

**MINUTES OF THE MEETING  
OF THE  
LOUISVILLE METRO PLANNING COMMISSION MEETING  
November 1, 2018**

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

**Commissioners present:**

Vince Jarboe, Chair  
Lula Howard  
Robert Peterson  
Rich Carlson  
Donald Robinson  
David Tomes  
Ruth Daniels

**Commissioners absent:**

Marilyn Lewis, Vice Chair  
Emma Smith  
Jeff Brown

**Staff members present:**

Emily Liu, Director, Planning & Design Services  
Julia Williams, Planning Supervisor  
Brian Davis, Planning & Design Manager  
Jay Lockett, Planner I  
Joel Dock, Planner II  
Lacey Gabbard, Planner I

Beth Stuber, Transportation Planning  
Tony Kelly, MSD  
John Carroll, Legal Counsel  
Travis Fiechter, Legal Counsel  
Chris Cestaro, Management Assistant

The following matters were considered:

**PLANNING COMMISSION MINUTES**  
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**APPROVAL OF MINUTES**

- **Approval of the Minutes for the October 9, 2018 Planning Commission night hearing.**

**00:05:15** On a motion by Commissioner Carlson, seconded by Commissioner Tomes, the following resolution was adopted:

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** the minutes of the meeting conducted on October 9, 2018 at 6:30 p.m.

**The vote was as follows:**

**YES: Commissioners Tomes, Daniels, Howard, Carlson, and Jarboe.**

**NOT PRESENT: Commissioners Lewis, Smith, and Brown.**

**ABSTAINING: Commissioners Peterson and Robinson.**

- **Approval of the Minutes for the October 15, 2018 Planning Commission night hearing.**

**00:06:33** On a motion by Commissioner Carlson, seconded by Commissioner Tomes, the following resolution was adopted:

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** the minutes of the meeting conducted on October 15, 2018 at 6:30 p.m.

**The vote was as follows:**

**YES: Commissioners Peterson, Robinson, Tomes, Daniels, Howard, Carlson, and Jarboe.**

**NOT PRESENT: Commissioners Lewis, Smith and Brown.**

- **Approval of the Minutes for the October 18, 2018 Planning Commission public hearing.**

**01:41:25** Joel Dock, Planner II, read some changes to the minutes into the record for Case No. 18ZONE1014. The changes were made part of the official record.

**01:42:56** On a motion by Commissioner Carlson, seconded by Commissioner Robinson, the following resolution was adopted:

**PLANNING COMMISSION MINUTES**  
**November 1, 2018**

**APPROVAL OF MINUTES**

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** the minutes of the Planning Commission public hearing conducted on October 18, 2018 at 1:00 p.m. with changes as noted.

**The vote was as follows:**

**YES: Commissioners Peterson, Robinson, Tomes, Daniels, Howard, Carlson, and Jarboe.**

**NOT PRESENT: Commissioners Lewis, Smith, and Brown.**

**PLANNING COMMISSION MINUTES**  
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**BUSINESS SESSION**

**CASE NO. 17ZONE1054**

Request: Correction of the Record regarding Front Yard Variance  
Project Name: Advanced ENT  
Location: 2944 Breckinridge Lane  
Owner: Advanced ENT Holdings of St. Matthews, LLC  
Applicant: Advanced ENT Holdings of St. Matthews, LLC  
Representative: Land Design & Development  
Jurisdiction: Louisville Metro  
Council District: 26 – Brent Ackerson

**Case Manager: Brian Davis, AICP, Planning & Design Manager**

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

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

**Agency Testimony:**

00:07:34 Brian Davis used the site plan to present the case and explained the request (see staff report and recording for detailed presentation.) He showed a Power Point presentation with renderings. He said the required Commissioners' action is to approve or deny the correction to the Variance which was granted.

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

No one spoke.

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

No one spoke.

**Deliberation:**

00:11:05 Commissioners' deliberation.

**PLANNING COMMISSION MINUTES**  
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**BUSINESS SESSION**

**CASE NO. 17ZONE1054**

**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.**

00:11:40:00            On a motion by Commissioner Howard, seconded by Commissioner Tomes, the following resolution, based on evidence and testimony heard today, was adopted:

**RESOLVED**, the Louisville Metro Planning Commission does hereby **APROVE** the requested correction as noted by staff.

**The vote was as follows:**

**YES: Commissioners Peterson, Robinson, Tomes, Daniels, Howard, Carlson, and Jarboe.**

**NOT PRESENT: Commissioners Lewis, Smith and Brown.**

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**PUBLIC HEARING**

**CASE NO. 18ZONE1033**

Request: ***Request to set a night hearing date*** - Change in zoning from R-4 to PRD with a variance, waiver, and District Development Plan with binding elements

Project Name: Meadows Pointe

Location: 14706/14714 Old Henry Road

Owner: Meadows Pointe, LLC

Applicant: Meadows Pointe, LLC

Representative: Nick Pregliasco, Bardenwerper Talbott & Roberts PLLC  
Chris Brown, BTM Engineering

Jurisdiction: Louisville Metro

Council District: 17 – Glen Stuckel

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

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

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

**Agency Testimony:**

00:12:46 Brian Davis presented the request on behalf of Julia Williams (see recording for detailed presentation.) The East Government Center has been reserved for Tuesday, November 27, 2018 at 6:30 p.m.

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

No one spoke.

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

No one spoke.

**Deliberation:**

00:13:43 Commissioners' deliberation

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**PUBLIC HEARING**

**CASE NO. 18ZONE1033**

**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.**

00:14:03 On a motion by Commissioner Howard, seconded by Commissioner Peterson, the following resolution, based on evidence and testimony heard today, was adopted:

**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE** the requested night hearing date for Case No. 18ZONE1033, to be held on **Tuesday, November 27, 2018 at the East Government Center at 6:30 p.m.**

**The vote was as follows:**

**YES: Commissioners Peterson, Robinson, Tomes, Daniels, Howard, Carlson, and Jarboe.**

**NOT PRESENT: Commissioners Lewis, Smith, and Brown.**

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**PUBLIC HEARING**

**CASE NO. 18DEVPLAN1165**

Request:	Revised District Development Plan with Waivers and Variances
Project Name:	Churchill Downs Barn
Location:	3750 Oakdale Avenue
Owner:	Louisville/Jefferson County Metro Government
Applicant:	Churchill Downs, Inc.
Representative:	Qk4
Jurisdiction:	Louisville Metro
Council District:	15 – Marianne Butler

**Case Manager:** **Lacey Gabbard, Planner I**

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

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

**Agency Testimony:**

00:15:00 Lacey Gabbard presented an overview of the case (see staff report and recording for detailed presentation.) She noted that her staff report was published on Friday; on Monday, she received a revised plan. Therefore, **Waiver #5 in the staff report is no longer being requested**. She showed and explained the new plan. The applicant is proposing to construct a barn and an administrative building on the site.

00:19:21 In response to a question from Commissioner Howard, Ms. Gabbard explained where sidewalks are on Fourth Street (Oakdale has them but Fourth Street does not have them in front of the site.)

00:20:10 In response to a question from Commissioner Carlson, Ms. Gabbard said part of today's request is to replace all of the old binding elements with new, proposed binding elements (see staff report.) Brian Davis, Planning & Design Manager, explained that any binding elements that are placed on a plan, whether by the Planning Commission or by a legislative body, will come before the Planning Commission first if they are being amended. The legislative body has the authority to request that this go before the full Metro Council, if there are any concerns about the changes. Mr. Davis said the Metro Council will be notified that there are proposed changes to binding elements for this site; if Metro Council wants to review it, they can, if not, then the Planning Commission's decision today will stand as the final say.



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

Ashley Bartley, Qk4, 1046 East Chestnut Street, Louisville, KY 40204

**Summary of testimony of those in support:**

00:23:24 Ashley Bartley, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.) She stated that Churchill Downs is doing some master planning on a larger triangle of parcels between Fourth Street and Oakdale, which would include closing a portion of Fourth Street. They believe this plan justifies the sidewalk waiver request.

00:33:00 In response to a question from Commissioner Carlson, Ms. Bartley said the size of the proposed facility is 4,000 square foot office facility, NOT 10,000 square feet. She and Commissioner Carlson discussed parking numbers and areas. She showed a revised plan to the Commissioners. Parking will now occur on-site, with 18 parking spaces.

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

No one spoke.

**Deliberation:**

00:33:45 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 Land Development Code section 5.9.2.A.1.b.i to not provide sidewalk connections on South 4th Street**

00:37:22 A motion was made by Commissioner Carlson to deny Waiver #1. The motion failed for lack of a second.

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**00:38:15** On a motion by Commissioner Tomes, seconded by Commissioner Peterson, the following resolution, based on evidence and testimony heard today, was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that the denial of the waiver would adversely affect the applicant's use of the property; now, therefore be it

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** the requested Waiver of Land Development Code section 5.9.2.A.1.b.i to not provide sidewalk connections on South 4th Street.

The vote was as follows:

**YES: Commissioners Peterson, Robinson, Tomes, Daniels, Howard, and Jarboe.**

**NO: Commissioner Carlson.**

**NOT PRESENT: Commissioners Lewis, Smith, and Brown.**

- Waiver #2 – waiver of Land Development Code section 5.5.1.A.3.b to not provide vehicular and parking access to the alley on the south side of the site.
- Waiver #3 - waiver of Section 10.2.10 to allow the refuse disposal container to be located in the required 5 foot LBA.
- Waiver #4 - waiver of Section 5.5.1.A.3.a to not provide a 3 foot masonry, stone or concrete wall around the perimeter of the parking lot facing Oakdale Terrace.

**00:40:24** On a motion by Commissioner Peterson, seconded by Commissioner Tomes, the following resolution, based on Staff Analysis and Standard of Review, evidence and testimony heard today, was adopted:

**(Waiver #2) WHEREAS**, the Louisville Metro Planning Commission finds that the waiver will not adversely affect adjacent property owners, as this is an administrative building and barn to be used by Churchill Downs employees and not open to the public, and adequate ingress and egress to the site and parking area will be provided via Oakdale Terrace, Oakdale Avenue, and South 4th Street; and

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**WHEREAS**, the Commission further finds that the waiver will not violate specific guidelines of Cornerstone 2020. Guideline 2, Policy 13 encourages adjacent development sites to share entrance and parking facilities in order to reduce the number of curb cuts and the amount of surface parking. Guideline 7, Policy 16 calls for the promotion of joint access and circulation systems for development sites comprised of more than one building site or lot. The purpose of the requirements to be waived are to allow similar, compatible non-residential and multi-family uses to access adjacent sites without use of the main road to reduce curb cuts, the amount of surface parking, and traffic on the main thoroughfare; 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, as this site will not be used by the public and will still provide adequate ingress and egress via streets other than the alley. Additionally, the alley is adjacent to residential property which is not a similar use; and

**WHEREAS**, the Commission further finds that the applicant has incorporated other design measures that exceed the minimums of the district by providing site access in both the front and back of the lot on Oakdale Avenue and South 4th Street; and

**(Waiver #3) WHEREAS**, the Commission further finds that the waiver will not adversely affect adjacent property owners, as the dumpster faces Churchill Downs to the west and vacant properties to the north, and will be adequately screened per LDC requirements; and

**WHEREAS**, the Commission further finds that the waiver will not violate specific guidelines of Cornerstone 2020. Guideline 3, Policy 9 of Cornerstone 2020 calls for protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigation when appropriate. Guideline 13, Policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas; 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, as this site will be minimally visible to the public; 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 would create an unnecessary hardship on the applicant because the side of this site where the refuse disposal container is located is not overly visible to nearby properties; and

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**(Waiver #4) WHEREAS**, the Commission further finds that the waiver will not adversely affect adjacent property owners, as the parking lot faces Oakdale Terrace and the barn which will be used primarily by Churchill Downs employees; and

**WHEREAS**, the Commission further finds that the waiver will not violate specific guidelines of Cornerstone 2020. Guideline 2, Policy 15 encourages the design, quantity and location of parking in activity centers to balance safety, traffic, transit, pedestrian, environmental and aesthetic considerations. This waiver does not violate the guidelines of Cornerstone 2020 because Oakdale Terrace is interior to the site and between similar uses; and

**WHEREAS**, the Commission further finds that the extent of the waiver of the regulation is not the minimum necessary to afford relief to the applicant, as this site will be visible to the public along South 4th Street and Oakdale Terrace; and

**WHEREAS**, the Commission further finds that the applicant has not incorporated other design measures that exceed the minimums of the district, nor would the strict application of the provisions of the regulation deprive the applicant of the reasonable use of the land or create and unnecessary hardship on the applicant; now, therefore be it

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** the following requested waivers:

A waiver of Land Development Code section 5.5.1.A.3.b to not provide vehicular and parking access to the alley on the south side of the site; a waiver of Section 10.2.10 to allow the refuse disposal container to be located in the required 5 foot LBA; and a waiver of Section 5.5.1.A.3.a to not provide a 3 foot masonry, stone or concrete wall around the perimeter of the parking lot facing Oakdale Terrace.

**The vote was as follows:**

**YES: Commissioners Peterson, Robinson, Tomes, Daniels, Howard, Carlson, and Jarboe.**

**NOT PRESENT: Commissioners Lewis, Smith, and Brown.**

**Revised District Development Plan and Binding Elements**

00:41:49 On a motion by Commissioner Peterson, seconded by Commissioner Robinson, the following resolution, based on Staff Analysis and Standard of Review and evidence and testimony heard today, was adopted:

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**WHEREAS**, the Louisville Metro Planning Commission finds that there do not appear to be any environmental constraints on the subject site. Tree canopy requirements of the Land Development Code will be provided on the subject site. The church structure which was part of the plan certain case has been demolished; and

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

**WHEREAS**, the Commission further finds that there are no open space requirements pertinent to the current proposal; and

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

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

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

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** the requested Revised 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. If the proposed use changes, the applicant must come back to the Planning Commission and show their detailed plan for that use.

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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, or demolition permit) is requested.
  - a. The development plan must receive full construction approval from Louisville Metro Public Works and the Metropolitan Sewer District.
  - b. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
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.

**The vote was as follows:**

**YES: Commissioners Peterson, Robinson, Tomes, Daniels, Howard, Carlson, and Jarboe.**

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**NOT PRESENT: Commissioners Lewis, Smith, and Brown.**





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**PUBLIC HEARING**

**CASE NO. 18SUBDIV1013**

00:54:40 He said concerns were raised at the neighborhood meeting about having three accesses to the subdivision. He showed the current proposed plan with the center proposed access point removed. He addressed other issues which were raised , including a barn that is built over the property line; reaching an agreement about providing sewer service to the property (the applicant has two proposed sewer connections to the site); and the owners of a property to the south (being used as a plumbing company) who want the applicant to put up a fence along the property line (mostly for security reasons.)

01:04:02 Commissioner Carlson asked about Table Two of the traffic study and how it relates to the applicant's proposed road improvements. Diane Zimmerman, the traffic engineer, discussed the specifics of the study (see recording.) She provided clarification regarding the traffic study and the proposed mitigation.

01:07:06 In response to a question from Commissioner Carlson, David Mindel discussed sewers and drainage.

01:08:37 Commissioner Howard asked about the greenspace along the frontage of Cedar Creek Road – what about the back yards facing Cedar Creek Road? Kathy Linares, an applicant's representative, discussed open space, greenspace, landscaping and buffering.

01:10:32 Mr. Pregliasco elaborated about the appearance of yards and greenspace along Cedar Creek Road.

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

Stephen McCallister, 500 West Jefferson Street Suite 2000, Louisville, KY 40202

**Summary of testimony of those in opposition:**

01:11:10 Stephen McCallister, representing the opposition, said he was speaking on behalf of Senninger Farms LLC. They own the adjoining property where the barn issue has been raised. He introduced a letter into the record which details the oppositions' concerns (on file.) Concerns include: the initial application is not completed; the survey is not completed; drainage issues; sewer lines are insufficient. He said the opposition has had their own engineers meet with MSD and discuss the location of a pump station and how that could affect future development (see recording for detailed presentation.)

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01:15:39 Tony Kelly, representing MSD, said about 5 days ago, MSD spoke with another engineering firm in town. He assumes it is the engineering firm referenced by Mr. McCallister. MSD and the engineering firm looked at the preliminary plan, contours, and easement location. He said he thought the engineering firm left that meeting “perfectly comfortable” with where MSD stood as far as being able to serve that property. See recording for Mr. Kelly’s clarification and the following discussion between him and Commissioner Jarboe. Commissioner Tomes asked if this is a gravity sewer or a forced main. Mr. Kelly said it is strictly gravity. Mr. Kelly elaborated on the sewer main sizing and construction.

01:19:32 Commissioner Jarboe asked Mr. McAllister why his client hasn't done a property survey. Mr. McAllister said that, if the applicant wants to build something, it is the applicant's responsibility to do a survey.

01:21:10 In response to a question from Commissioner Peterson, Mr. McCallister said the barn was built long before the property was divided.

01:21:57 In response to a question from Commissioner Howard, Mr. Lockett said the subdivision was done by deed, not minor plat.

01:22:51 In response to a question from Commissioner Robinson, Mr. McCallister said the barn is still in use.

**Rebuttal:**

01:23:02 Mr. Pregliasco said the applicant is performing an expedited survey now. The barn issue will be worked out before the time of closing. He addressed the MSD / sanitary sewer issue and said most of this will be addressed during the construction phase – MSD tells the builder what to put in the ground. He addressed buffering – the property to the south is commercial, and the proposal is a less-intense use.

01:27:23 Commissioner Jarboe asked about new tree plantings, and how many trees will be retained. Kathy Linares discussed tree preservation, and other trees that will not be saved. David Mindel added that there is are tree canopy requirements. The applicant is meeting the buffer requirement, and new homeowners will want to plant on their property. There will likely be more trees on the property than there are currently, since the property is currently farmland.

01:28:52 Commissioner Jarboe asked Mr. Pregliasco if there is sufficient demand for over 266 new homes, especially in light of the fact that nearby subdivisions still have multiple open lots that have not been sold. Mr. Pregliasco discussed the market activity

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in this area. Mr. Mindel discussed some of the subdivision projects he has been working on in this area.

**Deliberation:**

01:30:56 Commissioners' deliberation.

01:34:45 Emily Liu, Director of Planning & Design Services, said that a traffic issue has still not been resolved. Beth Stuber, of Metro Transportation Planning, read an additional Condition of Approval into the record, to read as follows:

The developer shall work with the State of Kentucky and Louisville Metro Transportation to determine the best mitigation for the intersection of Mount Washington Road and Cedar Creek Road, and to have that mitigation shown as part of the construction plans.

01:35:30 Mr. Pregliasco said KTC has suggested two mitigation options, which he described. See recording for his detailed discussion. Ms. Stuber said she would like to have a resolution from KTC before the build-out.

01:37:37 Mr. Pregliasco asked Ms. Stuber if what she meant was that, by the completion of the construction plans, or the approval of the construction plans, the applicant would have the resolution determined whether it's going to be the three-way stop or the left-turn lane being added, but it wouldn't have to be competed at that point. Ms. Stuber said that is correct.

**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.**

**Major Preliminary Subdivision (Conservation Subdivision) to create 267 buildable lots on approximately 79.19 acres.**

**01:39:19** On a motion by Commissioner Peterson, seconded by Commissioner Carlson, the following resolution, based on Staff Findings and evidence and testimony heard today, was adopted:

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**CASE NO. 18SUBDIV1013**

**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Major Preliminary Subdivision (Conservation Subdivision) to create 267 buildable lots on approximately 79.19 acres, **SUBJECT** to the following Conditions of Approval:

1. The development shall be in accordance with the approved Residential Development Preliminary Plan. No further subdivision of the land into a greater number of lots than originally approved will occur without approval of the Planning Commission.
2. The applicant shall submit a plan for approval by Planning Commission staff showing trees/tree masses to be preserved prior to beginning any construction procedure (i.e. clearing, grading, demolition). Adjustments to the tree preservation plan which are requested by the applicant may be approved by Planning Commission staff if the revisions are in keeping with the intent of the approved tree preservation plan. The plan shall exhibit the following information:
  - a. Proposed site plan (showing buildings, edges of pavement, property/lot lines, easements, existing topography, and other significant site features (LOJIC topographic information is acceptable).
  - b. Preliminary drainage considerations (retention/detention, ditches/large swales, etc.).
  - c. Location of all existing trees/tree masses existing on the site as shown by aerial photo or LOJIC maps.
  - d. Location of construction fencing for each tree/tree mass designated to be preserved.
3. An original stamped copy of the approved Tree Preservation Plan shall be present on site during all clearing, grading, and construction activity and shall be made available to any DPDS inspector or enforcement officer upon request.
4. A note shall be placed on the preliminary plan, construction plan and the record plat that states, "Construction fencing shall be erected prior to any grading or construction activities - preventing compaction of root systems of trees to be preserved. The fencing shall enclose the area beneath the dripline of the tree canopy and shall remain in place until all construction is completed. No parking, material storage, or construction activities shall be permitted within the fenced area."

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

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11. Prior to the recording of the record plat, copies of the recorded documents listed below shall be filed with the Planning Commission.
  1. Articles of Incorporation in a form approved by Counsel for the Planning Commission and the Certificate of Incorporation of the Homeowners Association.
  2. A deed of restriction in a form approved by counsel of the Commission outlining responsibilities for the maintenance of open space.
  3. Bylaws of the Homeowners' Association in a form approved by Counsel for the Planning Commission.
12. At the time the developer turns control of the homeowners association over to the homeowners, the developer shall provide sufficient funds to ensure there is no less than \$3,000 cash in the homeowners association account. The subdivision performance bond may be required by the planning Commission to fulfill this funding requirement.
13. The signature entrance shall be submitted to the Planning Commission staff for review and approval prior to recording the record plat.
14. When limits of disturbance are shown on the plan, a note shall be placed on the preliminary plan, construction plan and the record plat that states, "Construction fencing shall be erected at the edge of the limits of disturbance area, prior to any grading or construction activities. The fencing shall remain in place until all construction is completed. No parking, material storage, or construction activities shall be permitted within the fenced area."
15. A deed restriction in a form approved by Counsel to the Planning Commission shall permanently prohibit further subdivision or development of conservations areas.
16. The applicant shall submit a Conservation Area Management Plan detailing the entities responsible for maintaining various elements of the property, and describing management objectives and techniques for each part of the property.
17. In the event the party responsible for maintenance of the Conservation Areas fails to maintain all or any portion in reasonable order and condition according to the Management Plan, Louisville Metro Government may assume responsibility for its maintenance and may enter the premises and take corrective

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action, including provision of extended maintenance. The cost of maintenance may be charged to the Management Entity, or the individual property owners according to the pro-rata share based on the Management Plan. Costs may include administrative costs in taking such actions as well as penalties as provided under these regulations. Such costs shall become a lien on all subdivision properties.

18. The developer shall work with the State of Kentucky and Louisville Metro Transportation to determine the best mitigation for the intersection of Mount Washington Road and Cedar Creek Road, whether that be a left-turn lane on Mount Washington Road, or a three-way stop, and to have that mitigation determined and outlined on the construction plans. However, construction does not need to be completed until mandated by the State.

**The vote was as follows:**

**YES: Commissioners Peterson, Robinson, Tomes, Daniels, Howard, Carlson, and Jarboe.**

**NOT PRESENT: Commissioners Lewis, Smith, and Brown.**

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**CASE NO. 18ZONE1023**

Request:	Change in zoning and form district from C-1 to C-2 for contractor's shop
Project Name:	5401 Valley Station Road
Location:	5401 Valley Station Road
Owner:	A1 Sewer and Drain
Applicant:	A1 Sewer and Drain
Representative:	Thoroughbred Engineering
Jurisdiction:	Louisville Metro
Council District:	25 – David Yates

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

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

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

**Agency Testimony:**

01:43:35     Joel Dock presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.)

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

Jeremy Duncan, 110 East Main Street, Georgetown, KY 40524

**Summary of testimony of those in support:**

01:46:08     Jeremy Duncan, the applicant's representative, presented the applicant's case (see recording for detailed presentation.)

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

No one spoke.

**Rebuttal:**

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



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**Deliberation:**

01:47:25 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.**

**Change in zoning from C-1 to C-2, Commercial**

01:48:42 On a motion by Commissioner Carlson, seconded by Commissioner Howard, the following resolution, based on the Standard of Review and Staff Analysis, the Cornerstone 2020 Staff Checklist and evidence and testimony heard today, was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the intents of Guideline 1: Community Form because the proposed district is consistent with existing development in the area, which consists of auto-centric higher intensity uses; pedestrian accommodations are not required for this application and the use is a non-retail commercial use that is gated from the public; the proposal includes the reuse of an existing facility and uses an existing curb-cut; the proposal is of a medium to high intensity and is consistent with surrounding districts and uses. The R-4 district to the rear of the property is a religious institution; and the proposal is located within the boundaries of the existing SMC form district; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 2: Centers because The proposal will not create a new center, is located in the SMC form, and includes the reuse of an existing facility; the proposed districts allows for retail commercial development. The use is a non- retail commercial use; the proposed development is compact and results in an efficient land use pattern and cost-effective infrastructure investment as the proposal includes the reuse of an existing facility and parking; the proposal will not create a new center, is not required to provide pedestrian accommodations, includes the reuse of an existing facility, and does not negatively impact the existing character of the area; the proposed zoning district does not prevent the incorporation of residential and office uses above retail and/or includes other mixed-use, multi-story retail buildings; the proposed use is minimal in scale and reuses existing facilities; an existing curb-cut is being utilized, the use is gated from the public, and is a non-retail commercial use; utilities appear to be existing infrastructure;

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and easy access for automobiles is provided. Pedestrian accommodations are not required for this application and the use is a non-retail commercial use that is gated from the public; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 3: Compatibility because no changes to the existing building have been proposed; the proposal does not constitute a non-residential expansion into an existing residential area as the majority of the abutting districts are commercial and all surrounding uses are non-residential. The area contains a mixture of medium to high intensity districts; the proposal mitigates any potential odor or emissions associated with the development as all components of the use are required to be indoors; the proposed use is a low traffic generator; the districts would be appropriately located in the event of expansion to support an increase in traffic as it is located along an arterial roadway; the proposal mitigates adverse impacts of its lighting on nearby properties, and on the night sky as lighting will comply with LDC 4.1.3.; the proposed district is located along an arterial roadway; the proposal provides appropriate transitions between uses that are substantially different in scale and intensity as abutting uses are similar in intensity or are not adversely impacted; the proposal mitigates the impacts caused when incompatible developments unavoidably occur adjacent to one another as development is compatible; setbacks, lot dimensions and building heights are compatible with those of nearby developments that meet form district standard as existing facilities are being repurposed; parking, loading and delivery areas located adjacent to residential areas are designed to minimize adverse impacts of lighting, noise and other potential impacts, and that these areas are located to avoid negatively impacting motorists, residents and pedestrians as parking areas are located near the street frontage, but are gated from the public; the facility does not require additional provisions for screening as no expanded structures or parking is being provided; there is not proposed parking garage; and signage will be compliant with LDC, Ch.8; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 4: Open Space because there are no open space requirements with this proposal and there are no natural features on-site; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 5: Natural Areas and Scenic and Historic Resources because There are no natural features on-site; the proposal includes the preservation, use or adaptive reuse of buildings; and the proposed district does not impact wet or highly permeable soils, severe, steep or unstable slopes with the potential for severe erosion; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 6: Economic Growth and Sustainability because the proposal is not located

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downtown; this proposal is not industrial use; the proposed district is located along an arterial road. The proposed use is a non-retail commercial use; and this proposal is not industrial use and proposes 7 employees; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 7: Circulation because the proposal will contribute its proportional share of the cost of roadway improvements and other services and public facilities made necessary by the development through physical improvements to these facilities, contribution of money, or other means; pedestrian accommodations are not required for this application and the use is a non-retail commercial use that is gated from the public; the proposal's transportation facilities are compatible with and support access to surrounding land uses, and contribute to the appropriate development of adjacent lands as existing facilities are being reused; additional right-of-way was not required for the proposal; parking is sufficient to serve the use; and cross-connectivity was not required and would not be appropriate at this time as the proposal is currently for a non-retail use that does not serve the public; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 8: Transportation Facility Design because this proposal is located on an existing roadway network and is not creating any new roadways; access is from existing commercial areas of similar intensity; and this proposal is located on an existing roadway network that is sufficient; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 9: Bicycle, Pedestrian and Transit because pedestrian accommodations are not required for this application and the use is a non-retail commercial use that is gated from the public; and

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

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

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 13: Landscape Character because this area is highly developed and there are no existing natural corridors; and

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**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 14: Infrastructure because the proposal is located in an area served by existing utilities or planned for utilities; the proposal has access to an adequate supply of potable water and water for fire- fighting purposes; and the proposal's drainage plans have been approved by MSD; now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the proposed Change in zoning from C-1 to C-2, Commercial on property described in the attached legal description be APPROVED.

**The vote was as follows:**

**YES: Commissioners Peterson, Robinson, Tomes, Daniels, Howard, Carlson, and Jarboe.**

**NOT PRESENT: Commissioners Lewis, Smith, and Brown.**

**Detailed District Development Plan**

01:49:24 On a motion by Commissioner Carlson, seconded by Commissioner Howard, the following resolution, based on the Standard of Review and Staff Analysis, and evidence and testimony heard today, was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that the subject site does not appear to contain any significant natural resources and existing facilities will be reused; and

**WHEREAS**, the Commission further finds that provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community has been provided as the proposal does not require pedestrian accommodations and is gated form the public. No significant improvements are proposed and the use is a non-retail commercial use which does not necessitate customer interaction; and

**WHEREAS**, the Commission further finds that the provision of sufficient open space (scenic and recreational) to meet the needs of the proposed development is not required; and

**WHEREAS**, the Commission further finds that the Metropolitan Sewer District has approved the preliminary development plan and will ensure the provision of adequate

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drainage facilities on the subject site in order to prevent drainage problems from occurring on the subject site or within the community; and

**WHEREAS**, the Commission further finds that the overall site design and land uses are compatible with the existing and future development of the area as surrounding uses are similar in intensity; and

**WHEREAS**, the Commission further finds that the development plan conforms to applicable guidelines and policies of the Comprehensive Plan as the proposal will not create a new center and is located within the existing boundaries of the SMC form district. It includes the reuse of an existing facility. Pedestrian accommodations are not required for this application and the use is a non-retail commercial use at a minimal scale that is gated from the public. An existing curb-cut is being utilized. The proposal is located along an arterial roadway; now, therefore be it

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

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
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.

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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. 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.

**The vote was as follows:**

**YES: Commissioners Peterson, Robinson, Tomes, Daniels, Howard, Carlson, and Jarboe.**

**NOT PRESENT: Commissioners Lewis, Smith, and Brown.**

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**CASE NO. 18ZONE1020**

Request: Change in zoning from C-1 to C-2 with a Revised Detailed District Development Plan, setback variances, and landscape waivers

Project Name: Park Community Credit Union

Location: 7710 Bardstown Road & 1509 Cedar Creek Road

Owner: Park Community Federal Credit Union

Applicant: Park Community Federal Credit Union

Representative: Jon Baker – Wyatt Tarrant & Combs, LLP

Jurisdiction: Louisville Metro

Council District: 22 – Robin Engel

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

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

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

**Agency Testimony:**

01:50:22 Joel Dock presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.)

01:53:47 Commissioner Carlson asked if turning left onto Bardstown Road from this site is the best traffic management. Beth Stuber, with Louisville Metro Transportation Planning, said the State has said it's ok to make that left turn there. She discussed turning options.

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

Jon Baker, Wyatt Tarrant & Combs, 500 West Jefferson Street Suite 2800, Louisville, KY 40202

Chris Brown, BTM Engineering, 3001 Taylor Springs Drive, Louisville, KY 40220

**Summary of testimony of those in support :**

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01:55:17 Jon Baker, the applicant's representative, handed out the applicant's findings of fact to the Commissioners. He presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.)

01:58:39 Chris Brown explained the development plan in detail (see recording.) He reviewed previous plans for the site, and explained how this plan has been improved.

02:03:36 Mr. Baker resumed the podium and discussed protecting the parkway buffer. He noted that the plan creates a compact site but maintains the green. He also showed renderings.

02:05:27 Commissioner Jarboe asked if there was a stoplight at Cedar Creek Road and Bardstown Road. Mr. Baker said yes. He added that there will be cross-connectivity through an adjoining property.

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

Debbie Williamson, 7510 Cedar Creek Road, Louisville, KY

**Summary of testimony of those in opposition:**

02:06:50 Debbie Williamson pointed out the location of her property and asked how this development would affect her property. Using an aerial photo, Mr. Baker showed the location of an access point to exit the property; there will be additional cross-connectivity to an adjoining property when it develops. Ms. Williamson asked if there will be trees or fencing to buffer her property. Mr. Brown explained where the landscaping and buffering will go.

**Deliberation:**

**02:08:33** 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.**

**Change-in-Zoning from C-1 to C-2, Commercial**

**02:12:12** On a motion by Commissioner Howard, seconded by Commissioner Robinson, the following resolution based on the Cornerstone 2020 Staff Analysis, the applicant's justification, and the evidence and testimony heard today, was adopted:



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**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the intents of Guideline 1: Community Form because the subject site is located along a commercial corridor and incorporates a mixture of commercial uses; and the subject site is located along an arterial level roadway and within close proximity to an interstate; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 2: Centers because the proposal does not create a new center as an existing C-1 district is present and is located in the Neighborhood Form District. The proposal includes new construction or the reuse of existing buildings to provide commercial space; the proposed retail commercial development is located in an area that has a sufficient population to support it; the development appears to be utilizing the majority of the land available for development while minimizing parking; the subject site is located along a major transit line and provides a public sidewalk; the proposal includes a mix of commercial services; the applicant appears to be utilizing the majority of the land available for development while minimizing parking; the proposal shares entrance and parking facilities with adjacent uses to reduce curb cuts and surface parking as a single entrance at the front and rear along with interconnected parking is provided; the proposal is designed to share utility hookups and service entrances with adjacent developments; and the proposal is designed to support easy access by bicycle, car and transit and by pedestrians and persons with disabilities through appropriate connections through pedestrian oriented uses (bank) as opposed to auto-oriented uses (auto service); and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 3: Compatibility because building design will be compliant with the Land Development Code; the proposal does not constitute a non-residential expansion into an existing residential area as the site is zoned C-1, commercial; the proposal mitigates any potential odor or emissions associated with the development.; the proposal mitigates any adverse impacts of its associated traffic on nearby existing communities as a unified access to Bardstown Road is provided; lighting will be compliant with LDC 4.1.3.; the proposal is located along an arterial roadway within close proximity to an interstate; adjacent uses are similar in scale and intensity; adjacent uses are similar in scale and intensity; setbacks, lot dimensions and building heights are compatible with those of nearby developments that meet form district standards; landscape plantings and screening are being provided as required; no garages have been proposed; and signage will be in compliance with Ch.8.; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 4: Open Space because parkway buffer has been provided as required; and minimum tree canopy requirements will be met; and

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**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 5: Natural Areas and Scenic and Historic Resources because minimum tree canopy requirements will be met; no historic resource have been identified; and MSD approval has been received; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 6: Economic Growth and Sustainability because the proposal is not downtown and is not an industrial use; and the proposed mixed commercial center is located along a commercial corridor of an arterial roadway; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 7: Circulation because the proposal will contribute its proportional share of the cost of roadway improvements and other services and public facilities made necessary by the development through physical improvements to these facilities, contribution of money, or other means; the proposal promotes mass transit, bicycle and pedestrian use and provides amenities to support these modes of transportation as appropriate connections through pedestrian oriented uses (bank) as opposed to auto- oriented uses (auto service) are provided and the subject site is located along a major transit line and provides a public sidewalk; the proposal's transportation facilities are compatible with and support access to surrounding land uses, and contribute to the appropriate development of adjacent lands as cross access and shared parking and access is provided; the proposal includes the dedication of rights- of-way for street, transit corridors, bikeway and walkway facilities within or abutting the development; the proposal includes adequate parking spaces to support the use; and the proposal provides for joint and cross access through the development and to connect to adjacent development sites; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 8: Transportation Facility Design because the proposal provides for joint and cross access through the development and to connect to adjacent development sites; and primary access to the site is from a major arterial roadway; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 9: Bicycle, Pedestrian and Transit because the proposal provides, where appropriate, for the movement of pedestrians, bicyclists and transit users around and through the development as appropriate connections through pedestrian oriented uses (bank) as opposed to auto-oriented uses (auto service) are provided and the subject site is located along a major transit line and provides a public sidewalk; and

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

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

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

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 14: Infrastructure because the proposal is located in an area served by existing utilities or planned for utilities; the proposal has access to an adequate supply of potable water and water for fire- fighting purposes; and the proposal has adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 1 – Community Form because the proposed site is located within the Suburban Neighborhood Form District and the application complies with this Guideline because the Neighborhood Form allows a various uses, including neighborhood-serving uses, along an activity corridor, such as this site. Indeed, according to Cornerstone 2020 Guideline 1.B.3, the Neighborhood Form contemplates, at appropriate locations, neighborhood centers with a mixture of uses such as offices, retail shops, restaurants and services. The Proposal complies with Cornerstone 2020 Guideline 1 because it is a compact, neighborhood-serving commercial center on property located along a major arterial roadway and also has frontage along and access to a secondary collector roadway. To its north and south, the Property is adjacent to other commercially-zoned properties and is located across Bardstown Road from Cedar Creek Baptist Church as well as from other similarly-sized commercial uses, including restaurants, auto service and an insurance office; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 2 – Centers because the property is located less than one-third of a mile from the southbound off-ramp of the Gene Snyder Freeway, along the [southbound] west side of Bardstown Road, a major arterial roadway. The Property also maintains frontage on Cedar Creek Road, a secondary collector, as well as the Cedar Creek Connector, which contains 30-feet of right-of-way, in which the Proposal plans for a curb cut to/from Lot 3. This curb cut no Lot 3 will provide the development with a secondary access point. As previously mentioned, the proposal site lies within a growing activity corridor that contains a mixture of neighborhood-serving uses. Though undeveloped, the properties to the immediate north and south of the Property are also zoned C-1, Commercial. Directly across Bardstown Road is an

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established activity center which contains land uses similar to what the applicant proposes with this application, such as: Brakeway and a Hall's auto service, Waffle House and Popeye's restaurants, as well as a State Farm Insurance office and the Cedar Creek Baptist Church. As Cedar Creek Road traverses Bardstown Road it turns into Brentlinger Lane. And directly south of Brentlinger Lane, commercial land uses extend and include: Chic-fil-A, Kohl's department store, Visionworks, Marathon Gas and a Circle K store. Other commercial uses on Bardstown Road within a mile of this property include: a Rite Aid store, Aspen Creek restaurant, Thornton's gas station, Outback Steakhouse, Pizza Hut, Chase Bank (all within Glenmary Plaza), and various retail stores, not to mention Southpointe Commons, a large regional commercial center currently under development at the southeast node of Gene Snyder and Bardstown Road. The Proposal will add additional commercial services to the existing commercial activity center, providing customers with more options in the immediate area to serve their needs.

**WHEREAS**, the Commission further finds that the proposal complies with Cornerstone 2020 Guideline 2 and its applicable policies because it proposes a compact pattern of development in agreement with the Neighborhood Form District, and compatible with other existing, neighborhood-serving uses in the immediate and general surrounding areas. Planned for vacant, unused land on an established, busy commercial corridor, the proposal will result in an efficient use of land, largely relying on existing infrastructure. Holding tanks will be necessary to serve sewage needs until sewer service is available to the immediate area; a void exists in sewer service infrastructure, the construction of which requires participation from numerous partners.

**WHEREAS**, the Commission further finds that the Strategy 5 Louisville Metro Retail Market Study noted that the area south of the Bardstown Road/Gene Snyder interchange is experiencing "significant residential development" with twenty-seven separate residential subdivisions containing 6,459 housing units, of which 3,191 had been constructed as of the date of the study. The Retail Study identified the Bardstown retail zone as underserved in practically all major retail categories within a band of zip codes that traverses the breadth of the zone along the 1-265 corridor. (Retail Study at p. 14). The Study went on to say that "the demand/supply dynamic ... points to market support for additional retail inventory, probably beyond what could be accommodated in existing space, or even in potential redevelopment sites...." (Retail Study at p. 15). Accordingly, the subject property is located in an area with sufficient support population exists to support the commercial use; and

**WHEREAS**, the Commission further finds that the Property is within close proximity of numerous residential developments and, therefore, is located in an area where a sufficient population exists to support the proposed commercial development. The

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Proposal will add to the mixture of compatible land uses within the growing commercial activity center along the Bardstown Road (and Old Bardstown Road) corridor, thereby reducing the need for drivers to go beyond the Fern Creek area for necessary services, consequently further reducing the number of and lessening the length of vehicular trips. The Proposal will have good visibility on a well-trafficked corridor, which allows motorists looking for banking and auto service easy and efficient access to and from the site. The parking and vehicular use areas will be screened and buffered from Bardstown Road as well as adjoining residential uses. The Property is on existing TARC routes, a sidewalk will be constructed as shown on the development plan, and a bicycle racks will be provided on each of the lots to ensure the proposed development is accessible by all transportation modes. For all of the foregoing reasons, the proposed development complies with Cornerstone 2020 Centers Guideline 2; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 3 – Compatibility because Guideline 3 of Cornerstone 2020 is intended to ensure that all land uses and transportation facilities are compatible with nearby land uses and minimize impacts to residential areas, schools and other sensitive areas. The requested change in zoning complies with Guideline 3 because the proposed development is a compact, efficient commercial development appropriately located along Bardstown Road, a major arterial, and within a growing activity center that serves the Neighborhood Form District. The requested Bardstown Rd. Setback and Cedar Creek Rd. setback variances are necessary to maximize site-design efficiencies, but the added setbacks for the credit union, auto-service and restaurant/retail buildings will not alter the essential character of the suburban commercial corridor as similar setbacks exist in the general area. The proposed development will ensure an appropriate transition between commercial and residential uses through proper site design and landscape buffers, and effectively mitigates any potential nuisances caused by vehicular traffic, noise, lighting, or odors. Moreover, the one-story buildings intended for the Property are compatible in terms of mass, scale and design with existing and proposed development in the surrounding area; and

**WHEREAS**, the Commission further finds that, as stated, the Proposal will adjoin commercially-zoned properties to the north and south and is consistent with the litany of commercial uses along the high-activity commercial corridor, Bardstown Road, including the restaurant and auto-service uses directly across Bardstown Road from the Property. Specifically, the Proposal will provide easily-accessible banking, auto-service, retail and or restaurant services to the Fern Creek area located south of the Gene Snyder Freeway, which will be especially convenient for southbound vehicles during the pm peak hours. The Proposal's access points include a full-access on Bardstown Road and a secondary access to Cedar Creek Connector, which provides

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direct connection to Cedar Creek Road; cross-access to the adjacent commercial properties is also being provided. A sidewalk will be constructed across the site's frontage to create a pedestrian connection to the adjacent properties. Proposed handicap parking complies with local, state and federal ADA design requirements, and are appropriately located on the site to not conflict with vehicles as they move throughout the site. And except for a minor waiver of a landscaping buffer between a vehicular use area and Cedar Creed Connector, parking design, including interior landscaping areas located on-site, signage, and lighting will comply with LDC regulations. This minor waiver is necessary to afford the Property's safe and efficient site design, notably the alignment of the internal access drive needed to move site traffic on the Property between Bardstown Road and Cedar Creek Connector; to prevent the use of the Property as a convenient cut-through, the design of the internal drive avoids a straight, direct connection between the respective public rights-of-way. There will be no adverse lighting, odor, or visual impacts on surrounding land uses; and

**WHEREAS**, the Commission further finds that the proposal will contribute to the overall mixture of uses, reduce vehicle miles traveled, and promote economic development along established commercial corridors. The proposal will minimize land use incompatibilities and the impact on public facilities. The lot dimensions and building heights will be compatible with surrounding buildings that meet form district standards. Accordingly, the proposed development complies with Cornerstone 2020 Guideline 3 and its applicable policies; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guidelines 4 and 5 – Open Space, Natural Areas, and Scenic and Historic Resources because the proposed development complies with Cornerstone 2020 Guidelines 4 and 5 because the subject property does not contain any natural, scenic, historic, distinctive cultural features or limiting environmental features, such as wet soils or steep slopes, that would prevent its development as proposed. Due to its relatively small size, the development is not required to provide open space on-site. The proposed landscaping and parkway buffer areas are consistent with the existing pattern of development within the active Bardstown Road commercial corridor. Proposed interior landscape areas comply with Land Development Code requirements, and will serve to break up parking and vehicular use areas and enhance the aesthetics of the new commercial center. Therefore, the proposed development complies with Guidelines 4 and 5 of Cornerstone 2020; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 6 – Economic Growth and Sustainability because the proposed development application complies with Guideline 6 of Cornerstone 2020 and its applicable policies because it will bring additional investment and promote economic development within the established Bardstown Road commercial corridor. The subject property-

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being an accessible, unused commercial site along a major arterial roadway where a gap exists between other commercial uses - is an appropriate location for a compact commercial center, which includes a credit union, retail or restaurant, and auto service, because it is located in an area with existing infrastructure, served by transit, and where a large population exists to serve the proposed development. The Property is a vacant site suitable for commercial development, where the proposed uses can provide new employment opportunities to a burgeoning population area; and

**WHEREAS**, the Commission further finds that the Strategy 5 Louisville Metro Retail Market Study identified the Bardstown retail zone as underserved in practically all major retail categories within a band of zip codes that traverses the breadth of the zone along the 1-265 corridor. (Retail Study at p. 14}. The Study concluded that the demand/supply dynamic points to market support for additional retail inventory beyond what could be accommodated in existing space, or even in potential redevelopment sites. (Retail Study at p.15}. Accordingly, the Property is located in an area with sufficient support population exists to support the commercial use; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guidelines 7, 8, and 9 – Circulation, Transportation Facility Design, and Bicycle, Pedestrian and Transit because it is designed to ensure the safe and efficient circulation by all types of transportation modes, including automobiles, bicycles, pedestrians, and transit. The Property is located on the western frontage of Bardstown Road, one-third of a mile from the southbound off-ramp of the Gene Snyder and just north of where Cedar Creek Road and Brentlinger Lane intersects with Bardstown Road- a controlled, signalized intersection. The proposed compact commercial development will provide safe, uniform access from Bardstown Road as well as appropriate cross-access to the adjacent commercially-zoned properties to the north and south; and

**WHEREAS**, the Commission further finds that the development will utilize an existing curb cut a long Bardstown Road, where Cedar Creek Connector is today. An established entrance to Bardstown Road from the Property, located just south of the Cedar Creek Connector curb cut, will be removed and restored per KYTC standards. A secondary access point to the Property will be provided on Lot 3, via a curb cut to Cedar Creek Connector, which connects to Cedar Creek Road. Internal circulation will meet the Transportation Planning's requirements. On the Property, a total of 79 parking spaces, including 6 handicap parking spaces, will be provided in conformance with Land Development Code and ADA requirements, thereby ensuring adequate parking will be furnished for the proposed uses on the site. Interior landscaping will be provided to break up parking areas and enhance the overall aesthetics of the site. The Proposal will not exceed the carrying capacity of existing streets and no additional right-of-way dedication is required; and

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**WHEREAS**, the Commission further finds that a 5-foot sidewalk will be constructed along Bardstown Road and appropriate provisions has been made for bicycle racks on all the proposed commercial lots. A fee-in-lieu of providing the sidewalk along the Cedar Creek Connector is requested. The Property is served by TARC Route 17, ensuring an adequate level of transit service for the proposed development, especially for employees of the commercial establishments. All of the above will ensure that internal and external circulation of the development provides safe and efficient travel movement by all modes of transportation; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guidelines 10, 11, and 12 – Flooding, Stormwater, and Water & Air Quality because the Property is not located in the 100-year floodplain, and does not contain steep slopes, unstable or hydric soils, or blue-line streams. As a result, there are no environmental constraints which would prevent the development of this Proposal. Two detention basins will be located on the Property, with one basin proposed on the western side of Lot 1, and a second basin planned for the western side of Lot 3, where it will be situated between Cedar Creek Road, Cedar Creek Connector and the western edge of the parking area. The detention basins will be subject to MSD review and approval prior to the issuance of construction permits. The basins are designed to enable proper stormwater handling and release management ensuring that adjacent properties will not be adversely affected. Working together, the detention basins will limit post-development peak flows to pre-development peak flows for the two-, ten- and one-hundred-year storms or to the capacity of the downstream system, whichever is more restrictive. In addition, a water quality unity will be installed to meet all MS4 water quality regulations. An Erosion Prevention and Sediment Control Plan utilizing best management practices will also be implemented prior to commencing construction of the development. For the time being, and until sewers can be brought to the area immediately surrounding the Property, sewer service is proposed to be addressed via holding tanks. Louisville Metro Board of Health approval is required prior to MSD construction plan approval. For the foregoing reasons, the proposed development complies with Cornerstone 2020 Guidelines 10, 11 and 12, and all applicable Guideline Policies; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 13 – Landscape Character because the proposal meets or exceeds the requirements of the Land Development Code. A 30-foot parkway buffer area will be established and maintained along the Property's frontage with Bardstown Road, which will contain landscaping in accordance with LDC requirements. To break up and screen the on-site parking areas, and improve the overall aesthetic appearance of the site, interior landscape areas will be provided on the Property. Landscape waivers are requested to permit landscape buffer areas to overlap with utility and drainage easements by more than 50% and to reduce the required vehicular use area landscape



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buffer area along Cedar Creek Connector from 10 feet to 7.5 feet. The required plantings will be inserted within the 7.5-foot buffer area, however, which will mitigate any negative impacts of the requested waiver. Tree canopy on the site will meet or exceed Land Development Code requirements and all dumpsters on the Property will be appropriately screened. Accordingly, the proposed development complies with Cornerstone 2020 Guideline 13 and its applicable policies; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guidelines 14 and 15 – Infrastructure and Community Facilities because the Property is served by existing infrastructure and all necessary utilities, including water, electricity, and telephone; sewer service is proposed to be addressed via holding tanks, at least temporarily, until a coordinated plan to provide sewers to this immediate area is undertaken. Moreover, the Proposal is located in an established commercial corridor with adequate carrying capacity and will provide appropriate cross-connectivity to adjacent properties. The development also has an adequate supply of potable water and water for fire-fighting purposes, and is served by the Fern Creek Fire Department, located nearby to the north on Bardstown Road; now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the proposed change in zoning from C-1 to C-2, Commercial on property described in the attached legal description be **APPROVED**.

**The vote was as follows:**

**YES: Commissioners Peterson, Robinson, Tomes, Daniels, Howard, Carlson, and Jarboe.**

**NOT PRESENT: Commissioners Lewis, Smith, and Brown.**

- **Variance #1 - Variance from Land Development Code, section 5.3.1.C to allow buildings on Lots 1 & 2 to exceed maximum parkway setback on Bardstown Road as shown on the development plan**
- **Variance #2 - Variance from Land Development Code, section 5.3.1.C to allow building on Lots 3 to exceed maximum setback on Cedar Creek Road as shown on the development plan**

02:12:41 On a motion by Commissioner Howard, seconded by Commissioner Robinson, the following resolution based on the Standard of Review and Staff Analysis, and the evidence and testimony heard today, was adopted:

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**(Variance #1) WHEREAS**, the Louisville Metro Planning Commission finds that the requested variance will not adversely affect the public health, safety or welfare as sight lines for motorists or pedestrians are not impacted; and

**WHEREAS**, the Commission further finds that the requested variance will not alter the essential character of the general vicinity as the orientation with respect to the angle of the front property lines results in a minor infringement of the requirements that does not alter the essential character of the area; and

**WHEREAS**, the Commission further finds that the requested variance will not cause a hazard or nuisance to the public as sight lines for motorists or pedestrians are not impacted; and

**WHEREAS**, the Commission further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the orientation with respect to the angle of the front property lines results in a minor infringement of the requirements that does not alter the essential character of the area; and

**WHEREAS**, the Commission further finds that the requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone as the arrangement and shape of the lots results in the pattern chosen with respect to the front property line; and

**WHEREAS**, the Commission further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as the request does not adversely impact public safety or create a hazard or nuisance; and

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

**(Variance #2) WHEREAS**, the Commission further finds that the requested variance will not adversely affect the public health, safety or welfare as sight lines for motorists or pedestrians are not impacted; and

**WHEREAS**, the Commission further finds that the requested variance will not alter the essential character of the general vicinity as the setback, for all intents and purposes, is a rear property line and the proposed structure is being integrated into a unified development which is served primarily from Bardstown Road; and

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**WHEREAS**, the Commission further finds that the requested variance will not cause a hazard or nuisance to the public as sight lines for motorists or pedestrians are not impacted; and

**WHEREAS**, the Commission further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the setback, for all intents and purposes, is a rear property line and the proposed structure is being integrated into a unified development which is served primarily from Bardstown Road; and

**WHEREAS**, the Commission further finds that the requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone as the arrangement and shape of the lots results in the pattern chosen with respect to property lines; and

**WHEREAS**, the Commission further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as the request does not adversely impact public safety or create a hazard or nuisance; and

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

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

- Variance #1 - Variance from Land Development Code, section 5.3.1.C to allow buildings on Lots 1 & 2 to exceed maximum parkway setback on Bardstown Road as shown on the development plan
- Variance #2 - Variance from Land Development Code, section 5.3.1.C to allow building on Lots 3 to exceed maximum setback on Cedar Creek Road as shown on the development plan

**The vote was as follows:**

**YES: Commissioners Peterson, Robinson, Tomes, Daniels, Howard, Carlson, and Jarboe.**

**NOT PRESENT: Commissioners Lewis, Smith, and Brown.**

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- **(Waiver #1) Waiver of LDC, section 10.2.10 to reduce LBA along Cedar Creek Connector**
- **(Waiver #2) Waiver of LDC, section 10.2.4.B.3 to allow utility easement/LBA overlap**

02:14:14 On a motion by Commissioner Howard, seconded by Commissioner Robinson, the following resolution based on the Standard of Review and Staff Analysis, and the evidence and testimony heard today, was adopted:

**(Waiver #1) WHEREAS**, the Louisville Metro Planning Commission finds that the waiver will not adversely affect adjacent property owners as all required landscape material will be provided; and

**WHEREAS**, the Commission further finds that Guideline 3, Policy 9 of Cornerstone 2020 calls for the protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigate when appropriate. Guideline 13, Policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. All required landscape material will be provided; 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 as all required landscape material will be provided and reduction is minimal; and

**WHEREAS**, the Commission further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as all required landscape material will be provided and the reduction is minimal; and

**(Waiver #2) WHEREAS**, the Commission further finds that the waiver will not adversely affect adjacent property owners as all screening and planting material will be provided; and

**WHEREAS**, the Commission further finds that Guideline 3, Policy 9 of Cornerstone 2020 calls for the protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigate when appropriate. Guideline 13, Policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. All screening and planting material will be provided; 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 as all screening and planting material will be provided; and

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**WHEREAS**, the Commission further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as all screening and planting material will be provided; now, therefore be it

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

- **(Waiver #1) Waiver of LDC, section 10.2.10 to reduce LBA along Cedar Creek Connector**
- **(Waiver #2) Waiver of LDC, section 10.2.4.B.3 to allow utility easement/LBA overlap**

The vote was as follows:

**YES: Commissioners Peterson, Robinson, Tomes, Daniels, Howard, Carlson, and Jarboe.**

**NOT PRESENT: Commissioners Lewis, Smith, and Brown.**

**Revised Detailed District Development Plan**

02:15:08 On a motion by Commissioner Howard, seconded by Commissioner Robinson, the following resolution based on the Standard of Review and Staff Analysis, and the evidence and testimony heard today, was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that the conservation of natural resources on the property proposed for development, including: trees and other living vegetation, steep slopes, water courses, flood plains, soils, air quality, scenic views, and historic sites will be provided. The property does not appear to contain any significant natural resource. Tree canopy and landscaping will be provided, as well as the parkway buffer; and

**WHEREAS**, the Commission further finds that provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community are provided as a public sidewalk is being provided and connectivity for pedestrians from public transit is provided. Connectivity to adjacent sites will be provided; and

**WHEREAS**, the Commission further finds that the proposal provides open space that helps meet the needs of the proposed development and community as the parkway buffer is being provided as required; and

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

**WHEREAS**, the Commission further finds that setbacks, lot dimensions and building heights are compatible with the existing and projected future development of the area and the building design will comply with non- residential site design standards; and

**WHEREAS**, the Commission further finds that the proposed development plan conforms to the Comprehensive Plan. The subject site is located along a commercial corridor and incorporates a mixture of commercial uses. The proposal includes new construction to provide commercial space which is oriented towards Bardstown Road. Primary access to the site is from a major arterial roadway and located along a major transit line. A public sidewalk and pedestrian connectivity is provided. Landscape plantings and screening are being provided as required; now, therefore be it

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

1. The development shall be in accordance with the approved district development plan, 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. 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, or alteration permit) is requested:
  - a. The development plan must receive full construction approval from

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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 minor subdivision plat shall be recorded creating the lot lines and dedicating additional right-of-way as shown on the development plan. 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.
  - e. A reciprocal access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be created between the adjoining property owners and recorded. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
- 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. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the November 1, 2018 Public Hearing. Final renderings for Lot 3 shall be approved by Planning Commission staff prior to issuance of building permit.
  - 6. Reciprocal and crossover access shall be provided at the time of non-residential development (prior to issuance of building permit) for the properties to the north and south. A copy of the signed easement agreement shall be provided to Planning Commission staff upon request.
  - 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

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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.

**The vote was as follows:**

**YES: Commissioners Peterson, Robinson, Tomes, Daniels, Howard, Carlson, and Jarboe.**

**NOT PRESENT: Commissioner Lewis, Smith, and Brown.**



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**CASE NO. 18ZONE1057**

Request: Change in zoning from R-4 to PEC and a Change in Form District from Neighborhood to Suburban Workplace with a Detailed District Development Plan and setback variance

Project Name: 1701 North English Station Road

Location: 1701 North English Station Road

Owner: LINAK US, Inc.

Applicant: LINAK US, Inc.

Representative: John Talbott - Bardenwerper, Talbott & Roberts PLLC

Jurisdiction: Louisville Metro

Council District: 19 – Julie Denton

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

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

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

**Agency Testimony:**

02:17:55 Joel Dock presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.)

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

John C. Talbott, Bardenwerper Talbott & Roberts, 1000 North Hurstbourne Parkway 2<sup>nd</sup> Floor, Louisville, KY 40223

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

Andy Watson, 13307 Magisterial Drive, Louisville, KY 40223

**Summary of testimony of those in support:**

02:22:32 John Talbott, the applicant's representative, presented the applicant's case and showed a Power Point presentation (See recording for detailed presentation.)

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02:33:30 Kent Gootee, an applicant's representative, explained details about the development plan, landscaping, buffering, and particularly existing infrastructure (see recording for detailed presentation.)

02:38:18 Mr. Talbott resumed the podium and showed renderings of the proposed buildings.

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

No one spoke.

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

Ms. D. Washington, 1710 North English Station Road, Louisville, KY 40223

Myles Stevenson, 989 Locust Grove Road, Shelbyville, KY 40065

**Summary of testimony of those in opposition:**

02:38:58 Mr. Dock handed out an e-mail to the Commissioners, received this morning, from someone who was in opposition but was not able to attend today's hearing.

02:39:14 Myles Stevenson, representing a company (KEPA LLC?) which owns the property to the north, said his company is "seeking cooperation" regarding the MSD easement. He said his company is also planning on doing some development on their property as well. He pointed out the location of an existing fence along a property line nad asked for confirmation that this will remain intact. He asked for more specifics about what will be installed in the landscape buffer (north end of the subject site.)

02:40:52 Mr. Gootee discussed LDC landscaping, screening ,and buffering requirements and what the applicant is proposing. It includes a six-foot visual screen and tree canopy. He said the applicant is willing to keep the fence to delineate the property boundaries, but must complete the property survey first.

02:42:19 Ms. D. Washington gave Mr. Dock some handouts, which he passed out the Commissioners. She said the development is fine; however, she is very concerned about the loss of mature trees and tree canopy. She suggested that as much plant life as possible be kept, and said that the applicant's statement that trees planted along roads cause accidents is incorrect.

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**Rebuttal**

02:49:25 Commissioner Jarboe noted that the Commissioners had received an e-mail from a citizen expressing concern about sight lines for drivers on North English Station Road during the construction process. Mr. Talbott first addressed some of Ms. Washington's concerns about the trees. Using aerial photos, he pointed out areas where trees will be preserved. He said as many as possible will be preserved in front. He discussed her concerns about the sidewalks being required.

02:51:31 Andy Watson, an applicant's representative, addressed how the sidewalk installation will affect tree removal, and other construction issues. See recording for detailed testimony.

02:53:41 Mr. Gootee said some trees will have to be removed in order to put the sidewalk in along N. English Station Road, especially given the shoulder work that must be done because of the grade change.

02:56:55 Ms. Washington asked if the road was going to be 22 feet wide, where is the area which will be widened. Mr. Talbott used the site plan to point out the exact location of the road widening. It will be directly in front of the subject site. However, most of the road is already 22 feet wide, so not much change will be needed.

**Deliberation:**

02:58:11 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.**

**Change in Form district from Neighborhood to Suburban Workplace**

**Change in Zoning from R-4, Single-family Residential to PEC, Planned Employment Center**

**03:01:46** On a motion by Commissioner Carlson, seconded by Commissioner Howard, the following resolution, based on the Cornerstone 2020 Staff Analysis, the applicant's justification, and evidence and testimony heard today, was adopted:

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**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the intents of Guideline 1: Community Form because the proposal is not a neighborhood center. The proposal calls for an employment center to facilitate industrial growth and integrate with existing industrial operations having their primary location within the abutting workplace form. The PEC district calls for attractive, landscaped, and planned industrial parks for M-2 Industrial operations. The neighborhood form intends to provide residential opportunities and allow for mixed-use activity centers to serve the residential population. The Neighborhood form is not intended to serve the PEC zoning district.

**WHEREAS**, the proposed district is a high intensity district and is located along a collector level roadway having direct access to arterial roadways and an industrial subdivision. It is not located along an arterial. The PEC district calls for opportunities for employment close to residential areas and compatibility between the industrial operations within the industrial park and the existing activities and the character of the community in which the park is located. The district would not appear to have a significant adverse impact on nearby residential uses as N. English Station Road provides space for existing industry and industrial operations within the abutting industrial subdivision are located within close proximity to surrounding residential uses. The proposal integrates into the pattern of development, which features buildings set back from the street in a landscaped setting as the development conforms to the pattern of development expected within the workplace form district and the building is set back a significant distance from N. English Station Road. The proposal integrates into a planned development that features a mixture of related uses as the proposal provides connectivity between two adjacent properties serving the same operator and connects with the abutting industrial subdivision. The proposal incorporates connected roads, encourages access to public transportation, and provides for pedestrians as vehicular and pedestrian accommodations to the public road and adjacent sites will be provided; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 3: Compatibility because the proposed building materials increase the new development's compatibility as the materials and design are consistent with nearby industrial development that is compatible with the surrounding area; the proposal does not constitute a non-residential expansion into an existing residential area, or demonstrates that despite such an expansion, impacts on existing residences are appropriately mitigated' the proposed development expands an existing PEC zoning district in a manner consistent with the extent of the form district boundaries to the north and south and integrates itself with the abutting industrial subdivision; the district calls for sufficient space in attractive, landscaped, and planned industrial parks and compatibility between these operations and the community. The proposed building materials, setbacks, and landscaping mitigate any impact caused with the expansion of

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this use from the existing industrial park; the current proposal is for an office serving existing industry. No adverse odors or emissions would appear to be associated with the current request. In the event of future industrial redevelopment, odors and emissions will need to be reconsidered; the proposal would not appear to have any adverse impacts of traffic as it fronts collector roadway with access to arterial roadways and has secondary access through multiple points of adjacent connected development; lighting will comply with LDC 4.1.3; the proposed district integrated itself with the abutting industrial subdivision having multiple points of access to arterial roadways; the proposal provides appropriate transitions between uses that are substantially different in scale and intensity or density of development as all required landscape buffers and screening will be provided; the proposal mitigates the impacts caused when incompatible developments unavoidably occur adjacent to one another as all required landscape buffers and screening will be provided; setbacks, lot dimensions and building heights are compatible with those of nearby developments that meet form district standards as buildings are setback from the road in a landscaped setting; parking, loading and delivery areas located adjacent to residential areas are designed to minimize adverse impacts as landscaping will be provided as required to minimize the impact of parking areas adjacent to the roadway and residences; the proposal includes screening and buffering of parking and circulation areas adjacent to the street; no parking structures are proposed; and signage will be compliant with Ch. 8 of the LDC; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 4: Open Space because the proposal provides open space that helps meet the needs of the community as tree canopy and wetland areas are being preserved; the site is not in the NFD; and the proposal integrates natural features into the pattern of development as tree canopy, wetland areas, and stream are being preserved; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 5: Natural Areas and Scenic and Historic Resources because the proposal respects the natural features of the site through sensitive site design as tree canopy, wetland areas, and stream are being preserved; the proposal includes the preservation, use or adaptive reuse of buildings, sites, districts and landscapes that are recognized as having historical or architectural value; the subject site does not appear to contain any historic resources; and the proposal avoids wet or highly permeable soils as a wetland area and stream are being preserved; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 6: Economic Growth and Sustainability because the proposed district helps meet the needs of the abutting industrial subdivision and allows industrial growth at a single location; the site is not downtown; the proposal is integrated within the industrial subdivision and takes advantage of current infrastructure; the proposal fronts a collector

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roadway with access to arterial roadways and has secondary access through multiple points of adjacent connected development; and the proposal provide employment opportunities within close proximity to residential areas and immediately adjacent to the existing operator; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 7: Circulation because the proposal will contribute its proportional share of the cost of roadway improvements and other services and public facilities made necessary by the development through physical improvements to these facilities, contribution of money, or other means; the proposal promotes mass transit, bicycle and pedestrian use and provides amenities to support these modes of transportation as all accommodations required of the developer to support these modes will be provided; the proposal's transportation facilities are compatible with and support access to surrounding land uses, and contribute to the appropriate development of adjacent lands as the site is integrated with adjacent uses and the industrial subdivision while providing access to a collector level roadway; the proposal includes the dedication of rights- of-way for street, transit corridors, bikeway and walkway facilities within or abutting the development; the proposal includes adequate parking spaces to support the use; and the proposal provides for joint and cross access through the development and to connect to adjacent development sites; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 8: Transportation Facility Design because adequate stubs are provided to adjacent development; primary access to the development site is through areas that contain industrial and residential development along a collector level roadway; and the site is appropriately linked to adjacent development; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 9: Bicycle, Pedestrian and Transit because the proposal provides, where appropriate, for the movement of pedestrians, bicyclists and transit users around and through the development as all accommodations required of the developer to support these modes will be provided; and

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

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

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**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 13: Landscape Character because the proposal includes additions and connections to a system of natural corridors that can provide habitat areas and allow for migration as a stream, tree canopy and wetland pond are being preserved; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 14: Infrastructure because the proposal is located in an area served by existing utilities or planned for utilities; the proposal has access to an adequate supply of potable water and water for fire- fighting purposes; and the proposal has adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the intents of Guideline 1 – Community Form because this site and the accompanying site plan are more appropriately considered a part of the Suburban Workplace Form District; the site will be connected and be a part of the office park, and specifically will be an addition to the applicant's other two properties which are also a part of this office part and which are both already in the Suburban Workplace Form District; in fact, all of the surrounding properties in the office park are part of the Suburban Workplace Form District; the applicant's sites will be connected internally with drive lanes and pedestrian connections allowing a free flow throughout its sites; the site will share existing infrastructure with the adjacent office park as well as being located on a collector level road in a compact group with the existing Suburban Workplace Form District; and the new building and site will also share building characteristics, parking, and compatibility with the existing Suburban Workplace Form District; and

**WHEREAS**, the Commission further finds that this application complies with the Intents and applicable Policies 1, 2, 4, 5, 7, 9, 11, 13, 14 and 15 of Guideline 2 – Centers because the overall site subject of this rezoning looks and feels very much like the balance of the existing PEC zoned properties to the east and north which are located within the Eastpoint Business Park; infrastructure and utilities are available at the property lines; this area has proven to be a good location for offices because of the significant intensity of residential uses and commercial uses west of the site; locating this office development as proposed at this site helps reduce vehicle miles traveled and further improves the vitality of the area; and the design of the site is compatible with the uses in the business park and the residential uses to the west; and

**WHEREAS**, the Commission further finds that this application complies with the Intents and applicable Policies 1, 2, 4, 5, 6, 7, 8, 9, 12, 21, 22, 23, 24 and 29 of Guideline 3 – Compatibility because as referenced above, the proposed office development will be compatible in design to the current offices in the business park while at the same time using the office development use as an appropriate transition between the residential

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and more intense commercial uses; appropriate buffers will be in place to mitigate impacts to the surrounding residential properties on the same side of N. English Station Road, which are for the most part not occupied currently for residential purposes; the site will not generate significant traffic and the clearing of the site of the significant foliage which is currently limiting site lines at turns in N. English Station Road will significantly increase the safety to this collector roadway; in addition to these aesthetic factors, office uses do not create odors or significant noise; and lighting will be directed down and away from nearby residential properties and will be in compliance with lighting restrictions of the Land Development Code (LDC); and

**WHEREAS**, the Commission further finds that this application complies with the Intents and applicable Policies 2, 3, 4, 6, and 8 of Guideline 6 – Economic Growth and Sustainability because as referenced above, this is currently a vacant site; N. English Station Road has proven to be a great location for office development because it is a center of fairly intense residential and intense commercial activity; and this site will also take advantage of the existing infrastructure and utilities available to the Eastpoint Business Park; and the development plan encourages the applicant to expand its footprint with the campus of its industrial facilities, with access to a collector roadway and the other internally connected drives and pedestrian access, all located near arterials and the expressway system; and

**WHEREAS**, the Commission further finds that this application complies with the Intents and applicable Policies 1, 2, 3, 4, 6, 10, 11, 12, 13, 14, 16 and 18 of Guideline 7; Policies 7, 8, 9, 10 and 11 of Guideline 8; and Policies 1, 2, 3 and 4 of Guideline 9 because the office development will have shared access from the existing applicant's office/warehouse building to the east and north of this site in the Eastpoint Business Park and will provide a curb-cut along N. English Station Road at a location where automobiles slowing to enter the site will slow traffic at a location where lower speeds are appropriate for safety; and it provides for excellent cross-connectivity and helps address issues of traffic congestion at peak hours; and

**WHEREAS**, the Commission further finds that the detailed district development plan (DDDP) accompanying this zoning and form change application received preliminary stamps of approval from Metro Transportation Planning and Public Works prior to docketing of this application for any Planning Commission public review, with such agencies specifically reviewing the proposed points of access and connections as well as corner clearances, site distances, median opening and adequacy of parking; the site plan will provide "stubs" to the parking lot and sidewalks for future connectivity and will further be designed for transit available in the area; sidewalks will be provided where required and bicycle parking will be accommodated; and the clearing of the site will tremendously enhance the safety of the collector roadway by increasing visibility around the turns existing on the roadway; and



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**WHEREAS**, this application complies with Intents and applicable Policies 1, 3, 6, 7, 10 and 11 of Guideline 10 – Flooding and Stormwater because post-development rates of runoff will not exceed pre-development conditions; additionally, the applicant’s engineer will review these drainage conditions and advise MSD of them so as to determine whether any additional mitigation measures need to be made to existing storm water systems in association with this proposed office development; and

**WHEREAS**, the Commission further finds that this application complies with the Intents and applicable Policies 1, 3 and 5 of Guideline 11 – Water Quality because at time of construction, the developer of this site will be required to comply with MSD’s soil erosion and sedimentation control regulations; also, new water quality standards have been implemented by MSD which must be addressed as well at time of construction plan approval; and

**WHEREAS**, the Commission further finds that this application complies with the Intents and applicable Policies 1, 2, 3, 6, 7, 8 and 9 of Guideline 12 – Air Quality because as referenced above, this proposed corporation office is basically an expansion of the existing Linak office/warehouse located north and east of this proposed site, thus reducing vehicle miles traveled for people already engaged in commerce and residing in this area, leading to reduced miles traveled and improved air quality; and

**WHEREAS**, this application complies with the Intents and applicable Policies 1, 2, 4, 5 and 6 of Guideline 13 – Landscape Character because the LDC requires tree canopies as well as both perimeter and interior landscaping of all sites; and this application will comply with LDC standards, and will provide screening and buffering as promised nearby residents with the TPA areas and 19,956 square feet for a TCCP area; now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the requested change in Form District from Neighborhood to Suburban Workplace on property described in the attached legal description be **APPROVED**.

**The vote was as follows:**

**YES: Commissioners Peterson, Robinson, Tomes, Daniels, Howard, Carlson, and Jarboe.**

**NOT PRESENT: Commissioner Lewis, Smith, and Brown.**

**RESOLVED**, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the proposed change in zoning from R-4, Single-family

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Residential to PEC, Planned Employment Center on property described in the attached legal description be **APPROVED**.

**The vote was as follows:**

**YES: Commissioners Peterson, Robinson, Tomes, Daniels, Howard, Carlson, and Jarboe.**

**NOT PRESENT: Commissioner Lewis, Smith and Brown.**

**Variance from Land Development Code, section 5.7.1.B.2 to reduce the transition zone setback from 30' to 15'**

03:03:35 On a motion by Commissioner Carlson, seconded by Commissioner Howard, the following resolution, based on the Standard of Review and Staff Analysis, the applicant's justification, and evidence and testimony heard today, was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that the requested variance will not adversely affect the public health, safety or welfare as no structures which might impact sight lines for vehicular or pedestrian movement are proposed; and

**WHEREAS**, the Commission further finds that the requested variance will not alter the essential character of the general vicinity as landscaping will be provided to sufficiently buffer the proposed parking areas adjacent to the roadway; and

**WHEREAS**, the Commission further finds that the requested variance will not cause a hazard or nuisance to the public as sight lines for the movement of pedestrians and motorists are not impacted; and

**WHEREAS**, the Commission further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the workplace form allows for parking to encroach upon setbacks provided all required landscaping is provided. All required landscaping is being provided to sufficiently buffer the parking from the street and nearby residential areas; and

**WHEREAS**, the Commission further finds that the requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone as a transition zone is present between the abutting form districts; and

**WHEREAS**, the Commission further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as natural resources prevent the structure and parking facilities from being located further from the roadway; 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 as no development has occurred; and

**WHEREAS**, the Commission further finds that the variance will not adversely affect the public health, safety or welfare because part of the property to the north along N. English Station Road is commercial zoned and in the same Suburban Workplace Form District; additionally, properties to the north and south in the different Form District, are mostly undeveloped and likely in the future to be absorbed by the Eastpoint Business Park in the future; infrastructure has been installed by MSD and the LWC which would anticipate future expansion of the Eastpoint Business Park between N. English Station Road and Stanley Gault Parkway; and because of the street sightlines in this area, removing landscaping impeding views will improve safety; and

**WHEREAS**, the Commission further finds that the variance will not alter the essential character of the general vicinity because this regulation is merely aesthetic to provide uniformity between different Form Districts, but since there is not any uniform setback along N. English Station Road, this regulation does not serve any real purpose and will not adversely affect any adjacent or nearby property owner; and the property to the immediate north violates the very same setback requirement; and

**WHEREAS**, the Commission further finds that the variance will not cause a hazard or a nuisance to the public because the regulation is merely aesthetic; rather, the variance will open sight lines on this section of N. English Station Road improving road safety and reducing hazards; further, the slope of the land will place most of the parking encroachment into the 30 foot setback below the grade of the road, where the encroachment will not be easily visible from the roadway; and

**WHEREAS**, the Commission further finds that the variance will not allow an unreasonable circumvention of the requirements of the zoning regulations because the intent of the regulation does not serve any purpose due to the varying setbacks which already exists in the adjacent Form District and along N. English Station Road, and because the variance will improve safety along this stretch of N. English Station Road; and

**WHEREAS**, the Commission further finds that the variance arises from special circumstances, which do not generally apply to land in the general vicinity because the road curves and limited sight-lines is a pre-existing condition which cannot be changed by the applicant; and

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**WHEREAS**, the Commission further finds that strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create unnecessary hardship because the location along this section of the N. English Station Road frontage is an existing condition which the applicant cannot change and it would unnecessarily limit the parking available to the site; 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 regulation because this is an adaptive use of a property in a transition area; now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE** the requested **Variance** from Land Development Code, section 5.7.1.B.2 to reduce the transition zone setback from 30' to 15'.

**The vote was as follows:**

**YES: Commissioners Peterson, Robinson, Tomes, Daniels, Carlson, Howard, and Jarboe.**

**NOT PRESENT: Commissioners Lewis, Smith, and Brown.**

**Detailed District Development Plan**

03:04:22 On a motion by Commissioner Carlson, seconded by Commissioner Howard, the following resolution, based on the Standard of Review and Staff Analysis, and evidence and testimony heard today, was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that the conservation of natural resources on the property proposed for development, including: trees and other living vegetation, steep slopes, water courses, flood plains, soils, air quality, scenic views, and historic sites will be provided. The proposed development preserves tree canopy, an ephemeral stream, and wetland pond; and

**WHEREAS**, the Commission further finds that provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community are provided as all accommodations required of the developer to support movement of pedestrians and vehicles will be provided. The development provides connectivity to adjacent uses and industrial subdivision; and

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**WHEREAS**, the Commission further finds that the proposal provides open space that helps meet the needs of the proposed development and community as tree canopy, an ephemeral stream, and wetland pond are preserved; and

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

**WHEREAS**, the Commission further finds that the development is compatible with existing and projected development of the area as the proposed zoning district calls for sufficient space in attractive, landscaped, and planned industrial parks and compatibility between these operations and the community. The proposed building materials, setbacks, and landscaping mitigate any impact caused with the expansion of this use from the existing industrial park. Screening and buffering of parking and circulation areas adjacent to the street will be provided. The extent of the development is consistent with the extent of industrial development to the north and south along N. English Station Road; and

**WHEREAS**, the Commission further finds that the proposed development plan conforms to the Comprehensive Plan as the proposal integrates into the pattern of development, which features buildings set back from the street in a landscaped setting as the development conforms to the pattern of development expected within the workplace form district and the building is set back a significant distance from N. English Station Road. It integrates into a planned development that features a mixture of related uses as the proposal provides connectivity between two adjacent properties serving the same operator and connects with the abutting industrial subdivision. Natural features of the site are respected through sensitive site design and connectivity between users is provided; now, therefore be it

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

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.

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2. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
3. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
4. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested:
  - a. The development plan must receive full construction approval from Louisville Metro Department of Codes and Regulations Construction Permits and Transportation Planning Review and the Metropolitan Sewer District.
  - b. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter
  - c. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
5. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
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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7. To the extent that N. English Station Road is not 22 feet wide, it shall be widened to provide 22' of pavement across the frontage of the approved detailed district development plan prior to issuance of certificate of occupancy

**The vote was as follows:**

**YES: Commissioners Peterson, Robinson, Tomes, Daniels, Carlson, Howard, and Jarboe.**

**NOT PRESENT: Commissioners Lewis, Smith, and Brown.**

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Request: Change in zoning from R-4 to C-M with a landscape waiver, sidewalk waiver, pedestrian connection waiver, and setback variance

Project Name: Chamberlain Lane Mini-Storage

Location: 2801 Chamberlain Ln. & 3014 North Winchester Acres Rd.

Owner: Johannes Appelboom & Huong Pham

Applicant: Hagan Properties Inc.

Representative: Jon Baker – Wyatt Tarrant & Combs LLP

Jurisdiction: Louisville Metro

Council District: 17 – Glen Stuckel

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

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

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

**Agency Testimony:**

03:05:50 Joel Dock presented the case and showed a Power Point presentation (See staff report and recording for detailed presentation.) Before beginning his presentation, Mr. Dock handed out revised plans to the Commissioners that he received this morning. He said there were three waivers being requested; two of those requests have now been rescinded. The only waiver still being requested is a waiver of Land Development Code, section 5.5.4.B.1 to reduce 50' LBA along north property line as shown on the development plan. The applicant has provided plans to show pedestrian connectivity and public sidewalks along Chamberlain Lane.

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

Jon Baker, Wyatt Tarrant & Combs, 500 West Jefferson Street Suite 2800, Louisville, KY 40202

Chris Brown, BTM Engineering, 3001 Taylor Springs Drive, Louisville, KY 40220

Kristin Hedden (sp), Hagan Properties, 12911 Reamers Road, Louisville, KY 40245

**Summary of testimony of those in support:**



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03:13:14 Jon Baker, the applicant's representative, presented the applicant's case and showed a Power Point presentation (See recording for detailed presentation.) He explained why the applicant had previously been requesting a sidewalk waiver; however, the applicant has brought in a new plan that has the sidewalks on the plan, thus eliminating the need for the waiver.

03:20:57 Chris Brown, an applicant's representative, provided details about the design of the site. He discussed maintaining greenspace and adding landscaping; fencing; and the detention basin and improved drainage.

03:25:32 Mr. Baker discussed the renderings, the site plan, traffic movement; the privacy fence, and tree planting.

03:28:49 In response to a question from Commissioner Carlson, Mr. Baker discussed proposed binding element #6 and the North Winchester Acres Road privacy fence. The applicant has committed to installing that fence. Commissioner Carlson also asked if the applicant would be willing to add a binding element stating that this property will only be used for a self-storage facility; if this use ever changes, the applicant would have to come back before the Planning Commission for approval. Mr. Baker said he would have an answer to this during rebuttal.

03:31:18 In response to a question from Commissioner Jarboe, Mr. Brown described in detail drainage and MSD requirements for the detention area.

03:33:19 Mr. Baker handed out three proposed binding elements from the applicant regarding building materials.

03:33:47 Karl Sebree (sp) said he is still concerned about where vehicles coming from this facility are going to go on Chamberlain Lane. Mr. Baker used the site plan to point out vehicular access and stated that there will be no access directly from the property onto Chamberlain Lane. See recording for detailed discussion. Mr. Sebree added that there is a North Winchester Acres Road, and a **South** Winchester Acres Road. He mentioned that this distinction could be important for traffic flow discussions.

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

No one spoke.

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

Jennifer Mangeot, 3015 Winchester Acres Road, Louisville, KY 40245

Evelyn Sindelar, 3009 Winchester Acres Road North, Louisville, KY 40245

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Dan Smith, 3015 North Winchester Acres Road, Louisville, KY 40245

Karl Sebree (sp), 417 Christian Village Circle, Apartment 204, Louisville, KY 40243

**Summary of testimony of those in opposition:**

03:35:57 Dan Smith said his property is directly across the street from the subject site. He said he is mostly concerned about privacy and security. He is concerned about light pollution, headlights shining into his bedroom window, and increased crime. He said this is a “fully functional” residential neighborhood, and he objects to putting in a corner commercial property at the entrance to his neighborhood. He said this site is located at a blind corner, creating a potentially dangerous traffic situation. He expressed concerns about no sewers, and drainage. Mr. Smith added that this general area is “saturated” with storage facilities; why is the applicant building another one in a residential neighborhood?

03:42:04 Jennifer Mangeot said she objected to seeing a 600-unit storage facility in her front yard. This is a residential neighborhood. She said the applicant seems to be making many accommodations for Ford, and for themselves, but not for the neighbors. She also raised traffic and construction issues, and the concern that vehicles’ headlights would be shining directly into her home. She expressed concern about this project decreasing her property value.

03:46:11 Evelyn Sindelar reiterated that this is a private residential neighborhood, not commercial. She is concerned with lights, noise, and crime. She discussed the curve in the road and how dangerous it is.

03:50:34 Karl Sebree (sp) read a statement into the record (see recording.) He discussed prior attempts to develop this parcel which were denied.

03:53:02 In response to a question from Commissioner Jarboe, Ms. Sindelar discussed the 800 tractor trailers that she said passed her house every day. She said it wasn’t that many until Ford increased their business; also, she has three-story evergreen trees to buffer the road traffic.

03:54:54 In response to a question from Commissioner Jarboe, Ms. Mangeot said the applicant could move the access to the north so that vehicle headlights would not shine into her house. Commissioner Jarboe noted that these types of facilities are very low density and intensity. Ms. Mangeot said that, at the neighborhood meeting, the neighbors had asked that the access be onto Chamberlain Lane and not onto Winchester Acres.

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03:58:08 Commissioner Carlson asked Ms. Mangeot if she would be willing to have the applicant plant evergreen trees or other landscaping on her property, to act as a buffer. Ms. Mangeot suggested getting rid of the last building on the plan, and putting nothing but trees and a taller fence there instead.

**Rebuttal:**

04:00:53 Mr. Baker said the applicant agrees to a binding element restricting use. He also discussed offering Winchester Place plantings (especially dense evergreens). He said that, with the development of this property, the applicant will be adding another five feet of pavement to North Winchester Acres along the site frontage. This will give more room to traffic. He added that the applicant will comply with all LDC lighting regulations.

04:02:58 Krstin Hedden (sp), an applicant's representative, discussed a rendering of what the back side of the building would look like. She said this building "naturally acts as a screen" and will have brick and stucco. She said the four-board fence with trees is another layer of screening. She said the applicant is willing to plant some arbor vitae and pines to help screen the neighbors' side. Regarding the septic issue, she said the applicant has already met with the Health Department, which expressed no concerns.

04:04:13 Mr. Baker said the applicant is willing to agree in a binding element to a restriction of use on this property (the property will utilized as a self-storage facility; if this use changes, it will have to come back to the Planning Commission or a Committee thereof to change.)

04:05:36 In response to a question from Commissioner Tomes, Ms. Hedden explained where the lighting would be going on the buildings, the type of lighting, and the type of poles that might be used in the driving lanes. Lights will be fully-shielded, down-facing.

04:06:55 In response to a question from Commissioner Carlson, Mr. Baker said he would work on a binding element regarding plantings on the opposite side for the neighbors.

04:07:16 Regarding the variance, Commissioners Howard and Jarboe asked Mr. Baker if there is a reason why the first building cannot be moved, or removed?

04:09:53 Mr. Baker said the applicant agrees to withdraw the variance application. The applicant will re-file a revised development plan. He and Ms. Hedden explained the changes that this would entail to the plan.

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**04:12:59     The Commission took a 5-minute recess**

04:13:18     Mr. Baker discussed the incorporation of an additional binding element for all off-site planting, which has been included into the record as binding element #9.

04:16:31     Ms. Mangeot asked for verification that the requested variance is being withdrawn. Commissioner Jarboe said it had. She asked to see a slide showing the trees and fence along the frontage.

04:18:35     Mr. Dock explained that there is already an existing binding element in the staff report that requires a four-board fence and intermittent trees as present at today's hearing; also, these binding elements and landscape plan will be reviewed by the Metro staff Landscape Architect.

04:19:20     Mr. Smith asked what the sewage plan is. Mr. Baker said there will be a septic field that has been approved by Mike Ballard of the Health Department. Mr. Brown pointed out the location of the field on the development plan.

**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.**

**04:20:30     Commissioners' Deliberation**

**Change-in-Zoning from R-4, Single-family Residential to CM, Commercial-Manufacturing**

**04:28:07     Travis Fiechter, legal counsel for the Planning Commission, provided clarification to the Commissioners regarding the applicant's and staff's justifications since they have been revised based on the evidence and testimony during the public hearing.**

**04:28:40     On a motion by Commissioner Carlson, seconded by Commissioner Robinson, the following resolution, based on the Staff Cornerstone 2020 checklist, the applicant's justification, and evidence and testimony heard today, was adopted:**

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**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the intents of Guideline 1: Community Form because the proposal integrates into the pattern of development as the immediate vicinity contains a mixture of industrial and commercial activities of varying intensities. Industrial or employment centers dominate much of the nearby land; the proposal integrates into a planned development that features a mixture of related uses, and that may contain either a single major use or a cluster of uses as the general vicinity contains a variety of industrial or employment centers. The proposed use may serve nearby residences or non-residential users; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 3: Compatibility because renderings provided indicated that the proposal is consistent with surrounding industrial and employment center development; the proposal does not constitute a non-residential expansion into an existing residential area as the surrounding area is largely non-residential and the existing pocket of residential wherein the site is located is wholly encompassed by industrial, commercial and office uses and located within the Suburban Workplace form district; the proposal mitigates any potential odor or emissions associated with the development as uses permitted by the proposed district will not produce odors that would not ordinarily be expected by industrial development in the area; the proposed use generates limited traffic; the site is located along a collector with immediate service to an arterial and the interstate. The roadway network supports a wide variety of uses permitted by the district; lighting will be compliant with LDC 4.1.3; the proposed use is located in an activity center consisting of a range of low intensity office uses and higher intensity manufacturing uses. It is within the SW form district; the proposal provides appropriate transitions between uses that are substantially different in scale and intensity or density of development as landscape screening will be provided as required adjacent to an existing low-density residential property. The buffering provided will be compatible for future non-residential development; the proposal mitigates the impacts caused when incompatible developments unavoidably occur adjacent to one another as landscape screening will be provided as required adjacent to an existing low-density residential property. The buffering provided will be compatible for future non-residential development; parking area locations are consistent with the pattern of development in the area and do not infringe on residential properties; the proposal includes screening and buffering of parking and circulation areas adjacent to the street as a landscape buffer immediately adjacent to the parking area is provided; no parking structures have been proposed; and signage will be compliant with Chapter 8 of the LDC; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 4: Open Space because open space is not required for the proposal and is not needed to help meet the needs of the larger community; detention areas are provided to manage run-off and through drainage during rain events; the proposal is a

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SW form district; and the proposal will provide the required tree canopy per Chapter 10 of the LDC; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 5: Natural Areas and Scenic and Historic Resources because detention areas are provided to manage run-off and through drainage during rain events; the proposal does not contain any features of historical significance; the development site does not appear to contain wet or highly permeable soils, or contain significant portions of erodible soils. No steep slopes are present. Detention areas are provided to manage run-off and through drainage during rain events; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 6: Economic Growth and Sustainability because the proposed use will serve a wide range of users. The district is able to provide supportive services consistent with an industrial or employment district; the proposal is not downtown; the proposed district is consistent with the industrial and employment district in the area with respect to land use and the ability to provide supportive services; the proposed use is a limited traffic generator. The proposed district is located along a collector with immediate service to an arterial and the interstate; and the proposed district allows for industrial development with no limit on the number of employees. It is located along a collector level roadway with immediate service to an arterial and the interstate, as well as being located adjacent to Ford truck Plant and a number of other similar uses within activity center; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 7: Circulation because no additional right-of-way has been requested; the proposal includes adequate parking spaces to support the use; and upon future development of the area for non-residential uses Winchester Acres Road appears to provide internal connectivity to adjacent development without entering collector or arterial roadways; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 8: Transportation Facility Design because no stub roadways are needed to facilitate this or adjacent development as N. Winchester will provide for appropriate connectivity; access to the development site is from areas of similar intensity from a collector roadway with arterial and interstate access within close proximity; the development provides for an appropriate functional hierarchy of streets and appropriate linkages between activity areas in and adjacent to the development site as Chamberlain Lane provides access to the interstate and nearby industrial uses; and

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

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

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 13: Landscape Character because the development site does not appear to contain any natural corridors that can provide habitat areas and allow for migration; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 14: Infrastructure because the proposal is located in an area served by existing utilities or planned for utilities; the proposal will have access to an adequate supply of potable water and water for fire-fighting purposes; and the proposal has adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 1. Community Form because the Property is located in the Suburban Workplace Form District, which is characterized by predominantly industrial and office uses and often contain a single large-scale use or a cluster of uses within a master planned development; with over 400 acres of property whereon it manufactures trucks, the Ford Plant is the (very) large-scale use in this particular Suburban Workplace District; a cluster of mid-sized to smaller industrial and office uses also are present within the area, especially north of the Property along Collins Lane near its intersection with Westport Road, where the cluster of industrial uses becomes more dense and is served by railway; a small grouping of industrial and office uses is located southeast of the property between Chamberlain Lane and Old Lagrange Road; the proposed use is of low intensity and of low traffic volume; to reduce any conflicts between semi-truck trips coming/going from the Ford Plant, which maintains a very active access point adjacent to the Property's western boundary, access to/from the self-storage facility is planned off N. Winchester Acres Road, a private roadway; the proposed use will provide a storage service to the many employees working within the immediate area as well as residents living in the residential neighborhoods of the general area; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 2. Centers because the Property is located in the Suburban Workplace Form District where a number of different industrial and office uses are established and, together, employ thousands of workers who frequent the area on a daily basis and are

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often traditional self-storage users; indeed, between the Ford Plant and the uses along Collins Lane, this area certainly qualifies as an employment center; a small pocket of residential properties remain within the immediate area along N. Winchester Acres Rd. and along the western side of Collins Ln.; larger residential neighborhoods are within a short drive from the Property; the Proposal is a compact, efficient use of the land situated at the corner of Chamberlain Ln., a primary collector, and N. Winchester Acres Rd., a private local road, and has convenient access to I-265, an expressway; thus, the Property is an ideal location to safely serve the storage needs of both workers and residential customers as well as any storage demands the mix of businesses located within the vicinity will have; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 3. Compatibility because it is located on a corner property and fronting Chamberlain Ln, a primary collector roadway, in an area the Louisville Metro Planning Commission and Louisville Metro Council, considering their respective roles in 2000 when they adopted Cornerstone 2020, designated as Suburban Workplace Form; indeed, with the immediate area located adjacent to the vast manufacturing complex that is the Ford Plant, as well as the area along Collins Ln. that is home to numerous industrial and logistical land uses, many of which have convenient access to railway and all to the Gene Snyder Freeway; in response, prospective investors and developers of land have noticed and acted upon Metro's designation of the area as Suburban Workplace; one out-of-state entity has recently purchased seven (3013, 3016, 3017, 3019 (2 separate tracts with same address), 3021, and 3106 N. Winchester Acres Rd.) of the seventeen properties, totaling 17 acres, all of which front N. Winchester Acres Rd and intends to utilize these properties to develop industrial/logistical warehousing type uses; suffice it to say, this small pocket of residential properties between industrial areas is undoubtedly transitioning from residential to land uses more aptly suited for the Suburban Workplace Form in which it is located; consequently, sooner or later, commercial, industrial and/or office uses will expand into this last remaining residential area of the Suburban Workplace Form; the Proposal, as described herein, is a fitting use to locate on the Property because it is a low-intensity use that generates low traffic volumes and will be situated next door to a high-intensity manufacturing complex that generates large amounts of semi-truck traffic, thereby acting as an effective transition between levels of intensity of land uses; and

**WHEREAS**, furthermore, the Proposal is consistent with the intent and applicable Policies of Cornerstone 2020, Guideline 3, because it includes a mix of one- and two-story buildings that will be constructed out of high quality, durable materials including stone, masonry, architectural metal panels, steel accents, commercial storefront glass and stucco; proposed building facades along Chamberlain Ln. and N. Winchester Acres Rd exhibit heightened architectural design more appropriate for the area considering the current residences along N. Winchester Acres Rd. as well as the eventual



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industrial/office-type uses that will locate in the Suburban Workplace Form encompassing the area; these exterior facades will screen the outside area from the inside of the facility, where customers pick up and drop off their respective storage items; further, the length of the one-story building along N. Winchester Acres Rd. will be activated with animating architecture features, landscaping, tree plantings and a handsome four-board horse fence, which blends well with the character of the existing residential properties on N. Winchester Acres Rd; the Property will be sufficiently secured to keep individuals without proper access from gaining entry into the facility; the surrounding areas will not be adversely affected by noise as it is a storage use and not constantly accessed by costumers; when customers are in the process of storing belongings, noise will be mitigated by surrounding storage buildings, large trees and other vegetation surrounding the development; security lighting will not extend above the roof line and will be directed down so it will not negatively impact nearby properties; traffic is very low and peak hour traffic is immaterial for storage use and, instead, is more distributed throughout the day; signage on-site will comport with applicable regulations; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 6. Marketplace because the proposed rezoning of this Property to C-M, Commercial Manufacturing will generate economic growth within the existing Suburban Workplace Form, as opposed to the continuation of an idle R-4, single-family property with no home constructed thereon and in which reluctance to purchase and invest in the property as a residential use exists, notably because the property is located next door to the Ford Plant and within the Suburban Workplace Form; moreover,as previously stated, a solid mix of businesses exist in the area that will require storage and, combined with the expectation that residential units within the vicinity will increase, the Proposal will ensure availability of necessary usable land to facilitate commercial, industrial and residential development; during the course of the Applicant's market research and due diligence, a shortage in storage units - especially climate-controlled units - for the area was identified and without additional storage units, the increase in dwelling units over the next five years within the area will exacerbate demand in the market; in response to this demand in the market, the Proposal will offer both the standard drive-up storage units without climate control as well as indoor, climate-controlled storage space; accordingly, the Proposal complies with the intent and applicable Policies of Guideline 6, Economic Growth and Sustainability; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guidelines 7, 8 & 9- Circulation, Transportation Facility Design & Bicycle, Pedestrian & Transit because the Proposal will have minimal impact on mobility and transportation of the surrounding area, as self-storage facilities generate one of the lowest traffic volumes associated with commercial development; the site will have two access points off of N. Winchester Acres Rd., the second access point being a right-out-only exit, restricting

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vehicles exiting the site southward towards Chamberlain Ln. and away from the dead end of N. Winchester Acres Rd.; along the Property's frontage, additional pavement width to N. Winchester Acres Rd. will be provided to accommodate those vehicles exiting the right-turn-only at the rear of the site; considering the Property's very near proximity to the Ford Plant, and specifically to Ford's primary entrance/exit for semi-trailer trucks being located next to the shared property line, access from the Property directly to Chamberlain Ln. is unsafe; indeed, semi-trailer trucks are prevalent on this section of Chamberlain Ln. and often queue in front of the Property while awaiting entry into the Ford Plant; and, at times, semi-trucks will park for longer durations directly in front of the Property, along the shoulder of the Chamberlain Lane right-of-way; as a result, N. Winchester Acres Road allows the safest access from the Property and to Chamberlain Lane, via a controlled stop at the intersection of N. Winchester Acres and Chamberlain; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guidelines 10 & 11- Flooding and Stormwater & Water Quality because the Applicant's zoning application is consistent with the applicable intents and policies of Guideline 10 and 11 because stormwater from the Property, as well as drainage from a portion of the neighboring property (3016 N. Winchester Acres Road), will be sufficiently accommodated by on-site detention, discussions of which the Applicant has begun with MSD, thereby ensuring peak post-development surface water runoff will not exceed pre-development levels and no significant increase in flooding or excess drainage to adjoining properties will occur; The Property contains no streams nor is it located in a regulatory floodplain; 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; additionally, the applicant's final design for development of the Property will address and comply with all MS4 water quality regulations established by MSD; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 12. Air Quality because the activity associated with the proposed development is one of the lowest intensity traffic generators on commercial property; as a storage facility, the site will only be accessed by vehicles as customers drop off and pick up their storage items; these items are typically stored for months at a time and given the Proposal's near proximity to its future commercial and residential patrons it will reduce vehicular drive distances and help alleviate any impacts on air quality; therefore, the Proposal complies with the intent and applicable Policies of Guideline 12; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 13. Landscape Character because the Applicant's Proposal is consistent with the intent and applicable Policies of Guideline 13; the LDC requires interior and

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perimeter landscaping as well as minimum tree canopy on-site, all of which will be satisfied, if not exceeded with the Proposal; one hundred type A trees will be provided to re-establish tree canopy on-site, most of which will be native species; the Applicant is requesting a waiver from LDC Chapter 5.5.4.B.1 to reduce the required 50' landscape buffer along the north property perimeter adjacent to a residentially zoned property; tree plantings will be inserted within the remaining buffer area to bolster the already established tree line existing on the shared property boundary and, as such, any negative impacts created by the Proposal will be mitigated by the proposed perimeter screening; as mentioned herein, the immediate area along N. Winchester Acres Rd., pursuant to the guidance of the Comprehensive Plan, is undergoing a transition from residential to uses more appropriately located within the Suburban Workplace Form; the adjacent property to the north (3016 N. Winchester Acres Rd.) is no exception, for it was recently purchased in late 2017 by an out-of-town entity that has acquired in total seven parcels along N. Winchester Acres Rd; it is undetermined what land use the property owner ultimately will establish on the property next door, but it's safe to say it will not be residential; consequently, the Applicant's waiver will become moot in the near future; and

**WHEREAS**, the Commission further finds that, for all of the reasons set forth at the LD&T Committee meeting and the November 1, 2018 Planning Commission public hearing, as well as all of the information submitted in the administrative record for Case No. 18ZONE1058, as evidenced by the most recent detailed development plan presented to the Commission, the applicant's request to change the zoning designation of the Property from R-4 Single-Family Residential and CM Commercial Manufacturing is in agreement with all other applicable Intents, Policies, and Guidelines of the Cornerstone 2020 Comprehensive Plan; as a result, the Planning Commission finds the proposed rezoning complies with the required statutory criteria of KRS 100.213; now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the proposed Change-in-Zoning from R-4, Single-family Residential to CM, Commercial-Manufacturing as described in the attached legal description, be **APPROVED**.

**The vote was as follows:**

**YES: Commissioners Peterson, Robinson, Tomes, Daniels, Howard, Carlson, and Jarboe.**

**NOT PRESENT: Commissioners Lewis, Smith, and Brown.**

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**CASE NO. 18ZONE1058**

**Waiver of Land Development Code, section 5.5.4.B.1 to reduce the 50' LBA along north property line as shown on the development plan**

04:34:26 On a motion by Commissioner Carlson, seconded by Commissioner Robinson, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that the waiver will not adversely affect adjacent property owners as all planting and screening will be provided as required and the buffer is consistent with future non-residential development within the form; and

**WHEREAS**, the Commission further finds that Guideline 3, Policy 9 of Cornerstone 2020 calls for the protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigate when appropriate. Guideline 13, Policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. The subject site and all surrounding development are located in the workplace form and the buffer proposed is consistent with future non-residential development. Further, all required screening is provided; 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 as existing conditions are not representative of future development of the area as intended within the form; and

**WHEREAS**, the Commission further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as existing conditions are not representative of future development of the area as intended within the form; now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Waiver of Land Development Code, section 5.5.4.B.1 to reduce 50' LBA along north property line as shown on the development plan.

**The vote was as follows:**

**YES: Commissioners Peterson, Robinson, Tomes, Daniels, Howard, Carlson, and Jarboe.**

**NOT PRESENT: Commissioners Lewis, Smith, and Brown.**

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**Detailed District Development Plan**

04:35:21 On a motion by Commissioner Carlson, seconded by Commissioner Robinson, the following resolution, based on evidence and testimony heard today, was adopted:

**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Detailed District Development Plan, **ON CONDITION** that the Revised Plan be submitted for approval that provides the 25-foot setback on North Winchester Acres Road, and **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. 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, or alteration 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.

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- d. An appropriate legal instrument shall be recorded consolidating the property as shown on the development plan. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services.
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. 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.
  6. A four-board fence with intermittent trees shall be provided along N. Winchester Acres and shall be substantially the same as presented at the public hearing on November 1, 2018.
  7. A fence shall be installed along the north property line, and it shall be substantially similar to the fence presented at the November 1, 2018 Planning Commission public hearing.
  8. The property shall be only used for mini-warehouse unless otherwise approved by the Planning Commission in a public hearing.
  9. Applicant shall provide a 25' wide swath of arborvitae and pine trees on a portion of the frontage on property at 3015 N. Winchester Acres Road. No planting or entry onto the aforementioned property for the purpose of planting shall occur without the written consent of the respective property owner(s). Developer shall provide a written request for consent which request must be responded to within 30 days of receipt. Should developer not receive a timely response, it's buffer obligation on the affected property shall be void. Provided consent is given, planting shall occur within 1 year of receipt of consent. Agreed upon plantings

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shall be installed at a height of 6-8 feet. Developer shall not responsible for continued maintenance of agreed upon plantings after their installation.

10. As it relates to the principal indoor storage building facing Chamberlain Lane, design of the structure shall be reasonably similar to the photographs shown and testimony heard at the November 1, 2018 Planning Commission public hearing of "Winchester Acres" self-storage facility. Building materials shall include any of the following materials, or combination thereof: brick, stone, veneer, glass, metal and stucco or EFIS in proportions that would complement the building.
11. As it relates to the outdoor storage building's façade, facing North Winchester Acres Road, its building materials shall include any of the following materials, or a combination thereof: brick, stone, veneer and/or stucco or EFIS in proportions that would complement the building.
12. Except for what is already set forth in other binding elements related to building materials and building design, the North, South, and West elevations of building facades adjacent to North Winchester Acres Road, and the design for the buildings facing the interior portion of the site, shall include any of the following materials, or a combination thereof: concrete block, metal doors and other materials at Developer's discretion that would complement other buildings.

**The vote was as follows:**

**YES: Commissioners Peterson, Robinson, Tomes, Daniels, Howard, Carlson, and Jarboe.**

**NOT PRESENT: Commissioners Lewis, Smith, and Brown.**

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**CASE NO. 18ZONE1061**

Request: Change in zoning from R-4 to R-5 with a District Development Plan and setback variances  
Project Name: Factory Lane  
Location: 13501 and 13505 Factory Lane  
Owner: Joe Kroll Builder, LLC  
Applicant: Master-Craft Homes, LLC  
Representative: Clifford Ashburner – Dinsmore & Shohl, LLP  
Jurisdiction: Louisville Metro  
Council District: 17 – Glen Stuckel

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

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

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

**Agency Testimony:**

04:39:02 Joel Dock presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.)

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

Clifford Ashburner, Dinsmore & Shohl, 101 S 5th St #2500, Louisville, KY 40202

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

**Summary of testimony of those in support:**

04:42:33 Cliff Ashburner, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.)

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

No one spoke.



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

No one spoke.

**Rebuttal:**

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

**04:47:58** 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.**

**Change in zoning from R-4, Single-family Residential to R-5, Single-family Residential**

**04:50:47** On a motion by Commissioner Howard, seconded by Commissioner Peterson, the following resolution based on the Cornerstone 2020 Staff Analysis and evidence and testimony heard today, was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the intents of Guideline 1: Community Form because the proposal supports the creation of a mix of residential housing choices and densities for the neighborhood as the area contains a wide variety of densities and intensities; the proposed district introduces additional options for single-family development; the proposal does not introduce a high density use. The maximum density permitted is 7.26 du/ac.; the proposal does not introduce a new housing style as the area contains a mix of housing options within the extent of existing and planned developments; neighborhood streets are designed to invite human interaction and easy access through the use of connectivity, and design elements such as short blocks or bike/walkways in the middle of long blocks to connect with other streets as connectivity and pedestrian accommodations have been made; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 3: Compatibility because the proposal is generally compatible within the scale and site design of nearby existing development and with the form district's pattern of development as the area contains a wide variety of densities and intensities; residential development will occur in accordance with the residential site design standards of LDC 5.4.2.; the proposal is compatible with adjacent residential areas as

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the development to the immediate west is a multi-family development and the development surrounding to the north and east is a conservation subdivision , and the proposed district is a single- family subdivision; traffic impacts will be minimal and consistent with other single-family development in the area. Access is obtained from a collector level roadway feeding an arterial and the interstate within less than 1-mile; lighting will be in compliance with LDC 4.1.3; the proposed district incorporates itself into an area which provides a wide range of housing styles; the subject site is located along a collector roadway and within proximity to activity centers; the proposed district incorporates itself into an area which provides a wide range of housing options; surrounding uses are multi- and single- family residential which are compatible with the proposed development; setbacks, lot dimensions and building heights are compatible with those of nearby developments that meet form district standards. The proposed setbacks add to the variety of styles and setbacks which aid in creating variability and sense of place that is not homogenous; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 4: Open Space because the proposal is not required to provide additional open space; and the proposal integrates natural features into the pattern of development as the subject site is mostly clear of vegetation and there are no additional environmental features; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 5: Natural Areas and Scenic and Historic Resources because the site does not appear to contain any sensitive natural features; the subject site may contain historic resources (structure built 1930 – PVA). Any historic resources will be documented prior to demolition; and the site does not appear to contain wet or highly permeable soils, severe, steep or unstable slopes with the potential for severe erosion; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 7: Circulation because The proposal will contribute its proportional share of the cost of roadway improvements and other services and public facilities made necessary by the development through physical improvements to these facilities, contribution of money, or other means; right-of-way will be dedicated and the site is within the System Development Charge area; the proposal's transportation facilities are compatible with and support access to surrounding land uses, and contribute to the appropriate development of adjacent lands. The proposal includes at least one continuous roadway through the development from an adjacent subdivision to the collector roadway; and the proposal includes the dedication of rights-of-way for street, transit corridors, bikeway and walkway facilities abutting the development and connecting to adjacent development; and

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**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 8: Transportation Facility Design because adequate stub streets are provided for future roadway connections that support and contribute to appropriate development of adjacent land. A Stub is provided to the east; the proposed zoning district is similar in intensity to surrounding areas and access to the site would not create a nuisance; the development provides for an appropriate functional hierarchy of streets and appropriate linkages between activity areas in and adjacent to the development site. The collector roadway provides primary access, a connection to adjacent subdivision is provided; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 9: Bicycle, Pedestrian and Transit because the proposal provides, where appropriate, for the movement of pedestrians, bicyclists and transit users around and through the development as sidewalks will be provided throughout; and

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

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 13: Landscape Character because the subdivision does not have a significant impact on natural corridors; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 14: Infrastructure because the precise location of utilities and service will be determined at the record plat stage in consultation with all utility providers; the proposal has access to an adequate supply of potable water and water for fire- fighting purposes; and the proposal has adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams; now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the proposed change in zoning from R-4, Single-family Residential to R-5, Single-family Residential on property described in the attached legal description be **APPROVED**.

**The vote was as follows:**

**YES: Commissioners Peterson, Robinson, Tomes, Daniels, Howard, Carlson, and Jarboe.**

**NOT PRESENT: Commissioners Lewis, Smith, and Brown.**

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**Variance of Land Development Code, section 5.3.1.c to reduce the required front/street side yard setback from 25' to 15' for interior lots and from 40' to 30' along Factory Lane**

04:52:03 On a motion by Commissioner Howard, seconded by Commissioner Robinson, the following resolution based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that the requested variance will not adversely affect the public health, safety or welfare as the setback does not allow future development to impact sight lines for vehicles or pedestrians along public ways; and

**WHEREAS**, the Commission further finds that the requested variance will not alter the essential character of the general vicinity as an existing home and an adjacent home are setback at a similar distance from the roadway pavement of Factory Lane and the interior lot setback adds to the variety of styles and setbacks in the area which aid in creating variability and sense of place that is not homogenous; and

**WHEREAS**, the Commission further finds that the requested variance will not cause a hazard or nuisance to the public as the setback does not allow future development to impact sight lines for vehicles or pedestrians along public ways; and

**WHEREAS**, the Commission further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the proposed setback adds to the variety of styles and setbacks in the area which aid in creating variability and sense of place that is not homogenous; and

**WHEREAS**, the Commission further finds that the requested variance does not arise from special circumstances which do not generally apply to land in the general vicinity or the same zone as the development could conform to the requirements; and

**WHEREAS**, the Commission further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as variability in setbacks adds to the variety of styles and setbacks in the area which aid in creating variability and sense of place that is not homogenous; and

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

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**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Variance of Land Development Code, section 5.3.1.c to reduce the required front/street side yard setback from 25' to 15' for interior lots and from 40' to 30' along Factory Lane.

**The vote was as follows:**

**YES: Commissioners Peterson, Robinson, Tomes, Daniels, Howard, Carlson, and Jarboe.**

**NOT PRESENT: Commissioners Lewis, Smith, and Brown.**

**Major Preliminary Subdivision/District Development Plan**

04:52:58 On a motion by Commissioner Howard, seconded by Commissioner Robinson, the following resolution based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that the conservation of natural resources on the property proposed for development, including: trees and other living vegetation, steep slopes, water courses, flood plains, soils, air quality, scenic views, and historic sites will be provided. A potential historic resource will be documented prior to demolition. The site contains no other significant natural resources; and

**WHEREAS**, the Commission further finds that provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community are provided as connectivity and pedestrian accommodations have been made throughout the development and to adjacent sites; and

**WHEREAS**, the Commission further finds that the proposal provides open space that helps meet the needs of the proposed development and community as no open space provisions are required for the proposal; and

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

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**WHEREAS**, the Commission further finds that the overall site design and land use is compatible with the area as the area contains a wide variety of densities and intensities; and

**WHEREAS**, the Commission further finds that the proposed development plan conforms to the Comprehensive Plan as The proposal is generally compatible within the scale and site design of nearby existing development and with the form district's pattern of development as the area contains a wide variety of densities and intensities. The proposal supports the creation of a mix of residential housing choices and densities for the neighborhood and introduces additional options for single-family development. Neighborhood streets are designed to invite human interaction and easy access through the use of connectivity and design elements such as short blocks or bike/walkways in the middle of long blocks to connect with other streets as connectivity and pedestrian accommodations have been made; now, therefore be it

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

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. No further subdivision of the land into a greater number of lots than originally approved will occur without approval of the Planning Commission.
3. 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."
4. All street signs shall be installed by the Developer, and shall conform to the Manual on Uniform Traffic Control Devices (MUTCD) requirements. Street signs shall be installed prior to the recording of the subdivision record plat or

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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.

5. The applicant shall install signs, approved by the Metro Public Works Dept., which indicate the future extension of the public rights of way as shown on the preliminary subdivision plan. Such signs shall be installed prior to release of bonds for the installation of the street infrastructure.
6. Open space lots shall not be further subdivided or developed for any other use and shall remain as open space in perpetuity, unless approved by the Louisville Metro Planning Commission. A note to this effect shall be placed on the record plat.
7. 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.
8. After release of the drainage bond, mosquito abatement on open space lots shall be the responsibility of the Homeowners Association. Accumulations of water in which mosquito larvae breed or have the potential to breed are required to be treated with a mosquito larvacide approved by the Louisville Metro Health Department. Larvacides shall be administered in accordance with the product's labeling. This language shall appear in the deed of restrictions for the subdivision.
9. Trees will be preserved and/or provided on site and maintained thereafter as required by Chapter 10, Part 1 of the Land Development Code and as indicated in the Tree Canopy Calculations on the Preliminary Subdivision Plan. The applicant shall submit a landscape plan for approval by Planning Commission staff for any trees to be planted to meet the Tree Canopy requirements of Chapter 10, Part 1 of the Land Development Code. A tree preservation plan shall be submitted for review and approval for any trees to be preserved to meet the Tree Canopy requirements of Chapter 10.
10. The applicant shall submit a landscape plan for approval by Planning Commission staff showing plantings and/or other screening and buffering materials to comply with the Chapter 10 of the Land Development Code prior to recording the record plat. The applicant shall provide the landscape materials on the site as specified on the approved Landscape Plan prior to issuance of Certificates of Occupancy for the site.

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11. 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.
12. At the time the developer turns control of the homeowners association over to the homeowners, the developer shall provide sufficient funds to ensure there is no less than \$3,000 cash in the homeowners association account. The subdivision performance bond may be required by the planning Commission to fulfill this funding requirement.
13. Any signature entrance shall be submitted to the Planning Commission staff for review and approval prior to recording the record plat.
14. An Individual Historic Resource Survey Form shall be completed for any historic resources on the subject site. The documentation must occur prior to the issuance of a demolition permit or ground disturbance at the site. The documentation shall be submitted to Urban Design/Historic Preservation Staff upon completion.

**The vote was as follows:**

**YES: Commissioners Peterson, Robinson, Tomes, Daniels, Howard, Carlson, and Jarboe.**

**NOT PRESENT: Commissioners Lewis, Smith, and Brown.**



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**STANDING COMMITTEE REPORTS**

**Land Development & Transportation Committee**

No report given.

**Site Inspection Committee**

No report given.

**Planning Committee**

No report given.

**Development Review Committee**

No report given.

**Policy & Procedures Committee**

No report given.

**CHAIRPERSON/DIRECTOR'S REPORT**

No report given

**ADJOURNMENT**

The meeting adjourned at approximately 6:15 p.m.

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Chairman

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Division Director