

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO PLANNING COMMISSION
January 19, 2017**

A meeting of the Louisville Metro Planning Commission was held on January 19, 2017 at 1:00 p.m. at the Old Jail Building, located at 514 W. Liberty Street, Louisville, Kentucky.

Commission members present:

Vince Jarboe, Chair
Marilyn Lewis, Vice Chair
Jeff Brown
Rich Carlson
Robert Kirchdorfer
Lula Howard
Marshall Gazaway

Commission members absent:

Rob Peterson
Emma Smith
David Tomes

Staff Members present:

Emily Liu, Planning Director
Brian Davis, Planning Manager
Julia Williams, Planning Supervisor
Brian Mabry, Planning Supervisor
Beth Allen, Planner II
Tammy Markert, Transportation Planning
Tony Kelly, MSD
John Carroll, Legal Counsel
Paul Whitty, Legal Counsel
Pamela M. Brashear, Management Assistant

The following matters were considered:

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APPROVAL OF MINUTES

JANUARY 5, 2017 PLANNING COMMISSION REGULAR MEETING MINUTES

On a motion by Commissioner Carlson, seconded by Commissioner Gazaway, the following resolution was adopted.

RESOLVED, that the Planning Commission does hereby **APPROVE** the minutes of its meeting conducted on January 5, 2017.

The vote was as follows:

YES: Commissioners Carlson, Gazaway, Kirchdorfer and Lewis

NOT PRESENT FOR THIS CASE: Commissioners Peterson, Smith and Tomes

ABSTAINING: Commissioners Brown, Howard and Jarboe

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PUBLIC HEARING

CASE NO. 16ZONE1058
CONTINUED FROM JANUARY 5, 2017 PH

Case No: 16ZONE1058
Request: Change in zoning from R-7 to OR
Project Name: Eastern Parkway Law Office
Location: 604 Eastern Parkway

Owner: Venture 604, LLC
3306 Mount Shasta
Louisville, Ky. 40241

Applicant: C.R.P and Associates, LLC
Charles R. Podgursky
7321 New La Grange Rd. #111
Louisville, Ky. 40222

Representative: Randall L. Wright
105 S. Sherrin Avenue
Louisville, Ky. 40207

Jurisdiction: Louisville Metro
Council District: 15 - Butler
Case Manager: Brian Mabry, AICP, Planning & Design Supervisor

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

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

Agency Testimony:

00:04:27 Mr. Mabry discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Randall Wright, 3306 Mount Shasta, Louisville, Ky. 40241
Eric Grider, 606 Eastern Parkway, Louisville, Ky. 40217

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Summary of testimony of those in favor:

00:13:02 Mr. Wright said he's here to answer questions.

The following spoke neither for nor against the request:

Gail Linville, 526 Atwood Street, Louisville, Ky. 40217
Mimi Zinniel, 17 Rio Vista Drive, Louisville, Ky. 40207
Martha Berner, Metro Parks

Summary of testimony of those neither for nor against:

00:14:11 Ms. Linville is the President of the St. Joseph Area Association and they request a sign smaller than 5 feet. It needs to blend in with the neighborhood.

00:16:14 Ms. Zinniel stated, "I am the President of Olmstead Parks Conservancy, whose mission is to preserve and protect the Olmstead Parkways. We have no authority or official position on this case."

00:21:51 Ms. Berner requests the sign be illuminated by spotlights instead of being internally illuminated.

Deliberation

00:23:50 Commissioner Brown supports the zoning change but doesn't want forced access.

00:25:37 Mr. Grider said he's satisfied with what he's heard.

00:26:03 Vice Chair Lewis stated, "The key was whether the direct neighbor was now satisfied with the changes taking place in terms of their access." It's a good use of the property and the compromise the applicant has agreed to make with the signage is to be commended.

00:27:10 Commissioner Brown remarked, "I support removing driveways and direct access when we hear it in conjunction with that rezoning, but what they are doing is removing a portion of a driveway that has been serving the abutting property and that abutting property isn't in here for review so I certainly don't want any forced access on that property without their consent. It sounds like they're ok with it."

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00:27:59 Commissioner Gazaway visited the site and stated he's concerned about Miller Ln. being closed and if the neighboring home is sold, the new owner may have access issues.

00:29:54 Commissioner Carlson stated that closing the driveway will restore it back to a scenic highway.

00:32:18 Commissioner Kirchdorfer stated there's no increased traffic. Also, the commission needs to consider the request for restricting internal illumination of the sign.

00:34:00 Mr. Mabry said there is no regulation regarding illumination for signs on the parkways. The Land Development Code only speaks to the size and height.

00:34:54 Mr. Wright described the type of sign he may want, but hasn't decided if it will have internal or external lighting. Commissioner Brown suggests sending the sign to DRC for review.

00:37:29 Chair Jarboe stated he is against commercial being on the parkways and doesn't want to set a precedent.

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

Zoning Change from R-7 to OR

On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution was adopted.

WHEREAS, This form is characterized by predominantly residential uses, by a grid pattern of streets with sidewalks and often including alleys. Residential lots are predominantly narrow and often deep, but the neighborhood may contain sections of larger estate lots, and also sections of lots on which appropriately integrated higher density residential uses may be located. The higher density uses are encouraged to be located in centers or near parks and open spaces having sufficient carrying capacity. There is usually a significant range of housing opportunities, including multi-family dwellings. Traditional neighborhoods often have and are encouraged to have a significant proportion of public open space such as parks or greenways, and may contain civic uses as well as appropriately located and integrated neighborhood centers with a mixture of mostly neighborhood-serving land uses such as offices, shops, restaurants and services. Although many existing traditional neighborhoods are fifty to

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one hundred twenty years old, it is hoped that the Traditional Neighborhood Form will be revitalized under the new Comprehensive Plan. Revitalization and reinforcement of the Traditional Neighborhood Form will require particular emphasis on (a) preservation and renovation of existing buildings in stable neighborhoods (if the building design is consistent with the predominant building design in those neighborhoods), (b) the preservation of the existing grid pattern of streets and alleys, (c) preservation of public open spaces; and

WHEREAS, The proposal preserves the street grid pattern as vehicular traffic will be required to access the site from the extension of Miller Avenue. The sidewalks will be maintained as they currently exist. The proposal preserves and renovates the existing building which is consistent with the neighborhood building design. The applicant proposes only a modest expansion and to renovate the interior of the structure. The proposed development is compact and results in an efficient land use pattern as the existing infrastructure on the site will be utilized, making the proposal a cost-effective infrastructure investment. The applicant proposes LBAs on the east and west sides of the property. As an existing residential structure, the building design and materials, height and setback are compatible with its surroundings. The proposal has received preliminary approval from Transportation Planning, MSD and APCD; and

WHEREAS, the Louisville Metro Planning Commission finds, the proposal does not introduce a neighborhood center but it does include a neighborhood serving use. The site is surrounded by residentially zoned property and, although there is a church directly across the street, the lots to the east, south, and west are all residential uses. The proposal does not include a mix of compatible land uses that will reduce trips (unless the applicant lives nearby). The single proposed use would be for an office. However, with OR zoning, the property retains the ability to be used as a residential or office and residential use in the future. The proposed office is a nonresidential expansion into an existing residential area, even though OR is a residential zoning district; and

WHEREAS, the Louisville Metro Planning Commission further finds the proposal to rezone the property from R-7, Multi-family residential, to OR, Office Residential, is only an incremental intensification of the site. In fact, the current zoning allows 34.8 dwelling units per acre, while the requested zoning allows only 12.05 per acre. In addition, the rezoning would put into use the structure which appears to have been vacant for some time.

RESOLVED, that the Louisville Metro Planning Commission does hereby
RECOMMEND, to Metro Council, **APPROVAL** of Case No. 16ZONE1058, the zoning

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change from R-7 to OR based on the staff report and testimony heard today as well as the January 5, 2017 Planning Commission meeting.

The vote was as follows:

YES: Commissioners Brown, Carlson, Gazaway, Kirchdorfer and Lewis

NO: Commissioner Jarboe

NOT PRESENT AND NOT VOTING: Commissioners Peterson, Smith and Tomes

ABSTAINING: Commissioner Howard

Waiver

On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution was adopted.

WHEREAS, The waiver will not adversely affect adjacent property owners since the existing structure will remain on-site with screening added along the majority of the east and west property lines, except for where the existing detached garage and proposed parking area encroach; and

WHEREAS, Guideline 3, policy 9 calls for the protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigate when appropriate. Guideline 3, policies 21 and 22 call for appropriate transitions between uses that are substantially different in scale and intensity or density, and to mitigate the impact caused when incompatible developments occur adjacent to one another through the use of landscaped buffer yards, vegetative berms and setback requirements to address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances. Guideline 3, policy 24 states that parking, loading and delivery areas located adjacent to residential areas should be designed to minimize the impacts from noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered. Guideline 13, policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. The intent of landscape buffer areas is to create suitable transitions where varying forms of development adjoin, to minimize the negative impacts resulting from adjoining incompatible land uses, to decrease storm water runoff volumes and velocities associated with impervious surfaces, and to filter air borne and water borne pollutants. The waiver will not violate specific guidelines of Cornerstone 2020 because the encroachments into the proposed LBAs are minimal; and

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WHEREAS, the Louisville Metro Planning Commission finds, the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant to fit the minimum off-street parking on-site and to allow the existing detached garage to remain; and

WHEREAS, the Louisville Metro Planning Commission further finds 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 by eliminating existing parking below the minimum parking requirement and by forcing the removal of a brick detached garage.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the waiver from Chapter 10, Part 2, Table 10.2.3 of the Land Development Code to allow the proposed parking lot along the east property line to encroach 3.21 feet into the 5 foot landscape buffer area and to allow an existing accessory structure to encroach 2.5 feet into the 5 foot landscape buffer area based on the staff report and the testimony heard today, as well as from the January 5, 2017 Planning Commission meeting.

The vote was as follows:

YES: Commissioners Brown, Carlson, Kirchdorfer and Lewis

NO: Commissioners Gazaway and Jarboe

NOT PRESENT AND NOT VOTING: Commissioners Peterson, Smith and Tomes

ABSTAINING: Commissioner Howard

Development Plan and Binding Elements

On a motion by Commissioner Brown, seconded by Commissioner Lewis, the following resolution was adopted.

WHEREAS, LOJIC shows no natural resources or environmental constraints on the site; and

WHEREAS, 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, There are no open space requirements with the current proposal; and

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WHEREAS, 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 Louisville Metro Planning Commission finds, the overall site design and land uses are compatible with the existing and future development of the area. Except for the portions of the LBA that will be encroached upon by the existing garage and the proposed off-street parking, appropriate landscape buffering and screening will be provided to screen adjacent properties and roadways; and

WHEREAS, the Louisville Metro Planning Commission further finds the overall site design and land uses are compatible with the existing and future development of the area. Except for the portions of the LBA that will be encroached upon by the existing garage and the proposed off-street parking, appropriate landscape buffering and screening will be provided to screen adjacent properties and roadways.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the Detailed District Development Plan **ON CONDITION** that the following changes are made to the development plan before forwarding to Metro Council: reverse the north arrow; remove any references to the variance; revise the Miller Ave. extension to better reflect what is being proposed for the site; remove the label regarding the existing shared asphalt driveway to be removed; the only driveway removal that shall occur will be on the subject site and **SUBJECT** to the binding elements on page 16 of the staff report and an additional binding element requirement - The sign for the subject property shall be reviewed and approval by a sub-committee of the Planning Commission prior to issuance of permit. That sign shall have a maximum sign area of 30 square feet and overall height not to exceed 5 feet, based on the staff report and testimony heard today as well as the January 5, 2017 Planning Commission meeting.

Binding Elements

1. The development shall be in accordance with the approved detailed development plan, all applicable sections of the Land Development Code and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. The development shall not exceed 3,174 square feet of gross floor area.

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3. No outdoor advertising signs, pennants, balloons, or banners shall be permitted on the site.
4. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
5. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested:
 - a. The development plan must receive full construction approval from Develop Louisville, 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 Article 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - c. The applicant shall extend the paved surface of Miller Avenue as shown on the development plan. Approval of construction plans and permits is required. The applicant shall post a bond instrument with Louisville Metro Public Works to insure proper installation of the road.
6. As part of the extension of the paved surface of Miller Avenue, the applicant shall:
 - a. Remove the full curb cut and driveway apron within the public right-of-way adjacent to 606 and 604 Eastern Parkway.
 - b. Construct a new curb and sidewalk (as may be disturbed during driveway demolition) on the Parkway adjoining both properties.
 - c. Rehabilitate greenspace to include complete removal of driveway apron pavement and sub-base, back-fill to existing grade with topsoil, application of seed / straw, and maintenance as needed to establish turf.
 - d. Preserve a 10-foot wide tree planting strip between the existing sidewalk and Miller Ave.
 - e. Submit a 'Parkway Restoration Plan' for Metro Parks approval before construction on Parkway property.
7. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system permitted on the site.

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8. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.

9. The sign for the subject property shall be reviewed and approved by a sub-committee of the Planning Commission prior to issuance of permit. The sign shall have a maximum sign area of 30 square feet and an overall height not to exceed 5 feet.

The vote was as follows:

YES: Commissioners Brown, Carlson, Howard, Kirchdorfer and Lewis

NO: Commissioners Gazaway and Jarboe

NOT PRESENT AND NOT VOTING: Commissioners Peterson, Smith and Tomes

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PUBLIC HEARING

CASE NO. 16ZONE1042

Request: Change in zoning from R-4 to C-N and C-1 with variances, a waiver and Detailed District Development Plan

Project Name: Schulte Bush Farm

Location: 14801 and 15001 Bush Farm Road

Owner: Papa Oreo DS, LLC
Darryl D. Schulte, Jr.
2000 High Wickham Place, Suite 300
Louisville, Ky. 40245

Applicant: Papa Oreo DS, LLC
Darryl D. Schulte, Jr.
2000 High Wickham Place, Suite 300
Louisville, Ky. 40245

Representative: Vice Cox & Townsend PLLC
Jamie L. Cox
2303 River Road, Suite 301
Louisville, Ky. 40245

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

Jurisdiction: Louisville Metro

Council District: 19 - Julie Denton

Case Manager: **Brian Davis, AICP, Planning 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. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

00:44:32 Mr. Davis discussed the case summary, standard of review and staff analysis from the staff report.

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The following spoke in favor of this request:

Jamie Cox, Vice Cox and Townsend, PLLC, 2303 River Road, Suite 301, Louisville, Ky. 40206

Kevin Young, Land Design and Development, Inc., 503 Washburn Avenue, Louisville, Ky. 40222

Summary of testimony of those in favor:

01:01:32 Ms. Cox gave a power point presentation.

Ms. Cox stated she has met with Steve Porter and they have agreed on some binding elements.

01:16:36 Mr. Young continued the power point presentation. The applicant wants to be sensitive to the neighbors on both sides. There will be one entrance that aligns with Thornton's. Also, there will be an 8 foot wall, 100 feet of greenspace and a privacy fence on top of the berm. The property was a detention basin but it's no longer needed. The lakes are now the detention basin for the site.

The following spoke in opposition to this request:

Steve Porter, 2406 Tucker Station Road, Louisville, Ky. 40299

Donna Cahill, 2505 Hamilton Springs Drive, Louisville, Ky. 40245

Jerry Hopkins, 14501 McKinley Ridge Drive, Louisville, Ky. 40245

Derrick Jackson, 2000 High Wickham, Louisville, Ky. 40242

Summary of testimony of those in opposition:

01:29:42 Mr. Porter stated he represents some homeowners, but not the Homeowners' Association.

Mr. Porter discussed some of the guidelines not being met (from staff report). If the proposal is approved, the following are requested: masonry wall; enhanced perimeter landscaping; all buildings limited to one-story; exterior lighting be aimed at the ground; and hours of operation limited to 7:00 a.m. until 10:00 p.m.

01:53:17 Ms. Cahill gave a power point presentation and expressed the following concerns: the lake causing mud to come into her basement; close view of daycare from front yard (42 yards); height of berm; noise; lights; safety; traffic; and it doesn't comply with the Comprehensive Plan.

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02:06:01 Mr. Hopkins stated the Land Development Code should be adhered to. The applicant should move this commercial development west of Bush Farm Rd. where it was intended to be from many years ago.

Rebuttal

02:14:37 Ms. Cox agrees to the following: both lots being zoned CN; lighting restriction of height to be 12 feet for both lots; and full Commission for approval of binding elements. They do not however agree to a change in the hours of operation and don't want to do masonry wall (wanted to do enhanced landscaping).

02:17:45 Mr. Young stated the detention basin was for all the properties, but as they've developed, MSD says it's no longer needed. The berm has always been there and will stay. Also, there is no mud coming from the proposed site, so it must be from another project.

02:19:09 Mr. Jackson stated Primrose gives comparable hours of operation and it's a one-story building.

Deliberation

02:31:34 Commissioner Kirchdorfer remarked that the area has changed. The developer agreeing to CN for the entire site also helps to mitigate issues with the neighbors.

02:33:02 Commissioner Carlson stated the proposal is neighbor-serving, but the Sub-Area Plan needs to be taken into account.

02:34:31 Commissioner Gazaway stated that applicant has agreed to quite a few of the opposition's requests.

02:35:36 Commissioner Brown stated the waiver and variance are appropriate but still has an issue with not following the Sub-area Plan.

02:36:06 Vice Chair Lewis stated the applicant and opposition have worked out some issues. "I don't have a problem with the CN or the daycare."

02:37:08 Commissioner Howard stated she worked on the Old Henry Sub-area Plan and they looked toward the future of Bush Farm Rd. (east side). "It should remain a residential site."

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02:39:46 Chair Jarboe applauds the compromises made today but it still may not be viable for residential.

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

Zoning Change from R-4 to C-N

03:01:13

On a motion by Commissioner Brown, seconded by Commissioner Lewis, the following resolution was adopted.

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

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

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

WHEREAS, Neighborhood streets may be either curvilinear, rectilinear or in a grid pattern and should be designed to invite human interaction. Streets are connected and easily accessible to each other, using design elements such as short blocks or bike/walkways in the middle of long blocks to connect with other streets. Examples of design elements that encourage this interaction include narrow street widths, street

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trees, sidewalks, shaded seating/gathering areas and bus stops. Placement of utilities should permit the planting of shade trees along both sides of the streets; and

WHEREAS, the Louisville Metro Planning Commission finds, the proposal appears to provide a scaled transition between the large office development on the northwest corner of Bush Farm/Old Henry intersection and the Hamilton Gardens development. The applicant should consider additional buffering along Hamilton Springs Drive and McKinley Ridge Drive. The development plan proposes a sidewalk along Bush Farm Road and shows the proposed walking path along the proposed Old Henry Road realignment. The proposed building elevations are in compliance with the design requirements for the Neighborhood Form District; and

WHEREAS, the Louisville Metro Planning Commission further finds the Louisville Metro Planning Commission is charged with making a recommendation to the Louisville Metro Council regarding the appropriateness of this zoning map amendment. The Louisville Metro Council has zoning authority over the property in question.

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND**, to Metro Council, **APPROVAL** of the change in zoning from R-4 to C-N based on the staff report and testimony heard today.

The vote was as follows:

YES: Commissioners Brown, Carlson, Gazaway, Kirchdorfer, Lewis and Jarboe

NO: Commissioner Howard

NOT PRESENT AND NOT VOTING: Commissioners Peterson, Smith and Tomes

Waiver

On a motion by Commissioner Brown, seconded by Commissioner Lewis, the following resolution was adopted.

WHEREAS, the adjacent property owners will not be adversely affected. The landscape buffer will be maintained, regardless of the additional overlap of utility easements. In the event that work required to service utilities destroys the landscape buffer, it will be promptly replaced. All utilities will be located underground and will not be visible within the landscape buffer; and

WHEREAS, the waiver is consistent with the Comprehensive Plan, as the purpose of the landscape buffer is preserved and utility service is provided as required for development and operation of the neighborhood center; and

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WHEREAS, the Louisville Metro Planning Commission finds, there is no additional corridor in which utilities may be located in order to service the subject property as required for development and operation of a neighborhood center; and

WHEREAS, the Louisville Metro Planning Commission further finds the 30 foot parkway buffer area is required to be adjacent to the Old Henry Road right-of-way. The utilities are existing and have been installed within 30 feet of the Old Henry Road right-of-way. To relocate the utilities outside of the 30 foot buffer area would be an unnecessary hardship on the applicant. To locate the 30 foot parkway buffer area beyond the 30 feet of existing utility easements would result in 60 feet swath along the Old Henry Road frontage which cannot be developed. This is a significant reduction in developable land resulting in an unnecessary hardship.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the waiver of section 10.2.4.B of the Land Development Code to allow a greater than 50% overlap of a utility easement over a landscape buffer based on the staff report and testimony heard today.

The vote was as follows:

YES: Commissioners Brown, Carlson, Gazaway, Kirchdorfer, Lewis and Jarboe

NO: Commissioner Howard

NOT PRESENT AND NOT VOTING: Commissioners Peterson, Smith and Tomes

Variance

On a motion by Commissioner Brown, seconded by Commissioner Lewis, the following resolution was adopted.

WHEREAS, the variance requested with respect to the building to be constructed on proposed Tract A is to provide for a 163 foot setback from Hamilton Springs Drive, 101 foot setback from Old Henry Road and 93 foot setback from Bush Farm Road property lines. The variance requested with respect to the building on proposed Tract B is to provide for a 142 foot setback from the Bush Farm Road property line. Proposed Tract A and proposed Tract B are each large tracts and the proposed buildings are configured in such a manner that not all maximum setback requirements can be satisfied. The maximum setback requirements are for aesthetic uniformity, rather than for purposes of health, safety or public welfare. If anything, keeping moving vehicles on the adjacent roadways further away from pedestrian areas and sidewalks, as well as the children's playground area of the proposed daycare seems beneficial to public health, safety and welfare; and

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WHEREAS, the variance is not inconsistent with the commercial character of the general vicinity. The new Thornton's headquarters is under development across Bush Farm Road from the subject development. The Thornton's headquarters is set back from Bush Farm Road by several hundred feet due to the presence of a detention basin. Most of the remaining commercially zoned tracts across Old Henry Road from the subject property are vacant; and

WHEREAS, as mentioned in #1 above, keeping moving vehicles on the adjacent roadways further away from pedestrian areas and sidewalks, as well as the children's playground area of the proposed daycare should reduce hazards to the public. At previously held neighborhood meetings, many neighbors voiced concerns about looking at the backs or sides of buildings from Old Henry Road and Hamilton Springs Drive. Increasing the setbacks, along with additional buffering, helps reduce any perceived light, noise, or aesthetic nuisance to the public; and

WHEREAS, the variance requested arises from the need to appropriately locate commercial buildings on spacious tracts of land, while allowing for adequate parking and pedestrian areas, while protecting children's play areas and responding to the concerns voiced by residential neighbors during the two previously held neighborhood meetings. Although the required maximum setbacks are intended to create uniformity and add to aesthetic consistency, the expanded setbacks will not be inconsistent with the current commercial character of the area, as described in #2 above; and

WHEREAS, the subject tracts are sandwiched between the Thornton's headquarters, which is located hundreds of feet away from Bush Farm Road (beyond a large detention basin area), and a residential neighborhood, many of whose residents have voiced concerns about noise and light from the development interfering with the residents along Hamilton Springs Drive, and that the development could convert Old Henry Road to a "Dixie Hwy."-type corridor if the buildings are too close to Old Henry Road. Due to the relatively slow pace of commercial development in this area, there is currently no uniformity among commercial property in the vicinity which will be interrupted by the requested variance; and

WHEREAS, the Louisville Metro Planning Commission finds, proposed Tract A is a corner lot bounded by Bush Farm Road, Old Henry Road and Hamilton Springs Road. In order to satisfy the front and side street setback requirements, the building proposed for Tract A would need to be reconfigured and located much closer to the southwest corner of that lot. This would create additional concern for residential neighbors as noted above and would likely require an increase in building square footage which would be costly for the Owner. With respect to proposed Tract B, locating the building closer to Bush Farm Road would also require reconfiguration of the parking areas,

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moving them closer to the children's play area and closer to the residential neighborhood along Hamilton Springs Road. This creates safety concerns for the daycare operator, and noise and light concerns for the residential neighbors; and

WHEREAS, the Louisville Metro Planning Commission further finds any commercial development of this area will face these issues or similar ones in order to satisfy residential neighbors and provide needed retail and services of a Class A nature in this area.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the variance from table 5.3.2 of the Land Development Code to exceed the 80 foot maximum front and street side yard setback along Bush Farm Road, Old Henry Road and Hamilton Springs Drive based on the staff report and testimony heard today.

The vote was as follows:

YES: Commissioners Brown, Carlson, Gazaway, Kirchdorfer, Lewis and Jarboe

NO: Commissioner Howard

NOT PRESENT AND NOT VOTING: Commissioners Peterson, Smith and Tomes

Development Plan and Binding Elements

On a motion by Commissioner Brown, seconded by Commissioner Lewis, the following resolution was adopted.

WHEREAS, There are no natural resources on the site; and

WHEREAS, Provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community have been provided, and Metro Public Works has approved the preliminary development plan; and

WHEREAS, There are no open space requirements with the current proposal; and

WHEREAS, 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 Louisville Metro Planning Commission finds, the overall site design and land uses are compatible with the existing and future development of the area; and

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WHEREAS, the Louisville Metro Planning Commission further finds with the exception of the waiver and variances, the development plan conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the Detailed District Development Plan and binding elements on page 16 of the staff report, the applicant's binding elements presented today – numbers 2, 3, 5 and 6 and the opposition's binding element number 1, but it will be an 8 foot high wooden wall and strike any references to the examples provided. This binding element will be reviewed and approved at a sub-committee of the Planning Commission; binding elements 2 and 6, (excluding the daycare use) 7 and 9. Also, **ON CONDITION** that they resolve the off-site sign that identifies the PRD Subdivision or signature entrance prior to the issuance of a building permit for either of these lots based on the staff report and testimony heard today **SUBJECT** to the following Binding Elements:

3:08:00 Mr. Davis added, the applicant's binding element 2, improvements on Tract B will be restricted to 1-story.

Binding Elements

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. The development shall not exceed 20,600 square feet on Tract A and 11,000 square feet on Tract B.
3. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
4. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.

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5. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested:
 - a. The development plan must receive full construction approval from Develop Louisville, 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.
 - c. A minor plat shall be recorded. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of the approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
6. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
7. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
8. The site shall be developed in strict compliance with the approved development plan (including all notes thereon). No further development shall occur on the site without prior review and approval by a committee of the Planning Commission.
9. An 8-foot tall wood wall shall be built along the top of the berm along the side of the property adjoining Hamilton Springs Drive and McKinley Ridge Drive and extending all the way to Bush Farm Road. The wall and landscape plans shall be submitted to Development Review Committee or Land Development & Transportation Committee for review and approval.

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10. Enhanced perimeter landscaping beyond normal LDC requirements shall be planted on the side of the wall facing Hamilton Springs Drive and McKinley Ridge Drive.
11. Operating hours for any building, excluding the proposed daycare on Tract B, shall be limited to the hours between 7:00 a.m. and 10:00 p.m.
12. No deliveries, garbage collection, exterior site work or construction, or parking lot cleaning (except for ice or snow) shall occur between the hours of 9:00 p.m. and 7:00 a.m.
13. No changes to any binding elements in this case shall be made unless approved by the full Planning Commission after a public hearing.
14. Improvements on the proposed Tract B shall be restricted to one story.
15. The materials and design of proposed structures shall be substantially the same as depicted in renderings presented at the time of detailed district development plan approval for each parcel. The building materials (excluding glass for windows) for the exterior structures shall be predominantly (at least 75%) composed of brick, stone, stucco or wood.
16. All exterior lighting, whether freestanding or attached, including accent lighting, shall be fully shielded, shall utilize flat or hidden lenses, and shall be pointed directly to the ground. Pole lighting for the parking areas on the proposed C-N lots shall be limited to 12 feet in height from ground level.

The vote was as follows:

YES: Commissioners Brown, Carlson, Gazaway, Kirchdorfer, Lewis and Jarboe

NO: Commissioner Howard

NOT PRESENT AND NOT VOTING: Commissioners Peterson, Smith and Tomes

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CASE NO. 16ZONE1057

Case No. 16ZONE1057
Project Name Tri-Village Storage
Location 1170 East Broadway
Owner(s) Eagle Properties, Inc.

Louisville Broadway Apartments LLC
Ryan Szymanski
495 South High Street, Suite 150
Columbus, Ohio 43215

Applicant Brexton LLC
Melanie Wollenberg, Executive Vice President, Development
815 Grandview Avenue, Suite 300
Columbus, Ohio 43215

Representative Bardenwerper Talbott & Roberts PLLC
William B. Bardenwerper
1000 North Hurstbourne, 2nd floor
Louisville, Ky. 40223

Project Area/Size 0.213 acres
Jurisdiction Louisville Metro
Council District 4 – Barbara Sexton Smith
Case Manager **Beth Jones, AICP, Planner II**

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

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

Agency Testimony:

03:10:12 Ms. Jones discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

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Bill Bardenwerper, Bardenwerper, Talbott and Roberts, PLLC, 1000 North Hurstbourne Parkway, Second Floor, Louisville, Ky. 40223
Jon Henney, Gresham, Smith and Partners, 101 South Fifth Street, Suite 1400, Louisville, Ky. 40202

Summary of testimony of those in favor:

03:21:09 Mr. Bardenwerper gave a power point presentation. Some finding of facts were rewritten.

03:27:00 Mr. Henney stated very little has changed to what's currently existing. There will be an addition of a stair tower and canopy as well as minor repairs and 4 additional parking spaces. The applicant will provide as much screening as possible.

Deliberation

03:34:27 Planning Commission 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.

On a motion by Commissioner Brown, seconded by Commissioner Howard, the following resolution was adopted.

Zoning Change from OR-3 to C-2

On a motion by Commissioner Brown, seconded by Commissioner Howard, the following resolution was adopted.

WHEREAS, Cornerstone 2020 describes the Traditional Marketplace Corridor as a form found along a major roadway where the pattern of development is distinguished by a mixture of low to medium intensity uses such as neighborhood-serving shops, small specialty shops, restaurants and services. These uses frequently have apartments or offices on the second story. Buildings generally have little or no setback, roughly uniform heights and a compatible building style. They are generally two to four stories and are oriented toward the street. New development and redevelopment should respect the predominant rhythm, massing and spacing of existing buildings; and

WHEREAS, There should be a connected street and alley system. New development should maintain the street grid pattern and typical block size. Parking is provided on-street and in lots at the rear of buildings; new development should respect this pattern.

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A street capable of permitting on-street parking is usually necessary. Flexible and shared parking arrangements are encouraged; and

WHEREAS, the Louisville Metro Planning Commission finds, the area should be easily accessible to pedestrians, transit and bicycle users. Wide sidewalks, street furniture and shade trees should be used to create a pedestrian-friendly environment that invites shoppers to make multiple shopping stops without moving their vehicles; and

WHEREAS, the Louisville Metro Planning Commission further finds attention to discreet signs can also help make this a very desirable form. A premium should be placed on compatibility of scale, architectural style and building materials of any proposed new development with nearby existing development within the corridor.

GUIDELINE 1 – COMMUNITY FORM

WHEREAS, the subject property is located in the Traditional Neighborhood Form District, which is characterized by predominately residential uses but which may contain appropriately located and integrated neighborhood centers with a mixture of mostly neighborhood – serving uses; what this infers is that a multi – level, climate controlled, self – storage unit building can be located in a form district such as this because, among other things, it serves the neighborhood, especially the two new Edwards apartment communities located next door at the old Mercy Academy site and a short distance away at the Broadway and Baxter site; and

GUIDELINE 2 – CENTERS

WHEREAS, the proposed project complies with all of the applicable Intents and Policies 1,2, 3, 4, 5, 7, 8, 10, 11, 13, 14, and 16 of Guideline 2 because this is an existing activity center; it includes an existing hospital, school, this old, under-utilized office building and a new approved apartment community; the hospital and apartment community in particular will be able to benefit from their utilization of the proposed new storage facility, because businesses and residents need storage, especially residents who live in places without storage, notably apartment buildings; by locating in an underutilized old office building, this facility promotes an efficient use of land and investment in existing infrastructure, utilizes existing utilities, keeps commuting time between these apartments and storage facilities short or nonexistent, brings a diversity of services to the area, revitalizes a downtrodden place because the building is old, barely occupied and attracts vagrants today, and the project does not create a new building on an empty parcel but rather involves reuse and renovation; and

WHEREAS, as this is a Traditional Neighborhood activity center where mixed activities already exist, and the nonresidential nature of this use adds to that mix in an already

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existing activity center where a sufficient support population clearly exists and where the overall development that exists in this activity center is and will remain compact, these Policies of this Guideline are also served; and

WHEREAS, Broadway is an arterial or major collector street, and the proposed storage facility is located right up on that street, where the old, underutilized existing office building currently exists; it will share access with the existing school, hospital and parking garage, will include only very few new parking spaces, which can be screened from the view of residents across Broadway, and, by changing from an office to storage facility use, this proposal frees up parking in the existing parking garage for apartment community residents, as parking in the area is always needed; and

GUIDELINE 3 – COMPATIBILITY

WHEREAS, the proposed project complies with all of the applicable Intents and Policies 1, 2, 4, 5, 6, 7, 8, 9, 12, 19, 20, 21, 22, 23, 24, and 28 of Guideline 3 because this new storage facility use adds to the mixture of land uses in the existing activity center and does not involve any known nuisances, while the renovation and reuse of the old office building helps to preserve the character of the existing Original Highlands neighborhood; further the proposed storage facility is located exactly next door to the recently approved apartment community, which underwent careful design consideration and review by the community; as such, the proposed reuse of the existing old, underutilized office building will take into account the design of the apartment building next-door, re-facing and or replacing some of the existing office building's exterior materials and employ suitable colors as well that reflect the look of the adjoining apartment building; while it is a non-residential use, it is not a non-residential expansion that is proposed here, because an office building already exists in the structure that will be we reutilized and renovated; as a storage facility use, it does not involve odors, create traffic or noise, involve unusual lighting or create unacceptable aesthetic impacts; instead, as to look, it will be improved from the old, bedraggled office building that currently exists at this location; it will be accessible by virtue of the existing driveway used by the garage, hospital and school; it will not involve the storage of hazardous materials; as explained, this is already part of an existing activity center; setbacks are already established, and landscape screens and buffers will be interposed where feasible and necessary to assure that the little parking and small loading areas proposed do not have adverse aesthetic impacts on the neighbors across Broadway; again, this will help free up parking in the garage for the residents who will live in the adjoining apartment community; and signage will be located as present, both building-mounted and reutilizing the existing freestanding sign and not lighted in a way so as to cause a glare on residents who enjoy their front porches across Broadway; and

GUIDELINE 6 – MARKETPLACE

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WHEREAS, the proposed project complies with all of the applicable Intents and Policies 1, 2, 3, 5, 6 and 11 of Guideline 6 because the storage facility helps to ensure the availability of a commercial use where land to build same already exists, and renovating an old, underutilized office building reduces both public and private costs of land development, ensuring that people in the area have good access to needed services at appropriate locations; further, as noted above, this storage facility will utilize an existing access, it involves investment in an older neighborhood, and it serves as the redevelopment and reuse of a larger as mentioned "bedraggled" site and under-utilized old building in an existing activity center; and

GUIDELINE 7 AND 8 – CIRCULATION AND TRANSPORTATION FACILITY DESIGN;
GUIDELINE 9 - BICYCLE, PEDESTRIAN AND TRANSIT;
GUIDELINE 12 – AIR QUALITY

WHEREAS, the proposed project complies with all of the applicable Intents and Policies 1, 2, 3, 4, 6, 10, 11, 13, 14, 15, and 18 of Guideline 7; Policies 7, 9, 10 and 11 of Guideline 8; Policies 1 and 2 of Guideline 9; and Policies 1, 2, 3, 4, 6, 7 and 8 of Guideline 12 because this project is situated on an arterial or collector street where sidewalks and public transit exist, even though they will not necessarily be utilized by patrons of the proposed storage facility; those are alternate means of transportation that are required, when possible, and so they are; further, this proposal has been reviewed by Metro Transportation Planning Services personnel, who gave its preliminary stamp of approval prior to its docketing for Planning Commission review; that assures that all applicable Public Works standards are complied with, including Policies of the Cornerstone 2020 Comprehensive Plan and regulatory requirements of the Land Development Code (LDC); and

WHEREAS, in that regard, the proposed project will assure that Broadway continues to operate safely and functions as at present, with no added traffic involved, because a lower traffic use is proposed here than presently exists here; thus, traffic impacts are avoided with this development; and, as noted, design of the site, which is mostly already as-built, will assure that corner clearances, driveway access, median openings, cross connections, etc. are provided as required; and the storage facility will have adequate parking, plus it actually frees up parking in the existing garage for apartment residents, as parking in this Traditional Neighborhood area is always in short supply; and

GUIDELINES 10 & 11 - STORMWATER AND WATER QUALITY

WHEREAS, the proposed project complies with all applicable Intents and Policies 1, 3, 7, 10 and 11 of Guideline 10 and Policies 3 and 5 of Guideline 11 because as this is an

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already as-built site, it does not create more impervious areas; consequently, MSD will determine whether new storm water facilities are required or not; but for sure the proposed project will not be allowed to have any new negative impact on existing storm water systems; also, MSD gave its preliminary approval the detailed development plan before it was set for Planning Commission review; and at time of construction, the proposed storage facility will need to include water quality devices to address the new MSD water quality standards; and any new construction will have to comply with MSD's soil erosion and sediment control standards; and

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GUIDELINE 13 – LANDSCAPE CHARACTER

WHEREAS, the proposed project complies with the Intent and Policies 1, 2, 4, 5 and 6 of Guideline 13 because the local LDC requires tree canopies, certain kinds of landscaping for certain kinds of uses and screening and buffering of incompatible uses; accordingly, the LDC will be fully complied with except as respects the waiver request filed herewith; and screening of loading from residences across Broadway will be provided; and

WHEREAS, for all the reasons explained at LD&T and the Planning Commission public hearing and also in the public hearing exhibit books on the approved detailed district development plan, this application also complies with all other applicable Guidelines and Policies of the Cornerstone 2020 Comprehensive Plan.

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND**, to Metro Council, **APPROVAL** of the zoning change from OR-3 to C-2 for Case No. 16ZONE1057 based on the staff report and testimony heard today.

The vote was as follows:

YES: Commissioners Brown, Carlson, Gazaway, Howard, Kirchdorfer, Lewis and Jarboe

NOT PRESENT AND NOT VOTING: Commissioners Peterson, Smith and Tomes

CONDITIONAL USE PERMIT

On a motion by Commissioner Brown, seconded by Commissioner Howard, the following resolution was adopted.

WHEREAS, The proposal will provide a neighborhood-serving use, especially considering the construction of new apartments underway at the neighboring Mercy Academy site as well as at the corner of Broadway and Baxter, a short distance away; and

WHEREAS, The proposal is a re-use of an existing structure; the only exterior change will be the addition of an enclosed stairwell on its western façade. Loading and unloading will be accomplished via dedicated areas within the existing parking garage adjoining the structure to the south. The proposal is not expected to create significant traffic, noise or lighting nuisances; and

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WHEREAS, the Louisville Metro Planning Commission finds, the proposal is located within a well-established and highly developed area and will not require additional public services or facilities; and

WHEREAS, the Louisville Metro Planning Commission further finds the proposal does not fully comply with standards regarding landscaping and height, but these are due to existing conditions on the site. The proposal does comply with the remaining CUP standards.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the Conditional Use Permit for Case No. 16ZONE1057 based on the conditional use permit section of the staff report, applicant's statement of compliance/finding of facts and testimony heard today.

The vote was as follows:

YES: Commissioners Brown, Carlson, Gazaway, Howard, Kirchdorfer, Lewis and Jarboe

NOT PRESENT AND NOT VOTING: Commissioners Peterson, Smith and Tomes

Waiver

On a motion by Commissioner Brown, seconded by Commissioner Howard, the following resolution was adopted.

WHEREAS, The owners of the site also own the properties directly adjacent to it on the east and south. Any potential adverse effects due to the exterior changes proposed will be mitigated by landscaping in excess of requirements where possible; and

WHEREAS, The waiver has been reviewed and found to be in compliance with Cornerstone 2020 guidelines; and

WHEREAS, the Louisville Metro Planning Commission finds, the waiver is made necessary as the result of previous variances granted that set the property lines of the subject site at the building lines on the north, south and east sides. LBAs were not required at that time since the site's zoning was consistent with adjoining properties. A zone change to C-2 brings these requirements into effect, but no space exists to establish LBAs; and

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WHEREAS, the Louisville Metro Planning Commission further finds the proposal includes landscaping in excess of requirements at the only place available for that purpose.

WHEREAS, the waiver will not adversely affect adjacent property because this site was purchased in conjunction with redevelopment of the adjoining Edwards apartment community and parking garage on and next to the old Mercy Academy site; the existing office building is old and in some disrepair compared to the rehabilitation that it will undergo as a part of this application; as a consequence of this and the fact that this project represents a built condition at a tight overall in-fill site, no purpose is served by the landscaping associated with what otherwise would be a perimeter LBA between this self-storage facility and the adjoining apartment and parking garage site; and

WHEREAS, the waiver will not violate the Comprehensive Plan for all the reasons set forth in the Revised Detailed Statement of Compliance with all applicable Guidelines and Policies of the Cornerstone 2020 Comprehensive Plan filed with this rezoning application; and

WHEREAS, the extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because in any amount of landscape buffer between this storage facility and the redeveloped apartment and office sites would prove unnecessary, accomplishing no valid purpose; and

WHEREAS, strict application of the provisions of the regulation would deprive the applicant of a reasonable use of the land or would create an unnecessary hardship on the applicant because this is an as-built site that can't accommodate the landscape buffer otherwise required;

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the waiver of the required landscape buffer area between OR-3 and C-2 properties based on the staff report, testimony heard today and the applicant's justification.

The vote was as follows:

YES: Commissioners Brown, Carlson, Gazaway, Howard, Kirchdorfer, Lewis and Jarboe

NOT PRESENT AND NOT VOTING: Commissioners Peterson, Smith and Tomes

Revised Detailed District Development Plan and Binding Elements

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On a motion by Commissioner Brown, seconded by Commissioner Howard, the following resolution was adopted.

WHEREAS, The proposal adds landscaping within the small yard at the west side of the site. The other conditions do not currently exist on the site; and

WHEREAS, The site is located within an area fully developed for multi-modal transportation; and

WHEREAS, The proposal is preserving the majority of the existing open space and enhancing the remainder with additional landscaping; and

WHEREAS, The proposal has been reviewed and approved by MSD; and

WHEREAS, the Louisville Metro Planning Commission finds, the proposal is a re-use of an existing site and does not include significant new development; and

WHEREAS, the Louisville Metro Planning Commission further finds the proposal has been fully reviewed and approved by Louisville Metro Planning and Design Services and the appropriate public agencies and public service providers.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the Revised Detailed District Development Plan and binding elements on page 14 of the staff report with the revision to binding element number 4 - to replace 18,760 square feet of gross floor area with 25,200 square feet of gross floor area based on the staff report, testimony heard today and the applicant's justification, **SUBJECT** to the following Binding Elements:

Binding Elements

1. The site shall be maintained in accordance with all applicable sections of the Land Development Code (LDC) and agreed-upon binding elements unless amended pursuant to the LDC.
2. Changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or to its designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
3. Use of the subject site shall be limited to mini-warehouse and other uses permitted in the C-2 Commercial district. There shall be no other use of the property without prior approval of the Planning Commission. Notice of a request to amend these binding elements shall be provided in accordance with Planning

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Commission policies and procedures. The Planning Commission may require a public hearing on any request to amend these binding elements.

4. The development shall not exceed 25,200 square feet of gross floor area.
5. All signs shall be in accordance with LDC Chapter 8 sign regulations. No outdoor advertising signs, small freestanding signs, pennants, balloons or banners shall be permitted on the site.
6. There shall be no outdoor music from any source, outdoor entertainment or outdoor PA system usage permitted on the site.
7. All lighting shall comply with the requirements of LDC 4.1.3, including special requirements for the Traditional Marketplace Corridor form district.
8. The applicant, developer or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development and/or use of this site and shall advise them of the content of 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. These binding elements shall run with the land and the owner(s) and occupant(s) of the property shall at all times be responsible for compliance with them.
9. The site shall be subject to LDC 4.1.6.B standards regulating the idling of motor vehicles.

The vote was as follows:

YES: Commissioners Brown, Carlson, Gazaway, Howard, Kirchdorfer, Lewis and Jarboe

NOT PRESENT AND NOT VOTING: Commissioners Peterson, Smith and Tomes

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CASE NO. 16ZONE1019

Case No: 16zone1019
Request: Change in zoning from R-4 and PEC to OR-3 and C-2 on approximately 106.82 acres with a General District Development Plan

Project Name: St. Joseph's Property
Location: 13508 Factory Lane and 2520 Terra Crossing Boulevard

Owner: St. Joseph Catholic Orphanage Society
2823 Frankfort Avenue
Louisville, Ky. 40206

Jefferson Healthcare Old Henry Lane
Kevin Cogan
320 Whittington Parkway, Suite 304
Louisville, Ky. 40222

Applicant: JDG 1849, LLC
Kevin Cogan
320 Whittington Parkway, Suite 304
Louisville, Ky. 40222

Representative: Mindel Scott and Associates
Kent Gootee
5151 Jefferson Boulevard
Louisville, Ky. 40219

Bardenwerper, Talbott and Roberts PLLC
William B. Bardenwerper
1000 North Hurstbourne Parkway, 2nd floor
Louisville, Ky. 40223

Jurisdiction: Louisville Metro
Council District: 19- Julie Denton
Case Manager: Julia Williams, RLA, AICP, Planning Supervisor

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.

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

Agency Testimony:

03:41:25 Ms. Williams discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Bill Bardenwerper, Bardenwerper, Talbott and Roberts, PLLC, 1000 North Hurstbourne Parkway, Louisville, Ky. 40223
Diane Zimmerman, 9000 Bunsen Parkway, Suite 225, Louisville, Ky.

Summary of testimony of those in favor:

03:53:00 Mr. Bardenwerper gave a power point presentation.

Mr. Bardenwerper stated the population growth is such that we have to start developing more intensely.

04:22:27 Ms. Zimmerman stated Public Works and Transportation Planning has requested 4 binding elements. There is a concern about binding element B – waiting for approval from the Federal Highway Administration, which can take up to a year.

Deliberation

04:30:55 Planning Commission deliberation.

Commissioner Brown stated that this has been envisioned for a long time. The binding elements requested by Transportation may have to be modified.

04:32:56 Vice Chair Lewis stated it appears to be a well thought out plan.

04:33:11 Commissioner Howard said there have been major economic and physical changes in the proposed area.

04:36:12 Ms. Williams stated there has been a change to binding element 15B (requested by applicant) and will read as follows: Prior to issuance of the building permit for the 150th site generated peak hour trip, construction plans for the dual right

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turn from the I-265 north bound ramp to Old Henry Rd. shall be submitted to KYTC. The turn lane shall be operational before the issuance of a Certificate of Occupancy related to this 300th site generated peak hour trip or a bond for the amount of the construction will be posted.

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

Zoning Change from R-4 and PEC to OR-3 and C-2

04:45:33

On a motion by Commissioner Brown, seconded by Commissioner Howard, the following resolution was adopted.

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

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

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

WHEREAS, Neighborhood streets may be either curvilinear, rectilinear or in a grid pattern and should be designed to invite human interaction. Streets are connected and easily accessible to each other, using design elements such as short blocks or bike/walkways in the middle of long blocks to connect with other streets. Examples of

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design elements that encourage this interaction include narrow street widths, street trees, sidewalks, shaded seating/gathering areas and bus stops. Placement of utilities should permit the planting of shade trees along both sides of the streets; and

WHEREAS, the Louisville Metro Planning Commission finds, the site is proposed to be located in the Suburban Workplace Form District. A Suburban Workplace is a form characterized by predominately industrial and office uses where the buildings are set back from the street in a landscaped setting. Suburban workplaces often contain a single large-scale use or a cluster of uses within a master planned development. New larger proposed industrial uses are encouraged to apply for a planned development district.

In order to provide adequate transportation access in suburban workplaces connected roads, public transportation and pedestrian facilities should be encouraged. Walkways to workplace-serving uses are encouraged for workplace employees. Development within suburban workplace form districts may need significant buffering from abutting uses; and

WHEREAS, the Louisville Metro Planning Commission further finds The OR-3 and C-2 zones proposed permit a mix of uses that could serve and expand the existing needs of the workplace district and employees. Transit is not available but the site has easy access by vehicles and bicycles. Sidewalks are being provided along the main roadways. Cross access will be provided as well as expansions of existing Terra Crossing and Bush Farm. The proposal will create a center where both OR-3 and C-2 permit a mix of uses and where the scale could be appropriate for adjacent neighborhoods. The proposal is for high intensity/density zoning that is not located on an arterial. Buffers are provided to address the impacts on adjacent lower density/intensity uses. The proposal will create a new center in both the NFD and SWFD where all construction will be new construction for a mix of uses. There are some high density developments adjacent to the site as well as could be found within the site as the zoning permits. The proposal extends two roadways (Bush Farm and Terra Crossing) to serve the site. The site is also adjacent to low and high density developments as well as workplace uses which indicate that new infrastructure will serve the site. The proposed zoning is similar to existing zoning near the site. The proposed zoning permits compatible uses that could reduce trips. Sidewalks are shown along the major roadways to support pedestrian activity.

Transit is not available to this proposed activity center.

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND**, to Metro Council, **APPROVAL** of the zoning change from R-4 and PEC

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to OR-3 and C-2 for Case No. 16ZONE1019 based on the staff report, testimony heard today and the applicant's justification.

The vote was as follows:

YES: Commissioners Brown, Carlson, Gazaway, Howard, Kirchdorfer, Lewis and Jarboe

NOT PRESENT AND NOT VOTING: Commissioners Peterson, Smith and Tomes

Variance

On a motion by Commissioner Brown, seconded by Commissioner Howard, the following resolution was adopted.

WHEREAS, The requested variance will not adversely affect public health safety or welfare since the buildings are located interior to the site and follow all required setbacks; and

WHEREAS, The requested variance will not alter the essential character of the general vicinity since there are other multi-story buildings located in the vicinity; and

WHEREAS, The requested variance will not cause a hazard or nuisance to the public since the buildings are located interior to the site and follow all required setbacks; and

WHEREAS, The requested variance will not allow an unreasonable circumvention of zoning regulations since there are other multi-story buildings located in the vicinity; and

WHEREAS, The requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone since much of this proposal is located in the transition zone. The buildings will meet required setbacks; and

WHEREAS, the Louisville Metro Planning Commission finds, The strict application of the provisions of the regulation would deprive the applicant of reasonable use of the land since there are multi-story structures located in the vicinity and along the Gene Snyder corridor; and

WHEREAS, the Louisville Metro Planning Commission further finds The circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.

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RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the variance from section 5.3.1.C and 5.3.4.D.4 of the Land Development Code to permit the building heights not to exceed 53 feet in both the Neighborhood form and Suburban Workplace Form Districts based on the staff report, testimony heard today and the applicant's justification.

The vote was as follows:

YES: Commissioners Brown, Carlson, Gazaway, Howard, Kirchdorfer, Lewis and Jarboe

NOT PRESENT AND NOT VOTING: Commissioners Peterson, Smith and Tomes

General District Development Plan/Preliminary Subdivision Plan and Binding Elements

On a motion by Commissioner Brown, seconded by Commissioner Howard, the following resolution was adopted.

WHEREAS, There do not appear to be any environmental constraints or historic resources on the subject site. Tree canopy requirements of the Land Development Code will be provided on the subject site; and

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

WHEREAS, There are no open space requirements pertinent to the current proposal. Future multi-family development proposed on the subject site will be required to meet Land Development Code requirements; and

WHEREAS, 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 Louisville Metro Planning Commission finds, the land uses permitted within both C-2 and OR-3 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. Buildings and parking lots will meet all required setbacks; and

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WHEREAS, the Louisville Metro Planning Commission further finds the development plan conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the General District Development Plan/Preliminary Subdivision Plan and binding elements on pages 20-22 of the staff report including the revision to 15B to read as follows: Prior to issuance of the building permit for the 150th site generated peak hour trip, construction plans for the dual right turn from the I-265 north bound ramp to Old Henry Rd. shall be submitted to KYTC. The turn lane shall be operational before the issuance of a Certificate of Occupancy related to this 300th site generated peak hour trip or a bond for the amount of the construction will be posted; based on the staff report, testimony heard today and the applicant's justification, **SUBJECT** to the following Binding Elements:

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. Prior to development (includes clearing and grading) of each site or phase of this project, the applicant, developer, or property owner shall obtain approval of a detailed district development plan in accordance with Chapter 11, Part 6. Each plan shall be in adequate detail and subject to additional binding elements.
3. The development shall be in accordance with the approved Preliminary Subdivision Plan. No further subdivision of the land into a greater number of lots than originally approved shall occur without approval of the Planning Commission.
4. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
5. 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

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remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.

6. Before any permit (including but not limited to building, parking lot, change of use, site disturbance) is requested:
 - a. The development plan must receive full construction approval from Develop Louisville, 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 for each lot prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - c. An 80' access and public utility easement will be dedicated with the first plat. All roads shall be dedicated and recorded to Public R/W on a major subdivision plat once 80% of the lots are developed.
 - d. 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.
7. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
8. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line
9. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
10. The property owner shall provide a cross over access easement to the property to the east (Jewish Hospital property) if it is developed for a nonresidential use.

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A copy of the signed easement agreement shall be provided to Planning Commission staff upon request.

11. The materials and design of proposed structures shall be substantially the same as depicted in the exhibits as presented at the January 19, 2017 Planning Commission meeting.
12. No idling of trucks between the site and adjacent residential uses. No overnight idling of trucks shall be permitted on-site.
13. All street name signs shall be installed prior to requesting a certificate of occupancy for any structure. The address number shall be displayed on a structure prior to requesting a certificate of occupancy for that structure.
14. 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."
15. Threshold for road improvements detailed within shall be based on current ITE trip generation peak hour rates and calculated prior to construction approval for each site. Construction plans, bond and encroachment permit shall be required from the developer prior to construction plan approval of each site as the trip generation thresholds are met, and improvements shall be constructed and operational prior to issuance of Certificate of Occupancy for the site. A table containing approved sites and trips generated shall be maintained by Transportation Planning.
 - a. Prior to issuance of a building permit for a site-generated 100th peak hour trip from the entire development, a stabilized road bed connecting Factory Lane and Old Henry Road shall be provided. Prior to the issuance of a certificate of occupancy (CO) for this site-generated 100th peak hour trip, the roadway connecting Factory Lane and Old Henry Road shall be completed.
 - b. Prior to issuance of the building permit for the 150th site generated peak hour trip, construction plans for the dual right turn from the I-265 north bound ramp to Old Henry Rd. shall be submitted to KYTC. The turn lane shall be operational before the issuance of a Certificate of Occupancy related to this 300th site generated peak hour trip or a bond for the amount of the construction will be posted.

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- c. Prior to the issuance of a building permit for the site generating the 225th peak hour trip of the entire development, a traffic signal shall be present at the I-265 southbound at Old Henry Rd intersection. Traffic signal shall be operational prior to the issuance of Certificate of Occupancy.
- d. Prior to the issuance of a building permit for the site generating the 500th peak hour trip of the entire development, a dual left turn lane and signalization shall be provided at the Old Henry and Terra Crossing intersection. Signal and left turn lanes shall be operational prior to the issuance of Certificate of Occupancy. Implementation of this binding element is conditioned on KTC approval.

16.A Uniform signage plan in compliance with LDC 5.12.1 shall be submitted with or prior to approval of the first Detailed District Development Plan of this GDDP”

The vote was as follows:

YES: Commissioners Brown, Carlson, Gazaway, Howard, Kirchdorfer, Lewis and Jarboe

NOT PRESENT AND NOT VOTING: Commissioners Peterson, Smith and Tomes

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CASE NO. 16ZONE1032

Case No: 16zone1032
Request: Change in zoning from R-4 to R-5 on approximately 18 acres with a preliminary subdivision plan
Project Name: Thomas Station Subdivision
Location: 3403 Stony Brook Drive and TB 45 LOT 927

Owner: A. Thomas Consulting LLC
P.O. Box 99037
Louisville, Ky. 40269

AJ Thomas Jr. and
Sarah Thomas
3405 Stony Brook Drive
Louisville, Ky. 40299

Applicant: A. Thomas Consulting LLC
P.O. Box 99037
Louisville, Ky. 40269

AJ Thomas Jr. and
Sarah Thomas
3405 Stony Brook Drive
Louisville, Ky. 40299

Representative: Land Design and Development
Kevin Young/Ann Richard
503 Washburn Avenue, Suite 101
Louisville, Ky. 40222

Bardenwerper Talbott and Roberts PLLC
William B. Bardenwerper
1000 North Hurstbourne Parkway, 2nd floor
Louisville, Ky. 40223

Jurisdiction: Louisville Metro
Council District: 11-Kevin Kramer
Case Manager: **Julia Williams, RLA, AICP, Planning Supervisor**

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.

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

Agency Testimony:

04:49:10 Ms. Williams discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Bill Bardenwerper, Bardenwerper, Talbott and Roberts, PLLC, 1000 North Hurstbourne Parkway, Louisville, Ky. 40223
Kevin Young, Land Design and Development, 503 Washburn Avenue, Louisville, Ky. 40222

Summary of testimony of those in favor:

04:55:05 Mr. Bardenwerper gave a power point presentation.

04:59:06 Mr. Young stated there will be 3.2 acres of open space for this development. Also, there will be a privacy fence in the back and they'll be preserving some trees. This will be a quality development featuring newer homes and less yard space. Drainage is being over-detained by 100%.

05:01:55 Mr. Bardenwer read the following additional binding element: Building materials shall be limited to brick, stone and cementitious (Hardy-plank type) siding except accents of other durable materials and front-facing garage doors shall be of different, instead of uniform, design and colors.

Deliberation

05:07:45 Planning Commission deliberation.

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

Zoning Change from R-4 to R-5

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On a motion by Commissioner Brown, seconded by Commissioner Howard, the following resolution was adopted.

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

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

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

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

WHEREAS, the Louisville Metro Planning Commission further finds the proposed R-5 zoning district supports a mix of housing choices and densities in the neighborhood. The proposed change in zoning constitutes an increase in density which will have limited impact on adjacent residential uses. Stony Brook is a primary collector. Streets are connected and sidewalks are provided. The proposed zoning district encourages a compact development pattern and efficient land use pattern. The proposal for residential uses is compatible with the surrounding residential uses in the neighborhood.

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RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND**, to Metro Council, **APPROVAL** of Case No. 16ZONE1032, a change in zoning from R-4 to R-5 based on the staff report, testimony heard today and the applicant's finding of fact.

The vote was as follows:

YES: Commissioners Brown, Carlson, Gazaway, Howard, Kirchdorfer, Lewis and Jarboe

NOT PRESENT AND NOT VOTING: Commissioners Peterson, Smith and Tomes

District Development Plan/Preliminary Subdivision Plan and Binding Elements

On a motion by Commissioner Brown, seconded by Commissioner Howard, the following resolution was adopted.

WHEREAS, There do not appear to be any environmental constraints or historic resources on the subject site. Tree canopy requirements of the Land Development Code will be provided on the subject site; and

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

WHEREAS, There are no open space requirements pertinent to the current proposal however, open space is being provided where significant caliper trees are located and being preserved; and

WHEREAS, 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 Louisville Metro Planning Commission finds, 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. Buildings will meet all required setbacks; and

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WHEREAS, the Louisville Metro Planning Commission further finds the development plan conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the District Development Plan/Preliminary Subdivision Plan along with the binding elements on pages 13-15 of the staff report in addition to number 17 to read as follows: Building materials shall be limited to brick, stone and cementitious (Hardy-plank type) siding except accents of other durable materials and front-facing garage doors shall be of different, instead of uniform, design and colors; based on the staff report, testimony heard today and the applicant's findings **SUBJECT** to the following Binding Elements:

Binding Elements

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. The development shall be in accordance with the approved Preliminary Subdivision Plan. No further subdivision of the land into a greater number of lots than originally approved shall occur without approval of the Planning Commission.
3. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
4. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
5. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, is requested:

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- a. The development plan must receive full construction approval from Develop Louisville, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. A minor subdivision plat or legal instrument shall be recorded creating the lot lines as shown on the development plan. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services prior to obtaining a building permit.
 - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - d. A major subdivision plat creating the lots and roadways as shown on the approved district development plan shall be recorded prior to issuance of any building permits.
 - e. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
6. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
7. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
8. 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) and other issues required by these binding elements.

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

- 9. At the time the developer turns control of the homeowner's association over to the homeowners, the developer shall provide sufficient funds to ensure there is no less than \$3,000 cash in the homeowner's association account. The subdivision performance bond may be required by the Planning Commission to fulfill this funding requirement.

- 10. 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.

- 11. 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."

- 12. 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.

- 13. 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.

- 14. 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.

- 15. 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.

- 16. The signature entrance shall be submitted to the Planning Commission staff for review and approval prior to recording the record plat.

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17. Building materials shall be limited to brick, stone and cementitious (Hardy-plank type) siding except for accents of other durable materials and front-facing garage doors shall be of different, instead of uniform, design and colors.

The vote was as follows:

YES: Commissioners Brown, Carlson, Gazaway, Howard, Kirchdorfer, Lewis and Jarboe

NOT PRESENT AND NOT VOTING: Commissioners Peterson, Smith and Tomes

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PUBLIC HEARING

CASE NO. 16ZONE1045

Case No: 16zone1045
Request: R-5 to R-6 with waivers and variances
Project Name: Quinlan Multi-Family
Location: 1919 South Preston Street

Owner: Brandon and Ashley Quinlan
1714 Casselberry Road
Louisville, Ky. 40205

Applicant: Brandon and Ashley Quinlan
1714 Casselberry Road
Louisville, Ky. 40205

Representative: Land Design and Development, Inc.
Sarah Beth Sammons
503 Washburn Avenue, Suite 101
Louisville, Ky. 40222

Dinsmore and Shohl LLP
Clifford H. Ashburner
101 South 5th Street, Suite 2500
Louisville, Ky. 40202

Jurisdiction: Louisville Metro
Council District: 15-Marianne Butler
**Case Manager: Julia Williams, RLA, AICP, Planning
Supervisor**

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

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

Agency Testimony:

05:11:57 Ms. Williams discussed the case summary, standard of review and staff analysis from the staff report.

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The following spoke in favor of this request:

Cliff Ashburner, Dinsmore and Shohl, LLP, 101 South Fifth Street, Suite 2500,
Louisville, Ky. 40202

Summary of testimony of those in favor:

05:19:40 Mr. Ashburner gave a power point presentation. The city has requested that the applicant tear down the historical building because it's in disrepair. The apartments will look different than what's in the area but is comparable as far as scale.

Deliberation

05:25:33 Planning Commission deliberation.

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

Zoning Change from R-5 to R-6

On a motion by Commissioner Brown, seconded by Commissioner Howard, the following resolution was adopted.

WHEREAS, The site is located in the Traditional Neighborhood Form District. The Traditional Neighborhood Form District is characterized by predominantly residential uses, by a grid pattern of streets with sidewalks and often including alleys. Residential lots are predominantly narrow and often deep, but the neighborhood may contain sections of larger estate lots, and also sections of lots on which appropriately integrated higher density residential uses may be located. The higher density uses are encouraged to be located in centers or near parks and open spaces having sufficient carrying capacity. There is usually a significant range of housing opportunities, including multi-family dwellings; and

WHEREAS, the Louisville Metro Planning Commission finds, Traditional neighborhoods often have and are encouraged to have a significant proportion of public open space such as parks or greenways, and may contain civic uses as well as appropriately located and integrated neighborhood centers with a mixture of mostly neighborhood-serving land uses such as offices, shops, restaurants and services. Although many existing traditional neighborhoods are fifty to one hundred twenty years old, it is hoped

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that the Traditional Neighborhood Form will be revitalized under the new Comprehensive Plan. Revitalization and reinforcement of the Traditional Neighborhood Form will require particular emphasis on (a) preservation and renovation of existing buildings in stable neighborhoods (if the building design is consistent with the predominant building design in those neighborhoods), (b) the preservation of the existing grid pattern of streets and alleys, (c) preservation of public open spaces; and

WHEREAS, the Louisville Metro Planning Commission further finds The proposal will preserve the existing street pattern, sidewalks and alley. The proposal is for a large multi-family lot which is not consistent with the established pattern of lots along the block face of both Rawlings and Brandeis. However, the existing lot does not conform to the existing lot pattern and the lots will not change with the proposal. The public realm is maintained. The proposal calls for the demolition of a historical structure that is in disrepair and has been modified extensively over time. The lot has a non-conforming mixed use structure located along S. Preston which indicates that the infrastructure is in place for higher density/intensity. The high density zoning is surrounded by mainly lower density zoning except for across Preston Street where there is existing R-6 zoning. To the north of the site is a node of C-1 zoning.

The proposal is not located in a center nor is mixed use being sought. Only one housing type is being sought.

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND**, to Metro Council, **APPROVAL** of Case No. 16ZONE1045, a change in zoning from R-5 to R-6 based on the staff report and testimony heard today.

The vote was as follows:

YES: Commissioners Brown, Carlson, Gazaway, Howard, Kirchdorfer, Lewis and Jarboe

NOT PRESENT AND NOT VOTING: Commissioners Peterson, Smith and Tomes

Variance

On a motion by Commissioner Brown, seconded by Commissioner Howard, the following resolution was adopted.

WHEREAS, The requested variance will not adversely affect the public health, safety or welfare since the encroachment is adjacent to an alley where much of the alley is unimproved and there is an elevation difference between the existing alley and the development site; and

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WHEREAS, The requested variance will not alter the essential character of the general vicinity since the encroachment is adjacent to an alley where much of the alley is unimproved and there is an elevation difference between the existing alley and the development site; and

WHEREAS, The requested variance will not cause a hazard or nuisance to the public since the encroachment is adjacent to an alley where much of the alley is unimproved and there is an elevation difference between the existing alley and the development site; and

WHEREAS, The requested variance will not allow an unreasonable circumvention of the zoning regulations since the encroachment is adjacent to an alley where much of the alley is unimproved and there is an elevation difference between the existing alley and the development site; and

WHEREAS, The property has two alleys serving the site. The alley where the variance is being requested is mainly unimproved and where there is an elevation change between adjacent properties; and

WHEREAS, the Louisville Metro Planning Commission finds, the strict application of the regulation would deprive the applicant of reasonable use of the land since that portion of the alley right of way is unimproved; and

WHEREAS, the Louisville Metro Planning Commission further finds the circumstances are the result of action of the applicant taken subsequent to the adoption of the zoning regulations from which relief is sought.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the variance from chapter 5.2.2.C.2 table 5.2.2 to eliminate the 3 foot side yard setback along the south property line based on the staff report and testimony heard today.

The vote was as follows:

YES: Commissioners Brown, Carlson, Gazaway, Howard, Kirchdorfer, Lewis and Jarboe

NOT PRESENT AND NOT VOTING: Commissioners Peterson, Smith and Tomes

Waiver from 10.2.4 to eliminate the required 10 foot buffer along the north property line (shared with the Francis property).

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On a motion by Commissioner Brown, seconded by Commissioner Howard, the following resolution was adopted.

WHEREAS, The waiver will not adversely affect adjacent property owners since the encroachments into the LBA along the north property line adjacent to the Francis property are existing and there are no proposed structural changes to that area; and

WHEREAS, 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 3, Policies 21 and 22 call for appropriate transitions between uses that are substantially different in scale and intensity or density, and mitigation of the impact caused when incompatible developments occur adjacent to one another through the use of landscaped buffer yards, vegetative berms and setback requirements to address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances. Guideline 3, Policy 24 states that parking, loading and delivery areas located adjacent to residential areas should be designed to minimize impacts from noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered. Guideline 13, Policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. Guideline 13, Policy 6 calls for screening and buffering to mitigate adjacent incompatible uses. The intent of landscape buffer areas is to create suitable transitions where varying forms of development adjoin, to minimize the negative impacts resulting from adjoining incompatible land uses, to decrease storm water runoff volumes and velocities associated with impervious surfaces, and to filter airborne and waterborne pollutants. The existing structures and pavement are not proposed to change or be altered in that area. The existing conditions are proposed to remain; and

WHEREAS, the Louisville Metro Planning Commission finds, the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since the buildings and pavement where the buffer is required are to remain unchanged. There are no plans to remove the historic building, existing pavement and garage as it would be an additional expense to the applicant; and

WHEREAS, the Louisville Metro Planning Commission further finds 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 since there would be additional cost of removing the existing historic structure and pavement to accommodate the buffer.

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Waiver from 10.2.10 to eliminate the required 5 foot vehicular use area landscape buffer area along the south property line.

WHEREAS, The waiver will not adversely affect adjacent property owners since there is an existing alley separating the two properties; and

WHEREAS, The waiver will not violate Guideline 3, Compatibility, of Cornerstone 2020, which calls for the protection of roadway corridors and public areas from visual intrusions, for mitigation of parking areas so as not to negatively impact nearby residents and pedestrians, and for screening and buffering of parking areas adjacent to streets. The waiver will not violate Guideline 13, Landscape Character, which calls for the protection of parkways through standards for buffers, landscape treatment, lighting and signs. The purpose of vehicle use area landscape buffer areas is to improve the appearance of vehicular use areas and property abutting public rights-of way. The parking and vehicle use area encroachment will sit slightly higher than the elevations of the adjacent properties across the existing alley. Car headlights would generally face the rears of all surrounding lots; and

WHEREAS, the Louisville Metro Planning Commission finds, the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since there is an existing unimproved alley separating the two properties which is providing an extended buffer between the adjacent lower density properties; and

WHEREAS, the Louisville Metro Planning Commission further finds 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 since there is an existing unimproved alley separating the two properties which is providing an extended buffer between the adjacent lower density properties.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the waiver from 10.2.4, to eliminate the required 10 foot buffer along the north property line (shared with the Francis property) and the waiver from 10.2.10 to eliminate the required 5 foot vehicular use area landscape buffer area along the south property line based on the staff report and testimony heard today.

The vote was as follows:

YES: Commissioners Brown, Carlson, Gazaway, Howard, Kirchdorfer, Lewis and Jarboe

NOT PRESENT AND NOT VOTING: Commissioners Peterson, Smith and Tomes

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Development Plan and Binding Elements

On a motion by Commissioner Brown, seconded by Commissioner Howard, the following resolution was adopted.

WHEREAS, There do not appear to be any environmental constraints. The historic resources on the subject site is being preserved and renovated. Tree canopy requirements of the Land Development Code will be provided on the subject site; and

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

WHEREAS, The open space requirements are being met on the site; and

WHEREAS, 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 Louisville Metro Planning Commission finds, 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. Buildings and parking lots generally meet all required setbacks; and

WHEREAS, the Louisville Metro Planning Commission further finds the development plan conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the District Development Plan and binding elements on page 16 of the staff report based on the staff report and testimony heard today, **SUBJECT** to the following Binding Elements:

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

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for review and approval; any changes/additions/alterations not so referred shall not be valid.

2. The development shall not exceed 17,200 square feet of gross floor area.
3. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
4. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
5. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested:
 - a. The development plan must receive full construction approval from Develop Louisville, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
 - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - d. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
6. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
7. 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

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site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.

8. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the January 19, 2017 Planning Commission meeting.

The vote was as follows:

YES: Commissioners Brown, Carlson, Gazaway, Howard, Kirchdorfer, Lewis and Jarboe

NOT PRESENT AND NOT VOTING: Commissioners Peterson, Smith and Tomes

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STANDING COMMITTEE REPORTS

Land Development and Transportation Committee
No report given.

Site Inspection Committee
No report given.

Planning Committee
No report given.

Development Review Committee
No report given.

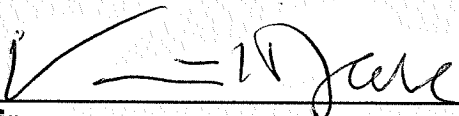
Policy and Procedures Committee
No report given.

CHAIRPERSON/DIRECTOR'S REPORT

No report given.

ADJOURNMENT

The meeting adjourned at approximately 6:49 p.m.



Chair



Planning Director