intents of **Guideline 1- Community Form**. The subject property is located in a Traditional Neighborhood Form District. The Traditional Neighborhood Form District "is designed to promote diversity and integration of uses and structures in an existing traditional neighborhood through flexible design standards that provide flexibility to meet changing needs, technologies, economics, and consumer preferences." LDC, Section 2.7.4(A)(2) (Dec 2009). The property is currently zoned commercially. The proposed use will continue the established neighborhood pattern of integrated redevelopment, including civic, commercial, and office uses that promote close-to-home work and service opportunities. The use and scale of the development will be appropriate for the adjacent commercial properties and the surrounding neighborhood; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 2 – Centers**. The proposed uses of the property are compatible with the surrounding commercial uses and are of equal intensity. The subject property is located within an existing commercial activity center. The proposed redevelopment will utilize existing utility and road infrastructures. The subject property is currently zoned commercial and will not create a commercial expansion into residential zones. The subject property will utilize existing commercial curb cuts, which promote vehicular and pedestrian safety. The proposed development will provide pedestrian access from Jefferson Street to the building's entrance. The proposed development will not significantly contribute to the existing vehicle air pollution being generated by the daily volume of traffic on Jefferson Street. Outdoor security lighting will be compliant with the Louisville Metro Land Development Code. The proposed building design is compatible with the buildings located on the surrounding uses. The entrance to the building will be on Jefferson Street and the south facade will reflect the use of that part of the building as executive offices and a cafe open to the public; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 3 – Compatibility**. The proposed development is compatible with the distinct site and community design elements of a traditional neighborhood. The proposed uses of the property constitute commercial infill development on a site that was formerly used as a tire and automotive business. The proposed uses of the property include a distillery, retail center, and office. There are scattered residences within a couple of blocks of the proposed development, mostly multi-family uses. There is adequate transition from commercial development to the residential uses, although the transition is less striking because of the urban

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environment. The mix of commercial, residential, manufacturing, retail, and office uses is prominent on Jefferson and Market Streets. The proposed development is consistent with that mix of uses. The proposed development will include all required building/pavement setbacks and landscape buffer areas. The height of the building and all structures on the property will be similar to adjacent properties. The storage of supplies and inventories, including any grain or mash bills, will be limited due to the size of the building and the property; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guidelines 4 - Open Space and Guideline 5 - Natural Areas and Scenic and Historic Resources**. The subject property exists currently as a paved lot surrounding a building and does not include any open space. There are no wetlands or highly permeable soils on the subject property. There are no natural features on the subject property. Although open space is not required of commercial uses in the Louisville Metro Land Development Code, the proposed development includes a reflecting pool, landscaping, and open space surrounding the south and east sides of the building; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 6- Economic Growth and Sustainability**. The subject property is located within 100 feet of a major intersection (Jefferson Street and Shelby Street). The subject property is located within an established commercial activity center and is currently commercially zoned, as are the adjacent properties. The proposed development will not require any additional commercial curb cuts and, therefore, will not create any further intrusions into the roadway system; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 7 – Circulation**. The proposed development will have little impact on the existing road system because it will utilize an existing curb cut on Jefferson Street, thereby requiring no additional disturbance on Jefferson Street. The proposed development will not significantly increase the traffic on Jefferson Street and will not increase the traffic on the larger road network because it replaces an existing commercial business. The proposed development will not require employees, invitees, or customers to travel a great distance from the main commercial intersections on the surrounding streets of Market Street, Clay Street, Jefferson Street, and Shelby Street. Therefore, the impact to surrounding residential areas will be minimal. Pedestrian connections and onsite parking will incorporate existing connections and will not impact the adjacent properties, in compliance with the Louisville Metro Land Development Code; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 8- Transportation Facility Design**. The proposed development

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includes adequate parking and right of way dedication as required along Jefferson Street. There is rear access to the property through Nanny Goat Strut. Vehicle and pedestrian access are available from either Jefferson Street or Clay Street via Nanny Goat Strut; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 9 - Bicycle, Pedestrian and Transit**. The proposed development includes sidewalks that connect to the existing sidewalks on Jefferson Street and will provide bicycle parking as required by the Louisville Metro Land Development Code; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 10- Flooding and Stormwater and Guideline 11- Water Quality**. The proposed development will include a stormwater drainage system approved by Louisville Metropolitan Sewer District. The subject site is not located within a floodplain. The proposed development will comply with on-site detention / infiltration basin requirements to accommodate stormwater from the building and parking areas. During construction, the proposed development will install the appropriate sediment and erosion control methods per MSD's Best Management Practices; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 12 -Air Quality**. The proposed development will comply with air pollution and dust mitigation measures as required by the Air Pollution Control Board; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 13 Landscape Character**. The surrounding properties are developed and there are no landscape or habitat corridors in the general area. The proposed development will comply with the landscape requirements of the Louisville Metro Land Development Code and will include plantings of trees and shrubbery and the construction of a reflecting pool. There are no existing trees located on the subject property, which currently consists of building and asphalt pavement; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 14 – Infrastructure**. The subject property is located near two intersections of major streets and will require no improvements to be made to the existing road system. There is adequate water, electric, and sewer infrastructure currently serving the subject site. Sanitary sewer capacity is available from Louisville MSD; and

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WHEREAS, the Commission further finds that, based on the evidence and testimony presented and the applicant's justification 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 Louisville Metro Council that the requested change in zoning from C-2 to EZ-1 on property located in the attached legal description be **APPROVED**.

The vote was as follows:

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

NO: No one.

NOT PRESENT: Commissioners White and Lewis.

ABSTAINING: No one.

- **Waiver #1: Waiver of Section 5.5.1.A.4.b. to allow front loading docks.**
- **Waiver #2: Waiver of Section 10.2.4.A to eliminate the required landscape buffer area between EZ-1 and adjoining C-2 zone properties.**
- **Variance #1: Variance from Section 5.2.2.C to allow the front yard setback to exceed zero (0) feet.**
- **Variance #2: Variance from Section 5.2.2.C to exceed the maximum building height.**
- **Variance #3: Variance from Section 5.2.2.C to allow the proposed plaza to encroach into the required 15 foot rear yard.**
- **Variance #4: Variance from Section 5.2.2.C to allow the existing structure to encroach into the required 10 foot side yard.**
- **Detailed District Development Plan and binding elements**

00:45:44 On a motion by Commissioner Brown, seconded by Commissioner Tomes, the following resolution was adopted:

(Waiver #1) WHEREAS, the Louisville Metro Planning Commission finds that there are currently six overhead doors on the existing loading dock. With the renovations this will be reduced to three overhead doors. The loading area is set back approximately 49 feet from the street right-of-way and will be partially shielded from traffic traveling west on Jefferson Street by a portion of the proposed addition; and

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WHEREAS, the Commission further finds that the applicant states “As an adaptive re-use of the existing docks we feel we are not straying from the current character of the neighborhood and furthermore developing the loading dock in conjunction with the Jefferson Street façade should create a cohesive entrance more in tune with the neighborhood than before.”; and

WHEREAS, the Commission further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant. The applicant wishes to only utilize the existing non-conforming docks , half of which are being removed; and

WHEREAS, the Commission further finds that relocating the loading dock to a different façade would require excessive site demolition and unnecessary additional construction. Also, the applicant is reducing the number of docks by 50 percent and redesigning the area to be an essential function of the distillery; and

(Waiver #2) WHEREAS, the Commission further finds that the development is within a well-established block within an urban area with buildings built at or near the property line on all sides; and

WHEREAS, the Commission further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant. Requiring the buffer would require significant demolition and construction on a portion of the site and possibly interrupt the flow between properties on other portions of the tract; and

WHEREAS, the Commission further finds that the applicant states “Were we to comply with the requirements of the code, the landscape buffer would cut off access to parking for the adjacent property. We have incorporated the landscape buffer into the parking lot design in a location that does not break up the parking lot. We have also created a larger landscaped area than required.”; and

(Variance #1) WHEREAS, the Commission further finds that the requested variance will not adversely affect the public health, safety or welfare. The applicant states “Improvements to existing buildings and construction of new buildings will create an “Entrance” presence not currently existing in the warehouse space. Landscaping and walkways will create green areas where storm water runoff can be reduced, will add to the character of the Traditional Neighborhood and will draw visitors in toward the entry point of the building. All

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of these elements are designed to integrate with the neighborhood and will not adversely affect the health, safety and welfare.”; and

WHEREAS, the Commission further finds that the existing structure does not meet the setback requirement as defined in Section 5.2.2.C. While the renovation will further pull the building off Jefferson Street, the proposed structure will be of a scale that will be in keeping with the character of the area and maintain its visual connection to Jefferson Street. The applicant states “In keeping with the ‘eclectic feel’ of the NuLu neighborhood, and by taking cues from the neighborhood Streetscape project, we consider our project in keeping with the essential character of the general vicinity.”

WHEREAS, the Commission further finds that the applicant states “The Front Entrance feel of the project draws the visitor inward through indoor/outdoor type spaces that maintain a connectivity between the neighborhood and the inside of the project. It does so in an inviting, respectful and fully accessible way that does not cause a hazard or a nuisance to the public; and

WHEREAS, the Commission further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations. The applicant states “The site includes an existing non-conforming 49 foot deep loading dock. Using sustainable practices, the design of the new project strives to visually improve and integrate the loading dock through façade and canopy development, while reducing the number of truck berths from 6 to 3. Given that the existing loading dock does not conform to front yard setbacks, we believe than existing non-conforming condition can be sustainably re-used for the new development without the allowance of an unreasonable circumvention of the requirements of the zoning regulations.”; and

WHEREAS, the Commission further finds that the requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone. The applicant states “Within 3 blocks of the property, there are several prevailing conditions where the front façade is set back from the property line.”; and

WHEREAS, the Commission further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant. The applicant states “We would like to create a collection area for patrons in front of the entrance to prevent people collecting on the sidewalk. We would consider this a reasonable use of the land. We are not recessing the façade very far and are providing multiple elements that engage the street; and

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WHEREAS, the Commission further finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought; and

(Variance #2) WHEREAS, the Commission further finds that the building height will not affect public health, safety or welfare; and

WHEREAS, the Commission further finds that the requested variance will not alter the essential character of the general vicinity. The applicant states "The high point of the building will be located toward the center of the property. The scale, use and character of the street frontage will remain consistent with the Traditional Neighborhood."; and

WHEREAS, the Commission further finds that the requested variance will not cause a hazard or nuisance to the public. The applicant states "Because the high point will be located towards the center of the property, this will have a minimum impact to loss of light, excessive shadows or blocking views for adjacent properties."; and

WHEREAS, the Commission further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations. The applicant states "The distilling equipment requires a certain height, projected at 60 feet, which exceeds the maximum allowable. We believe this equipment is essential to the distilling process, our request is not unreasonable. We have also found non-conforming precedents in the area."; and

WHEREAS, the Commission further finds that the applicant states "The need for a variance arises from the height of some of the required equipment for the distilling process. These pieces are taller than allowable by zoning."; and

WHEREAS, the Commission further finds that the strict application of the regulation would prevent the operation from operating functionally as a distillery; and

WHEREAS, the Commission further finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought; and

(Variance #3) WHEREAS, the Commission further finds that the requested variance will not adversely affect the public health, safety or welfare. The applicant states "The current rear yard setback is existing and because we are

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incorporating sustainable practices such as adaptive re-use we feel we are improving upon public health, safety and welfare.”; and

WHEREAS, the Commission further finds that the requested variance will not alter the essential character of the general vicinity. The applicant states “The current rear yard setback is existing and we have improved on this by a 50 percent reduction of the existing rear exterior wall. We do not feel this will alter the character because most of the surrounding properties are zoned Commercial which this setback is in compliance with.”; and

WHEREAS, the Commission further finds that the applicant states “The current rear yard setback is existing and current not a hazard to the public. The use of the non-conforming building will not change in a way that would create a hazard or nuisance to the public.”; and

WHEREAS, the Commission further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations. The applicant states “The variance is to maintain the existing conditions, that we are reducing by 50 percent, which we do not believe in an unreasonable circumvention of the requirements of the regulations.”; and

WHEREAS, the Commission further finds that the applicant states “The need for a variance arose from the application for a zoning change from C-2 to EZ-1 which has stricter setback requirements. The desired Adaptive Re-Use of the existing warehouse would require a variance.”; and

WHEREAS, the Commission further finds that the applicant states “The strict application of the provisions would deprive the sustainable practice of adaptive re-use of the existing warehouse.”; and

WHEREAS, the Commission further finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought; and

(Variance #4) WHEREAS, the Commission further finds that the side yard setback is an existing condition that the applicant is proposing to maintain and will not affect the public health, safety or welfare of the neighborhood; and

WHEREAS, the Commission further finds that the requested variance will not alter the essential character of the general vicinity. The building’s existing side yard setback along the western property line is allowed under the current C-2

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zoning. The 10 foot side yard is a result of the proposed zoning change to EZ-1; and

WHEREAS, the Commission further finds that the existing side yard setback does not cause a hazard or nuisance to the public. Simply changing the zoning and therefore the required setback does not change this situation; and

WHEREAS, the Commission further finds that the variance is not an unreasonable circumvention of the zoning regulations given it is an existing condition that is allowed in the current zoning district. Asking the applicant to come into compliance would require significant costs that would be an unreasonable request; and

WHEREAS, the Commission further finds that the setback is an existing condition and the change is only because of the requested rezoning; and

WHEREAS, the Commission further finds that strict application would place a significant financial burden on the applicant in terms of demolition of the existing structure, construction costs and design costs; and

WHEREAS, the Commission further finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought; and

Detailed District Development Plan and Binding Elements:

WHEREAS, the Commission further finds that there are no existing natural resources on the site; and

WHEREAS, the Commission further finds that no additional vehicular or pedestrian facilities are proposed. The applicant will be utilizing existing curb cuts on Jefferson Street. There is an existing sidewalk along the property frontage; and

WHEREAS, the Commission further finds that there are no open space requirements on the site; and

WHEREAS, the Commission further finds that the applicant is working with MSD to handle stormwater runoff from the site; and

WHEREAS, the Commission further finds that the development is in character with the vision for the NULU area. The site has been designed to spark interest

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and draw people into the site. The proposed architecture of the new building is in keeping with the eclectic style of the NULU area while still respecting the Traditional Neighborhood Form District; and

WHEREAS, the Commission further finds that, based on the evidence and testimony presented, the applicant's justification, and the staff report 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.4.b. to allow front loading docks; Waiver of Section 10.2.4.A to eliminate the required landscape buffer area between EZ-1 and adjoining C-2 zone properties; Variance from Section 5.2.2.C to allow the front yard setback to exceed zero (0) feet; Variance from Section 5.2.2.C to exceed the maximum building height; Variance from Section 5.2.2.C to allow the proposed plaza to encroach into the required 15 foot rear yard; Variance from Section 5.2.2.C to allow the existing structure to encroach into the required 10 foot side yard; and the Detailed District Development Plan, **SUBJECT** to the following binding elements:

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Development Code, Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Development Code and 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 **32,000 square feet** of gross floor area on the area to be rezoned.
3. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
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 Construction Review, Transportation Planning Review and the Metropolitan Sewer District.

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- b. Encroachment permits must be obtained from the Louisville Metro Public Works.
5. If a certificate of occupancy is not issued within two years of the date of approval of the plan or rezoning, whichever is later, the property shall not be used in any manner unless a revised district development plan is approved or an extension is granted by the Planning Commission.
6. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
7. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system (audible beyond the property line or permitted on the site).
8. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
9. A legal instrument providing for the long-term use of the (off-site parking spaces or joint-use parking spaces), as shown on the approved general district development plan and in accordance with (Section 9.1.5 Off-Site Parking or Section 9.1.6 Joint Use Parking), shall be submitted and approved by the Planning Commission legal counsel and recorded in the County Clerk's office. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
10. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the April 21, 2016 Planning Commission meeting.

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11. No idling of trucks shall take place within 200 feet of residences. No overnight idling of trucks shall be permitted on-site.
12. A legal instrument providing for the long-term use of the off-site parking spaces and joint-use parking spaces, as shown on the approved district development plan, discussed in the parking study submitted for review at the April 21, 2016 Planning Commission public hearing, and in accordance with Section 9.1.5 Off-Site Parking and Section 9.1.6 Joint Use Parking, shall be submitted and approved by the Planning Commission legal counsel and recorded in the County Clerk's office. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
13. No trucks shall be permitted to encroach into the public right-of-way.
14. No truck maneuvering to *back into* the loading dock shall occur between the hours of 7:00 a.m. and 9:00 a.m. or 4:00 p.m. and 6:00 p.m.

The vote was as follows:

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

NO: No one.

NOT PRESENT: Commissioners White and Lewis.

ABSTAINING: No one.