

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO PLANNING COMMISSION MEETING
MAY 10, 2018**

A meeting of the Louisville Metro Planning Commission was held on May 10, 2018 at 1:00 p.m. at the Old Jail Building, located at 514 W. Liberty Street, Louisville, KY 40202.

Commissioners present:

Vince Jarboe, Chair
Jeff Brown
Rich Carlson
Laura Ferguson
David Tomes (arrived at 1:06 p.m.)
Emma Smith
Lula Howard (arrived at 1:10 p.m.)
Robert Peterson

Commissioners absent:

Marilyn Lewis, Vice Chair

Staff members present:

Emily Liu, Director, Planning & Design Services
Brian Davis, Planning & Design Manager
Jay Lockett, Planner I
Laura Mattingly, Planner II
Joel Dock, Planner II
Beth Stuber, Transportation Planning
Tony Kelly, MSD
Paul Whitty, Legal Counsel
Chris Cestaro, Management Assistant

The following matters were considered:

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APPROVAL OF MINUTES

April 19, 2018 Planning Commission Hearing Minutes

00:03:15 On a motion by Commissioner Carlson, seconded by Commissioner Smith, the following resolution was adopted:

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the minutes of its meeting conducted on April 19, 2018.

The vote was as follows:

YES: Commissioners Brown, Smith, Carlson, Ferguson, and Jarboe.

NOT PRESENT: Commissioners Lewis, Howard, and Tomes.

ABSTAINING: Commissioner Peterson.

**PLANNING COMMISSION MINUTES
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BUSINESS SESSION

CASE NO. 9-78-78

NOTE: Commissioners Tomes and Howard arrived after the case was presented and abstained from voting.

Request: Binding Element Final Order
Location: 1330 Tile Factory Lane
Jurisdiction: Louisville Metro
Council District: 21 – Vitalis Lanshima

Case Manager: Paul Whitty, County Attorney's Office

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

Agency Testimony:

00:04:29 Paul Whitty, legal counsel for the Planning Commission, presented the case.
The recommended fine is \$4500.

Deliberation

00:06:56 The Commissioners concur that the citation should be upheld.

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.

Uphold Binding Element Final Order

00:09:11 On a motion by Commissioner Peterson, seconded by Commissioner Smith, the following resolution was adopted:

RESOLVED, the Louisville Metro Planning Commission does hereby uphold the Binding Element Final Order.

The vote was as follows:

YES: Commissioners Brown, Smith, Carlson, Peterson, Ferguson, and Jarboe.

NOT PRESENT: Commissioner Lewis.

ABSTAINING: Commissioners Tomes and Howard.

Uphold the proposed fine

**PLANNING COMMISSION MINUTES
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BUSINESS SESSION

CASE NO. 9-78-78

00:10:38 On a motion by Commissioner Peterson, seconded by Commissioner Smith, the following resolution was adopted:

RESOLVED, the Louisville Metro Planning Commission does hereby uphold the proposed fine of \$4500 for that violation.

The vote was as follows:

YES: Commissioners Brown, Smith, Carlson, Peterson, Ferguson, and Jarboe.

NOT PRESENT: Commissioner Lewis.

ABSTAINING: Commissioners Tomes and Howard.

**PLANNING COMMISSION MINUTES
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PUBLIC HEARING

CASE NO. 18ZONE1019

Request:	Change in zoning from M-3 Industrial to C-3 Commercial and a General Plan
Project Name:	Galt House East Apartments
Location:	325 West Main Street
Owner:	Al J. Schneider Company
Applicant:	Al J. Schneider Company
Representative:	Bingham Greenbaum Doll, LLP
Jurisdiction:	Louisville Metro
Council District:	4 – Barbara Sexton Smith

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

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

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

Agency Testimony:

00:12:14 Brian Davis presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.)

The following spoke in favor of this request:

Jeffrey McKenzie, Bingham Greenbaum Doll, 3500 National City Tower, Louisville, KY 40202

Summary of testimony of those in favor:

00:15:12 Jeffrey McKenzie, the applicant's representative, explained why this request is being made (see recording for detailed presentation.) He emphasized that there will be no exterior changes.

The following spoke in opposition to this request:

No one spoke.

Deliberation:

00:17:48 The Commissioners concurred that the request is justified.

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PUBLIC HEARING

CASE NO. 18ZONE1019

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

Change in Zoning

00:19:18 On a motion by Commissioner Carlson, seconded by Commissioner Peterson, the following resolution, based on the Standard of Review and Staff Analysis and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Guideline 1 - Community Form because the existing uses and development are in keeping with the surrounding downtown area, and the existing development nearly occupies a full city block and is in keeping with the grid pattern of the downtown area; and

WHEREAS, the Commission further finds that the proposal meets Guideline 2 – Centers because a new center is not being proposed; a retail commercial development is not being proposed; the existing development maximizes use of the property; there is a mix of uses within the development; the existing use is a hotel and multi-family residential and includes additional office and commercial uses within the development; the development is multi-purpose, maximizes use of the property, and while it does not feature a central plaza there is a plaza area located on the north side near the river; there is a parking facility within the existing development that serves this and other properties; the existing development utilizes existing utility hookups. No new hookups are proposed; and there are pedestrian facilities around the site; and

WHEREAS, the Commission further finds that the proposal meets Guideline 3 – Compatibility because the size and scale of the existing development is in keeping with the surrounding downtown area; the materials of the building are in keeping with the character of the surrounding downtown area; there is not a non-residential expansion into an existing residential area; there are no known potential odor or emissions associated with the existing development; the existing/proposed use does not cause any adverse traffic impacts on the surrounding area; there is no new lighting being proposed; the use is located along a transit corridor; the existing use and development are in keeping with the scale, intensity, design, and character of the surrounding downtown area; the existing use is compatible with all surrounding uses; the existing setbacks and building heights are compatible with nearby developments; there are no adjacent residential areas; all parking areas are within the parking garage, thus screened from adjoining uses; the existing parking garage is integrated into the development; staff did not conduct a review of existing signage on the site, but no new signage is proposed at this time; and

WHEREAS, the Committee further finds that the proposal meets Guideline 4 – Open Space because open space is not required, and the site is developed and there are no natural features on the site; and

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WHEREAS, the Committee further finds that the proposal meets Guideline 5: Natural Areas and Scenic and Historic Resources because the site is developed and there are no natural features on the site, and the existing building will continue to be used for the existing use; and

WHEREAS, the Committee further finds that the proposal meets Guideline 6: Economic Growth and Sustainability because the existing development has adequate access points to and from the surrounding transportation system; the existing use will continue within the existing building; and no industrial use is proposed; and

WHEREAS, the Commission further finds that the proposal meets Guideline 7: Circulation because there are no transportation improvements associated with this application; there are existing pedestrian, bicycle, and mass transit facilities in the immediate area of the existing development; there are existing pedestrian, bicycle, and mass transit facilities in the immediate area of the existing development; no new right-of-way is being proposed; parking requirements were not provided nor required with this review. There are no parking standards for the Downtown Form District; and no cross access is proposed; and

WHEREAS, the Commission further finds that the proposal meets Guideline 8: Transportation Facility Design because there are no stub streets; all access to the site comes from existing right-of-way and not through area of lower intensity or density; and no new streets are proposed; and

WHEREAS, the Commission further finds that the proposal meets Guideline 9: Bicycle, Pedestrian and Transit because there are existing pedestrian, bicycle, and mass transit facilities in the immediate area of the existing development; and

WHEREAS, the Commission further finds that the proposal meets Guideline 10: Flooding and Stormwater because no new development is proposed. Existing draining facilities will remain in place; and

WHEREAS, the Commission further finds that the proposal meets Guideline 12: Air Quality because there are no known air quality issues associated with the existing use; and

WHEREAS, the Commission further finds that the proposal meets Guideline 14: Infrastructure because there are no plans for expansion of utilities on the site. The site will continue to be served by existing infrastructure; Louisville Water Company and Louisville Fire currently serve the facility; and MSD can adequately serve the existing facility; now, therefore be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the requested Change in zoning from M-3 Industrial to C-3 Commercial on 0.6 acre be **APPROVED**.

The vote was as follows:

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YES: Commissioners Brown, Howard, Smith, Carlson, Peterson, Ferguson, Tomes, and Jarboe.

NOT PRESENT: Commissioner Lewis.

General Development Plan

00:20:39 On a motion by Commissioner Carlson, seconded by Commissioner Peterson, the following resolution, based on the Standard of Review and Staff Analysis and testimony heard today, was adopted:

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the requested General Development Plan.

The vote was as follows:

YES: Commissioners Brown, Howard, Smith, Carlson, Peterson, Ferguson, Tomes, and Jarboe.

NOT PRESENT: Commissioner Lewis.

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PUBLIC HEARING

CASE NO. 18SUBDIV1004

Request:	Major Preliminary Subdivision (Conservation)
Project Name:	Oak Point
Location:	1600 Kurz Way
Owner:	Prodigy Investments, OP
Applicant:	Prodigy Investments, OP
Applicant's Representative:	Mindel Scott & Associates
Jurisdiction:	Louisville Metro
Council District:	12 – Rick Blackwell

Case Manager: **Jay Lockett, Planner I**

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

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

Agency Testimony:

00:21:50 Jay Lockett presented the case (see staff report and recording for detailed presentation.) He emphasized that there has been much attention and concern from neighbors, and also Councilman Rick Blackwell, regarding the stability of the site (soil) and buildability.

The following spoke in favor of this request:

Kathy Linares and David Mindel, Mindel Scott & Associates, 5151 Jefferson Boulevard Suite 101, Louisville, KY 40202

Jason Lange, Prodigy Investments OP, 11106 Decimal Drive, Louisville, KY 40299

Summary of testimony of those in favor:

00:26:27 Kathy Linares, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.)

00:33:26 Commissioner Peterson asked if MSD would have oversight if special engineering is required for certain lots. Ms. Linares said yes.

00:33:58 In response to a question from Commissioner Carlson, David Mindel discussed the geotechnical report, which can be a condition of approval for the project. Ms. Linares said there is a note on the plan (Note #14) which states, "A geotechnical engineer is required to review and approve all construction plans." Commissioner Peterson said there was "significant subsidence" in this area some years ago.

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00:37:27 In response to a question from Commissioner Brown, Ms. Linares and Mr. Mindel explained about the steepest slopes and how they would be handled.

00:39:33 Commissioner Carlson asked about access to the open space conservation areas. Ms. Linares pointed out the openings/accesses. Mr. Mindel said accessibility to the open spaces is usually left up to the developer and the Homeowner's Association.

00:41:41 In response to a question from Commissioner Smith, Jason Lange discussed the mixture of proposed housing sizes.

The following spoke in opposition to this request:

Susan Brown and Russell Brown, 1524 Dawn Drive, Louisville, KY 40216

Ted Sublett, 1607 Dawn Drive, Louisville, KY 40216

Kim Alexander, 5124 Maryview Drive, Louisville, KY 40216

Rob Carter, 3502 Dawn Court, Louisville, KY 40216

Russell Cummings, 1609 Dawn Drive, Louisville, KY 40216

Summary of testimony of those in opposition:

00:43:01 Susan Brown said no signs were posted at the location, and that the whole process was happening very quickly. Ms. Linares said the applicant has complied with all regulations and also held the neighborhood meeting. The applicant is not asking for a change in zoning. Ms. Brown also asked how residents were notified about this hearing. Mr. Lockett described the notification process.

00:46:42 Ms. Brown also said that the address of the property is listed as Kurz Way, but the entrance is located on Dawn Drive. Ms. Linares said the official address, as well as the property owner notifications, were all determined from the PVA website. Ms. Brown said the traffic will be exiting from one entrance onto Dawn Drive. She asked if a traffic study had been done. Mr. Mindel said the location has been approved by Metro Public Works. Ms. Brown also discussed the extra traffic that will be put onto Dawn Drive. Mr. Mindel said no traffic study had been done because of the small number of lots, therefore the proposal would not have generated enough peak hour trips to require a study. Ms. Brown said this project is doubling the number of homes using Dawn Drive as their access.

00:48:53 Russell Brown asked if there was going to be a bond posted by the developer to repair roads damaged during construction. Ms. Linares said a bond will likely be required. Mr. Brown asked if the bond "will be required", or "will likely be required"? Commissioner Brown said a bond will be required, because Dawn Drive is classified as a local road. Mr. Brown also asked about mitigation measures for dust control; Ms. Linares said this has been addressed by

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the applicant. Mr. Lange said there will be a representative from their company on-site every day during construction. He said MSD will also make regular inspections of the site (dust, keeping roads clean, drainage issues, etc.)

00:52:41 Mr. Brown also asked about sewer connections and capacity. Ms. Linares said the applicant has already submitted a Downstream Facility Capacity request to MSD. In response to a question from Mr. Brown regarding water pressure, Mr. Mindel said the Water Company has been sent a plan – if there was a pressure problem, they would have contacted the applicant. Mr. Mindel gave more details about water pressure and flow.

00:55:37 Mr. Brown also expressed concern about the proposed traffic access onto Dawn Drive, which he said is hazardous.

00:57:04 Ted Sublett spoke in opposition. He said his primary concerns are the soil stability, the access drive from the subdivision, and traffic.

00:58:45 Kim Alexander, an Oak Hills subdivision resident, said she is concerned about traffic safety, and the preservation of the land. She said the geotechnical report is 13 years old, and is based on building 76 houses, not the currently-proposed 129 houses. She listed all the building projects that had been done since the traffic study and the geotechnical report were done. She requested an updated traffic study and the consideration of a second exit onto Kurz Way.

01:04:56 Rob Carter, who lives directly behind the project, said he is mostly concerned about safety issues. He asked if the access road could be moved back about 20 feet. He said the lake behind his home had been moved, and some new houses being proposed will be built on fill dirt from the old lake location. He also asked if a buffer could be placed on his side of the development. He pointed out areas that he said would be better used as the 30% conservation area, which he says could resolve a lot of the neighbors' concerns.

01:10:20 Russell Cummings said there are already existing traffic problems (two blind curves, speeders, cut-through traffic.)

01:12:05 Liz Kennedy McClellan from Councilman Rick Blackwell's office, said the Councilman is concerned erosion issues and traffic concerns. Wants less development on the east side of the lake.

The following spoke neither for nor against this request:

No one spoke.

Rebuttal:

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01:13:10 Mr. Mindel addressed the concerns, which included erosion, the geotechnical report, drainage, dust control, and the location of the entrance in an area that has blind spots (see recording for detailed address.)

01:19:04 Commissioner Ferguson asked if the applicant proposes to update the geotechnical report and, if so, if a Condition of Approval could be added stating this. Mr. Mindel said yes.

01:19:45 Commissioner Tomes and Mr. Mindel discussed the lot layout.

01:21:07 Commissioner Jarboe said he expected that the updated geotechnical report would take into account the concerns raised today, notably the moved lake and the fill dirt area. Mr. Mindel said yes.

01:22:38 In response to a question from Ms. Alexander, Mr. Mindel said he was out examining the road with Metro representatives at about 3:30 p.m. He said they were looking at sight distance, not traffic count. Ms. Alexander asked if the traffic study was done before the Oak Hills Estate section was built. Mr. Mindel said it was. Development and its relation to the traffic study was further discussed. In response to a question from Ms. Alexander, Mr. Mindel said an exit onto Kurz Way could not be done because the railroad company would not grant a right-of-way and explained why in detail.

Deliberation:

01:25:17 The Commissioners concurred that the request is justified. Commissioner Ferguson requested an added Condition of Approval requesting an updated geotechnical review. Commissioner Carlson and Commissioner Brown discussed land preservation and some of the conservation areas.

01:39:40 Commissioner Howard asked, if the new geotechnical report caused the applicant to determine that the plan should be changed / fewer lots should be built upon, would they have to come back to the Planning Commission for review. Paul Whitty, legal counsel for the Planning Commission, said he did not think so. Emily Liu, Director of Planning and Design Services, agreed.

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

Major Preliminary Subdivision (Conservation Subdivision)

01:43:04 On a motion by Commissioner Howard, seconded by Commissioner Peterson, the following resolution, based on the Standard of Review and Staff Analysis and testimony heard today, was adopted:

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CASE NO. 18SUBDIV1004

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the requested Major Preliminary Subdivision (Conservation Subdivision) to create 124 buildable lots on approximately 35.22 acres, **ON CONDITION** that Condition of Approval #18 be added stating that an updated geotechnical report will be performed and submitted to staff, and **SUBJECT** to the following Conditions of Approval:

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

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6. Open space lots shall not be further subdivided or developed for any other use and shall remain as open space in perpetuity. A note to this effect shall be placed on the record plat.
7. The developer shall be responsible for maintenance of all drainage facilities and undeveloped lots ensuring prevention of mosquito breeding, until such time as the drainage bond is released.
8. After release of the drainage bond, mosquito abatement on open space lots shall be the responsibility of the Homeowners Association. Accumulations of water in which mosquito larvae breed or have the potential to breed are required to be treated with a mosquito larvacide approved by the Louisville Metro Health Department. Larvacides shall be administered in accordance with the product's labeling. This language shall appear in the deed of restrictions for the subdivision.
9. Trees will be preserved and/or provided on site and maintained thereafter as required by Chapter 10, Part 1 of the Land Development Code and as indicated in the Tree Canopy Calculations on the Preliminary Subdivision Plan. The applicant shall submit a landscape plan for approval by Planning Commission staff for any trees to be planted to meet the Tree Canopy requirements of Chapter 10, Part 1 of the Land Development Code. A tree preservation plan shall be submitted for review and approval for any trees to be preserved to meet the Tree Canopy requirements of Chapter 10.
10. The applicant shall submit a landscape plan for approval by Planning Commission staff showing plantings and/or other screening and buffering materials to comply with the Chapter 10 of the Land Development Code prior to recording the record plat. The applicant shall provide the landscape materials on the site as specified on the approved Landscape Plan prior to issuance of Certificates of Occupancy for the site.
11. Prior to the recording of the record plat, copies of the recorded documents listed below shall be filed with the Planning Commission.
 1. Articles of Incorporation in a form approved by Counsel for the Planning Commission and the Certificate of Incorporation of the Homeowners Association.
 2. A deed of restriction in a form approved by counsel of the Commission outlining responsibilities for the maintenance of open space.
 3. Bylaws of the Homeowners' Association in a form approved by Counsel for the Planning Commission.
12. At the time the developer turns control of the homeowners association over to the homeowners, the developer shall provide sufficient funds to ensure there is no less than \$3,000 cash in the homeowners association account. The subdivision performance bond may be required by the planning Commission to fulfill this funding requirement.
13. The signature entrance shall be submitted to the Planning Commission staff for review and approval prior to recording the record plat.

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14. When limits of disturbance are shown on the plan, a note shall be placed on the preliminary plan, construction plan and the record plat that states, "Construction fencing shall be erected at the edge of the limits of disturbance area, prior to any grading or construction activities. The fencing shall remain in place until all construction is completed. No parking, material storage, or construction activities shall be permitted within the fenced area."
15. A deed restriction in a form approved by Counsel to the Planning Commission shall permanently prohibit further subdivision or development of conservations areas.
16. The applicant shall submit a Conservation Area Management Plan detailing the entities responsible for maintaining various elements of the property, and describing management objectives and techniques for each part of the property.
17. In the event the party responsible for maintenance of the Conservation Areas fails to maintain all or any portion in reasonable order and condition according to the Management Plan, Louisville Metro Government may assume responsibility for its maintenance and may enter the premises and take corrective action, including provision of extended maintenance. The cost of maintenance may be charged to the Management Entity, or the individual property owners according to the pro-rata share based on the Management Plan. Costs may include administrative costs in taking such actions as well as penalties as provided under these regulations. Such costs shall become a lien on all subdivision properties.
18. Prior to any site disturbance, the applicant shall submit an updated geotechnical report for review by Planning and Design Services Staff.

The vote was as follows:

YES: Commissioners Howard, Smith, Peterson, Ferguson, Jarboe, and Tomes.

NO: Commissioner Brown and Carlson

NOT PRESENT: Commissioner Lewis

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PUBLIC HEARING

CASE NO. 16DEVPLAN1170

Request:	Revised Detailed District Development Plan and
Project Name:	Nelson Commercial Property
Location:	9609 National Turnpike
Owner(s):	Dan Nelson
Applicant:	Dan Nelson
Applicant's Representative:	Dan Nelson
Jurisdiction:	Louisville Metro
Council District:	13 – Vicki Aubrey Welch

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

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

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

Agency Testimony:

01:46:30 Joel Dock said the applicant has requested a **CONTINUANCE** of the case to the May 24, 2018 Planning Commission public hearing. He said that staff concurs with the request for continuance and has arranged a follow-up meeting with the applicant prior to the meeting on the 24th

The following spoke in favor of this request:

No one spoke.

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

01:47:51 On a motion by Commissioner Howard, seconded by Commissioner Carlson, the following resolution was adopted:

RESOLVED, the Louisville Metro Planning Commission does hereby **CONTINUE** this case to the May 24, 2018 Planning Commission public hearing.

The vote was as follows:

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PUBLIC HEARING

CASE NO. 16DEVPLAN1170

**YES: Commissioners Brown, Howard, Smith, Carlson, Peterson, Ferguson, Jarboe, and
Tomes.**

NOT PRESENT: Commissioner Lewis.

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PUBLIC HEARING

CASE NO. 17ZONE1054

Request: Change in zoning from R-2 & R-4 to OR-3, setback and height variances, landscape waiver, and a Detailed District Development Plan.

Project Name: Advanced ENT

Location: 2944 Breckinridge Lane

Owner: Advanced ENT Holdings of St. Matthews, LLC

Applicant: Advanced ENT Holdings of St. Matthews, LLC

Representative: Frost Brown Todd, LLC

Jurisdiction: Louisville Metro

Council District: 26 – Brent Ackerson

Case Manager: Joel Dock, Planner II

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

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

Agency Testimony:

01:49:06 Joel Dock presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.) He noted that Commissioner Brown had had some concerns about pedestrian connectivity at the LD&T meeting; this plan has been reflects changes and improvements to the pedestrian connectivity.

01:55:20 Mr. Dock noted that some changes to binding elements had been proposed, and the applicant can address that. Binding element #2 regarding temporary banner prior to the installation of a permanent attached sign; possibly the addition of a BE related to freestanding signage.

The following spoke in favor of this request:

Glenn Price, Frost Brown Todd LLC, 400 West Market Street Suite 3200, Louisville, KY 40202

Kevin Burns, 222 South First Street, Louisville, KY 40202 (available to answer questions)

Joe Ackerman, 4004 Dupont Circle #220, Louisville, KY 40207 (available to answer questions)

The following spoke neither for nor against this request:

Connie Wharton, Mayor of Meadowview Estates, 3018 Meadowview Circle, Louisville, KY 40220

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PUBLIC HEARING

CASE NO. 17ZONE1054

Summary of testimony of those in favor:

01:56:54 Glenn Price, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.)

02:04:27 Mr. Prices's proposed changes to binding elements:

Proposed change to Binding element #2: Except for a banner that may be located on the face of the office building on Tract 2 immediately prior to the installation of an attached sign for a period of time not to exceed 90 days, no outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.

Binding elements on the last page of the staff report – remove last 3 binding elements, proposed four binding elements, to read as follows:

- Office hours for patient visits shall be limited to 6:00 a.m. to 10:00 p.m.
- Landscaping and screening will be provided on the subject site adjacent to the Royal Oaks Condominium property as required by Chapter 10 of the Land Development Code. A 6 ft tall privacy fence and the required quantity of trees required by Chapter 10 shall be installed on the subject site in the rear property line Landscape Buffer Area.
- *Signs shall conform to the Land Development Code and free-standing signs shall be shown on the approved development plan. (**agreed to remove this proposed binding element per conversation, below.**)*
- Outdoor lighting shall be directed down and away from residential areas. Lighting fixtures shall have a 90-degree cut-off.

Mr. Price added that staff has requested no binding element regarding signage [proposed binding element #3, above.]

02:09:48 Connie Wharton, Mayor of Meadowview Estates, asked why staff wanted to remove a proposed binding element regarding signage. Mr. Dock said the additional sign binding elements, outside of what the Land Development Code requires, can cause unnecessary delays for simple sign permit applications. An applicant might have to submit extra information and fees to Planning and Design Services for very minor changes. He told Ms. Wharton that she is in a Neighborhood form district, so the sign will be monument or columnar style signage, and will not be large.

02:11:32 Mr. Price answered some questions about the binding element numbering.

02:14:39 In response to a question from Commissioner Carlson, Mr. Price discussed a binding element regarding lighting. In response to another question, Mr. Price said no elevations were available for the 6,000 square foot building, because it is not proposed to be built yet. He said the applicant is willing to submit elevations to staff for approval. After some

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discussion, he proposed a binding element stating that, at the time of Tract 1 development, elevations need to be submitted.

02:18:20 In response to a question from Paul Whitty, legal counsel for the Planning Commission, Mr. Price said uses for Tract 1 is not limited to use as a medical office building. It could be any use that is permitted in the zone that meets the number of parking spaces the applicant has provided.

02:19:36 Commissioner Jarboe raised some concerns about the difficulty of making a left turn from the access drive. Mr. Price referenced the second traffic study (included in the applicant's exhibits) and discussed alternatives to making a left turn.

The following spoke in opposition to this request:

No one spoke.

Deliberation:

02:21:40 The Commissioners concur that the proposal is justified.

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

Change in Zoning

02:24:24 On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution, based on the Standard of Review and Staff Analysis, evidence and testimony heard today, and the applicant's findings of fact, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the Proposal to change the applicable zoning district on the Subject Properties from R-2 and R-5 to OR-3 Office/Residential District to allow for two medical office buildings conforms to KRS 100.213 because it is in agreement with the Comprehensive Plan, as detailed in these Findings of Fact; and

WHEREAS, The Commission further finds that the proposal conforms to Community Form Guideline 1 and all applicable Policies adopted thereunder, including Policy 1.B.3. because the site lies within the Neighborhood Form District and the Proposal is consistent therewith; because the proposal is adjacent to a large activity center and directly abuts office uses and multi-family uses and zones; because the proposed scale of the development is appropriate for the area in that the activity center contains a mixture of scales supporting large and small retail uses; and because Breckenridge Lane is a minor arterial roadway; and

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WHEREAS, The Commission further finds that the proposal conforms to Centers Guideline 2 and all applicable Policies adopted thereunder, including Policies 2, 3, 4, 5, 6, 13, 15 and 16 because the Proposal is adjacent to a large activity center, and it abuts an office development and multi-family uses and zones; because the Subject Properties are in the Neighborhood Form District and an adjacent activity center is in the Regional Center Form District; because the vicinity of this Proposal has a sufficient population base for the development; because residential neighborhoods surround the existing activity center; because the proposed land uses are compact, and they utilize most of the land for parking, structures and detention; because appropriate landscape buffers will be provided; and because the proposed parking facilities will be shared; and

WHEREAS, The Commission further finds that the proposal conforms to Compatibility Guideline 3 and all applicable Policies adopted thereunder, including Policies 1, 2, 4, 5, 6, 7, 8, 9, 12, 21, 22, 23, 24 and 28 because building materials for the medical office building will be brick, glass and EIFS; because these building materials will be compatible with other buildings on Breckenridge Lane and will be compatible with residential areas generally to the west of the Subject Properties; because the Proposal will have a minimal impact on abutting residential areas and the residential area across Breckenridge Lane behind the Old K-Mart building; because landscaping will be employed as required by Land Development Code Chapter 10; because; because all site lighting will conform to Land Development Code ("LDC") Part 4 and will be directed away from adjacent residential areas; because Breckenridge Lane is a transit corridor and is served by Transit Authority of River City ("TARC") Route 53 Express and Route 62; because landscaping will be provided as required by LDC Article 10; because except for the variance requests, the Proposal conforms to all setback requirements; and because free-standing signs will be monument in style and there will be no changing-image signs; and

WHEREAS, The Planning Commission Further Finds That the Proposal conforms to Open Space Guideline 4 because the Proposal does not require open space; and

WHEREAS, The Commission further finds that the proposal conforms to Natural Areas and Scenic and Historic Resources Guideline 5 and all applicable Policies adopted thereunder, including Policies 1, 2, 3, 4, and 6, because the site is not located in an area with natural, cultural or historic features and it has no soils or slopes that would make development difficult or otherwise be prone to soil erosion; and

WHEREAS, The Commission further finds that the proposal conforms to Economic Growth and Sustainability Guideline 6 and all applicable Policies adopted thereunder, including Policy 6 because the development will provide medical services in office buildings in or adjacent to an activity center; and

WHEREAS, The Commission further finds that the Proposal conforms to Circulation Guideline 7 and all applicable Policies adopted thereunder, including Policy 1, 2, 3, 6, 9, 10, 13 and 16 because the site can accommodate traffic generated to and from the site; because pedestrian facilities are provided to accommodate walkers and transit riders; because bicycle storage facilities will be provided on-site; and because a pedestrian connection is proposed through the parking lot to connect the office buildings; and

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WHEREAS, The Commission further finds that the Proposal conforms to Bicycle, Pedestrian and Transit Guideline 9 and all applicable Policies adopted thereunder, including Policy 1, 2, 3 and 4 because sidewalks are located along Breckenridge Lane and are proposed to connect the office buildings; because bicycle storage facilities will be provided on both Tract 1 and Tract 2; and because Breckenridge Lane is a transit route, on which TARC provides service for Route 53 Express and Route 62; and

WHEREAS, The Commission further finds that the Proposal conforms to Flooding and Stormwater Guideline 10 and all applicable Policies adopted thereunder, including Policies 1, 3, 6, 7, 10 and 11 because surface water management has been analyzed using a watershed-wide model; because impervious surfaces have been minimized wherever possible; because a large detention area to the rear of the site has been provided; because the Metropolitan Sewer District has approved the development, which indicates, among other things, that stormwater run-off has been adequately accommodated, that “through” drainage systems have been accommodated, and that peak stormwater run-off rates or volumes after development will be consistent with regional or watershed plans or are being mitigated on-site; and

WHEREAS, The Commission further finds that the Proposal conforms to Air Quality Guideline 12 and all applicable Policies adopted thereunder, including Policies 1, 2, 3 and 8 because the Louisville Air Pollution Control District has approved the Proposal, which indicates that sufficient measures have been taken to reduce the impacts of air pollution, including the use of alternate modes of transportation such as walking and biking; and

WHEREAS, The Commission further finds that the Proposal conforms to Landscape Character Guideline 13 and all applicable Policies adopted thereunder, including Policies 2, 5 and 6 because the site will be landscaped pursuant to the requirements of LDC Article 10; because native plant species will be utilized for buffering and screening; and because an adequate tree canopy will be provided; and

WHEREAS, The Commission further finds that the Proposal conforms to Infrastructure Guideline 14 and all applicable Policies adopted thereunder, including Policies 2, 3, 4, 6 and 7 because an adequate supply of potable water and water for fire-fighting purposes will be provided; because sewer service will be provided by the Metropolitan Sewer District; and because utilities and utility service will be provided for in easements as designated by each utility; and

WHEREAS, The Commission further finds that the Proposal conforms to Community Facilities Guideline 15 and all applicable Policies adopted thereunder, including Policy 9, because the Subject Properties will be adequately served by fire-fighting services of the McMahan Fire Department; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 1 – Community Form because The proposal is adjacent to a large activity center, and directly abutting office, commercial, and multi-family uses and zones. The scale is appropriate for the area as the center contains a mixture of scales supporting large and small retail uses; grocery;

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professional offices that stand-alone or are contained in strip centers; restaurants with or without drive-thru; and a variety other services; and Breckenridge lane is a minor-arterial roadway; and

WHEREAS, the Commission further finds that the request meets the intents of Guideline 2 – Centers because the proposal is adjacent to a large activity center, and directly abutting office, commercial, and multi-family uses and zones; the subject site is in the NFD, while the adjacent center is in the RCFD; the proposed use provides for medical offices; the area has sufficient permanent population and population in transit to support the use; residential neighborhoods surround the existing activity center; the land uses are relatively compact and utilize the majority of the land for parking, structures, and detention, while maintaining appropriate landscape buffers; the inclusion of medical offices on the subject site adds to the diversity of uses in surrounding areas; the inclusion of medical offices on the subject site adds to the diversity of uses in surrounding areas; the land uses are relatively compact and utilize the majority of the land for parking, structures, and detention, while maintaining appropriate landscape buffers; parking facilities are being shared and access for both pedestrians and vehicles are provided between the two sites to balance safety, traffic, transit, pedestrian, environmental and aesthetic concerns; utilities will be located to serve the development; pedestrian access to the site is provided along with vehicular access. Public sidewalk provides for access from TARC stop. TARC stop improvements will be made at the time of construction of Tract 1; and

WHEREAS, the Commission further finds that the request meets the intents of Guideline 3 – Compatibility because the proposed building materials increase the new development's compatibility as the building poses architectural creativity in a manner consistent with materials in the area; the proposal does not constitute a non- residential expansion into an existing residential area as the prior use was non- residential and the subject site is located along a minor arterial directing abutting a large regional center; the proposal does not appear to create any additional odor or emissions beyond that which is normally expected; Breckenridge Lane is a minor arterial roadway which is intended to serve non-residential development. There will inherently be traffic.; lighting will be in compliance with the LDC ; Breckenridge lane is a transit corridor served by TARC route 53X and 62; landscaping appears to be appropriate for the development and abutting uses; setbacks, lot dimensions and building heights are compatible with those of nearby developments that meet form district standards; landscaping and setbacks are provided; landscaping appears to be appropriate for the development and abutting uses; and signs will be in compliance with the LDC; and

WHEREAS, the Commission further finds that the request meets the intents of Guideline 4 – Open Space because the front entrance to the facility provides a landscaped amenity for aesthetic purposes; open space not required for this development; and there do not appear to be any natural resources on the subject site; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 5 - Natural Areas and Scenic and Historic Resources because there do not appear to be any natural resources on the subject site; there are no structures of historical significance on the subject site; and the site does not appear to contain wetlands, floodplain or other hydric features; and

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WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 6 - Economic Growth and Sustainability because the site is located along a minor arterial adjacent to a large regional center; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 7: Circulation because the proposal will contribute its proportional share of the cost of roadway improvements and other services and public facilities made necessary by the development through physical improvements to these facilities, contribution of money, or other means; TARC improvements will be made along the frontage, public walks will be provided and interconnectivity between the uses will be made available; the proposal's transportation facilities are compatible with and support access to surrounding land uses, and contribute to the appropriate development of adjacent lands; pedestrian facilities are provided to accommodate walkers and transit riders; sufficient parking is being provided; and the proposal provides for joint and cross access through the development; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 8: Transportation Facility Design because stub streets are not required; access is provided from an arterial roadway intersecting an interstate and an activity center; and no streets are proposed or required; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 9: Bicycle, Pedestrian and Transit because TARC improvements will be made along the frontage, public walks will be provided and interconnectivity between the uses will be made available; and

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

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

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

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 14 - Infrastructure because existing utilities would appear to be available; the proposal has access to an adequate supply of potable water and water for fire- fighting purposes; and the proposal has adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams; now, therefore be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the requested Change-in-Zoning from R-2/R-5, Single-Family Residential to OR-3, Office-Residential on property described in the attached legal description be **APPROVED**.

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The vote was as follows:

YES: Commissioners Brown, Howard, Smith, Carlson, Peterson, Ferguson, Jarboe, Tomes.

NOT PRESENT: Commissioner Lewis.

Variances:

1. **Variance** of LDC, section 5.1.12.B.2.a to vary the infill established front setback.
2. **Variance** of LDC, section 5.3.1.C.5 to encroach upon the 30' non-residential to residential setback
3. **Variance** of LDC, section 5.3.1.C.5 to exceed the maximum height

02:25:19 On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution, based on the Standard of Review and Staff Analysis, evidence and testimony heard today, and the applicant's justification, was adopted:

(Variance #1) WHEREAS, the Louisville Metro Planning Commission finds that a Variance is requested from Land Development Code §5. 1.12.B.2.a to vary the Breckenridge Lane Infill Front Setback to allow the medical office building on Tract 2 to be situated 10 feet back from the front (Breckenridge Lane) right-of-way line, as opposed to being situated a distance between (1) the adjacent office building to the south, which is 25-feet from the Breckenridge Lane right-of-way, and (2) the Royal Oaks Condominiums building to the north, which is 40-feet from the Breckenridge Lane right-of-way; and

WHEREAS, the Commission further finds that the variance will not adversely affect the public health, safety or welfare because the infill setback would be between 25 and 40 feet from Breckenridge Lane as established by the adjacent office building in "The Point" [the Andrew Jacobs Partnership property shown on the development plan] and the adjacent Royal Oaks Condominium building, which is 40 feet from Breckenridge Lane. The proposed variance will have no effect on the public health, safety or welfare because the distance the proposed building lies from Breckenridge Lane poses no issues affecting the public health, the public safety or the general welfare of the public. Moreover, placing the building as close to Breckenridge Lane as possible means that it will be located as far away from the Royal Oaks Condominium development as possible, which promotes the public welfare; and

WHEREAS, the Commission further finds that the variance will not alter the essential character of the general vicinity because much of the existing vicinity, including the office complex to the south is used for non-residential purposes; and

WHEREAS, the Commission further finds that the variance will not cause a hazard or a nuisance to the public because the building will be setback a typical distance from the street; and

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WHEREAS, the Commission further finds that the variance will not allow an unreasonable circumvention of the requirements of the zoning regulations because a typical setback from Breckenridge Lane will be observed; and

WHEREAS, the Commission further finds that the variance arises from special circumstances, which do not generally apply to land in the general vicinity because the location of the proposed medical office building has been determined, in large part, by the desire to keep the primary medical office building of the development as far as possible away from residences in the immediate vicinity; and

WHEREAS, the Commission further finds that the strict application of the regulation would prevent the Applicant from locating a medical office building at this location, which would both deprive the Applicant of sufficient parking area for patients of the Applicant. As such, this would deprive the Applicant of the reasonable use of the land and would create an unnecessary hardship on the Applicant [because it would prevent having adequate number of parking spaces on- site]; and

WHEREAS, the Commission further finds that the circumstances giving rise to the variance application are the result of the necessity to have a sufficient number of parking spaces on the site for medical patients, and to keep the primary medical office building as far away from adjacent residential uses as possible. These circumstances do not arise as a result of actions of the Applicant taken subsequent to the adoption of the regulations; and

WHEREAS, the Commission further finds that the requested variance will not adversely affect public health safety or welfare as the proposed setback does not impact the safe movement of vehicles or pedestrians; and

WHEREAS, the Commission further finds that the requested variance will not alter the essential character of the general vicinity as the building will be closer to the road which enhances its pedestrian presence in the area; and

WHEREAS, the Commission further finds that the requested variance will not cause a hazard or nuisance to the public as no impact on site lines for vehicles or pedestrians are being impacted; and

WHEREAS, the Commission further finds that the requested variance will not allow an unreasonable circumvention of zoning regulations as the minimum requirement in a non-infill context is the setback proposed; and

WHEREAS, the Commission further finds that the requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone as much development in the area has been developed in anon-infill context; and

WHEREAS, the Commission further finds that the strict application of the provisions of the regulation would deprive the applicant of reasonable use of the land as requested variance

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matches the minimum requirements in a non- infill context and enhances the pedestrian presence of the building; and

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

(Variance #2) WHEREAS, the Commission further finds that Variances are requested from Land Development Code §5.3.1.C.5 Table 5.3.2 to vary the 30-foot non-residential-to-residential setback for (1) the encroachment of the pavement adjacent to 2936 Breckinridge Lane on the north side of the property, and (2) the encroachment of the pavement and dumpster enclosure adjacent to the Ty Haskell LLC property [2903 Lighthouse Road]; and

WHEREAS, the Commission further finds that the variance will reduce the 30-foot setback by only about 10 feet to accommodate the driveway of the development. Tract 2. The variance will reduce the 30-foot setback by only about 10 feet to accommodate the dumpster enclosure and pavement. The reduced setback will abut a rear parking area on the Ty Haskell LLC property. Because of where they are situated these proposed variances will have no effect on the public health, safety or welfare because the smaller setback does not present any issue affecting public health, safety or the general welfare of the public; and

WHEREAS, the Commission further finds that the variances will not alter the essential character of the general vicinity because the variances are not of sufficient magnitude to alter the essential character of the general vicinity; and

WHEREAS, the Commission further finds that variance will not cause a hazard or a nuisance to the public because the reduced setbacks are not of a sufficient magnitude to create a hazardous circumstance or a nuisance to the public.; and

WHEREAS, the Commission further finds that the variance will not allow an unreasonable circumvention of the requirements of the zoning regulations because the encroachment into the setbacks do not impact adjacent property owners and they are minimal encroachments; and

WHEREAS, the Commission further finds that the variances arise from special circumstances, which do not generally apply to land in the general vicinity. The location of the proposed medical office building has been determined, in large part, by the desire to keep the primary medical office building of the development as far as possible away from residences in the immediate vicinity. This requires the placement of the dumpster enclosure at a location away from residential neighbors and away from public view. The variance on Tract 1 is not substantial. As such, the variances arise from special circumstances which do not apply to land in the general vicinity; and

WHEREAS, the Commission further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create unnecessary hardship because the strict application of the regulation would prevent the Applicant from locating a medical office building at this location, which would both deprive

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the Applicant of sufficient parking area for patients of the Applicant. As such, this would deprive the Applicant of the reasonable use of the land and would create an unnecessary hardship on the Applicant [because it would prevent having adequate number of parking spaces on-site]; and

WHEREAS, the Commission further finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the regulation from which relief is sought. The circumstances giving rise to the variance application are the result of the necessity to have a sufficient number of parking spaces on the site for medical patients, and to keep the primary medical office building as far away from adjacent residential uses as possible. These circumstances do not arise as a result of actions of the Applicant; and

WHEREAS, the Commission further finds that the requested variance will not adversely affect public health safety or welfare as the proposed setback does not impact the safe movement of vehicles or pedestrians; and

WHEREAS, the Commission further finds that the requested variance will not alter the essential character of the general vicinity as building setbacks and drive lane setbacks are comparative to conditions in the area; and

WHEREAS, the Commission further finds that the requested variance will not cause a hazard or nuisance to the public as no impact on site lines for vehicles or pedestrians are being impacted; and

WHEREAS, the Commission further finds that the requested variance will not allow an unreasonable circumvention of zoning regulations as vicinity as building setbacks and drive lane setbacks are comparative to conditions in the area; and

WHEREAS, the Commission further finds that the requested variance does not arise from special circumstances which do not generally apply to land in the general vicinity or the same zone as the zoning regulations apply to all property in the area; and

WHEREAS, the Commission further finds that the strict application of the provisions of the regulation would deprive the applicant of reasonable use of the land as the request on the Eastern property line is adjacent to non-residential uses in a residential zoning district and the encroachment on the western side is minimal; and

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

(Variance #3) WHEREAS, the Commission further finds that a variance is requested from Land Development Code §5.3.1.C.5 Table 5.3.2 to vary the building height of the medical office building on Tract 2 to allow the peak of the building to be 45-feet tall instead of the prescribed maximum of 30-feet tall; and

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WHEREAS, the Commission further finds that the proposed building's architectural elements will not substantially exceed the maximum height. Moreover, the building is set back from Breckinridge Lane and from adjacent residential areas. In addition, the architecture and height add to the visual interest of the building and allows space for necessary medical-related mechanical facilities; and

WHEREAS, the Commission further finds that the variances are not of sufficient magnitude to alter the essential character of the general vicinity; and

WHEREAS, the Commission further finds that the variances will not cause a hazard or nuisance to the public because the height variance is insubstantial, and the building is not located near other buildings; and

WHEREAS, the Commission further finds that the variance will not allow an unreasonable circumvention of the requirements of the zoning regulations because the height variance will be insubstantial; and

WHEREAS, the Commission further finds that it is difficult to design and build a medical office building without providing a *per-floor* height of 15.5 feet. Typical ceiling heights are 10-feet. Typical interstitial space for mechanical, electric, and structural to accommodate typical VAV requirements will require a *per floor* height of 14'-6" to 15'-6". Because this building is the primary medical office building in the vicinity this situation constitutes a special circumstance not generally applying to land in the general vicinity; and

WHEREAS, the Commission further finds that the strict application of the regulation would prevent the Applicant from constructing its medical office building at this location, which would both deprive the Applicant of its ability to construct the building. This would deprive the Applicant of the reasonable use of the land and would create an unnecessary hardship on the Applicant; and

WHEREAS, the Commission further finds that the circumstances giving rise to the variance application are the result of the necessity to have sufficient height for a modern medical office building. These circumstances do not arise as a result of actions of the Applicant; and

WHEREAS, the Commission further finds that the requested variance will not adversely affect public health safety or welfare as the proposed setback does not impact the safe movement of vehicles or pedestrians; and

WHEREAS, the Commission further finds that the requested variance will not alter the essential character of the general vicinity as the building is architecturally interesting and aesthetically pleasing and will enhance the quality of design in the area; and

WHEREAS, the Commission further finds that the requested variance will not cause a hazard or nuisance to the public as no impact on site lines for vehicles or pedestrians are being impacted; and

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WHEREAS, the Commission further finds that the requested variance will not allow an unreasonable circumvention of zoning regulations as the building is architecturally interesting and aesthetically pleasing and will enhance the quality of design in the area; and

WHEREAS, the Commission further finds that the requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone as much development in the area has been developed in anon-infill context; and

WHEREAS, the Commission further finds that the strict application of the provisions of the regulation would deprive the applicant of reasonable use of the land as the building is architecturally interesting and aesthetically pleasing and will enhance the quality of design in the area; and

WHEREAS, the Commission further finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as the site has not been developed and relief is being sought; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the requested **Variance** of LDC, section 5.1.12.B.2.a to vary the infill established front setback; the **Variance** of LDC, section 5.3.1.C.5 to encroach upon the 30' non-residential to residential setback; and the **Variance** of LDC, section 5.3.1.C.5 to exceed the maximum height.

The vote was as follows:

YES: Commissioners Brown, Howard, Smith, Carlson, Peterson, Ferguson, Jarboe, and Tomes.

NOT PRESENT: Commissioner Lewis.

Waiver of LDC, section 10.2.44.B.3 to allow utility easement/LBA overlap to exceed 50%

02:26:23 On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution, based on the Standard of Review and Staff Analysis, evidence and testimony heard today, and the applicant's justification, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the waiver will not adversely affect adjacent property owners because the only property affected by this request is the adjacent property owned by Colston, Inc. [DB 4872, P 915], which has one residential condominium building and a tennis court. This property is presently being held for sale for commercial purposes; and

WHEREAS, the Commission further finds that the waiver will not violate the Comprehensive Plan because the applicable Policy of the Comprehensive Plan in question is Compatibility Guideline 3, Policy 22 "Buffers," which recommends mitigating impacts when incompatible developments occur adjacent to one another. Because the abutting property is likely to be commercial a reduced width buffer on the subject site is appropriate; and

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WHEREAS, the Commission further finds that the extent of the waiver is only driven by the necessity to provide vehicular access along the northern portion of the site, and that is the extent of the waiver request; and

WHEREAS, the Commission further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land and would create an unnecessary hardship on the applicant. The purpose of the drive aisle along the north side of Tract 1 is to provide access to and from the traffic signal (in front of Tract 1 across from Berkshire Avenue) (a) to provide safe entry and exit for patients and employees of the medical office building on Tract 2, and (b) to provide safe entry and exit for customers and employees of the gas/C-store on Tract 1; and

WHEREAS, the Commission further finds that the waiver will not adversely affect adjacent property owners as landscape buffers and planting material is being provided as required; and

WHEREAS, the Commission further finds that the waiver will not violate specific guidelines of Cornerstone 2020 as landscape buffers and planting material is being provided as required; and

WHEREAS, the Commission further finds that the extent of the waiver of the regulation is not the minimum necessary to afford relief to the applicant as landscape buffers and planting material is being provided as required; and

WHEREAS, the Commission further finds that the strict application of the provisions of the regulation would not deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant as landscape buffers and planting material is being provided as required; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Waiver of LDC, section 10.2.44.B.3 to allow utility easement/LBA overlap to exceed 50%.

The vote was as follows:

YES: Commissioners Brown, Howard, Smith, Carlson, Peterson, Ferguson, Jarboe, and Tomes.

NOT PRESENT: Commissioner Lewis.

Detailed District Development Plan and Binding Elements

02:27:10 On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that there are no features of historic significance on the property and no apparent natural resources on the site; and

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WHEREAS, the Commission further finds that provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community has been provided as sidewalks, pedestrian connection, TARC improvements, and vehicular connectivity will be provided; and

WHEREAS, the Commission further finds that open space is not required as a component of this development; and

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

WHEREAS, the Commission further finds that the overall site design and land uses are compatible with the existing and future development of the area. Appropriate landscape buffering and screening will be provided to screen adjacent properties and roadways. The building is architecturally interesting and aesthetically pleasing and will enhance the quality of design in the area; and

WHEREAS, the Commission further finds that the development plan conforms to applicable guidelines and policies of the Comprehensive Plan as demonstrated in Cornerstone 2020 Staff Analysis for the change in zoning request and to requirements of the Land Development Code; now, therefore be it

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

1. The development shall be in accordance with the approved district development plan/alternative landscape 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. Except for a banner that may be located on the face of the office building on Tract 2 immediately prior to the installation of an attached sign for a period of time not to exceed 90 days, no outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
3. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is

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completed. No parking, material storage or construction activities are permitted within the protected area.

4. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested:
 - a. The development plan must receive full construction approval from Louisville Metro Department of Codes and Regulations Construction Permits, Transportation Planning Review, and the Metropolitan Sewer District.
 - b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways for all work within the right-of-way.
 - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - d. A minor plat shall be recorded creating the lots as shown on the development plan.
 - e. A reciprocal access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be created between the adjoining property owners and recorded. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services.
5. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
6. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
7. Office hours for patient visits shall be limited to 6:00 a.m. to 10:00 p.m.
8. Landscaping and screening will be provided on the subject site adjacent to the Royal Oaks Condominium property as required by Chapter 10 of the Land Development Code. A 6 ft tall privacy fence and the required quantity of trees required by Chapter 10 shall be installed on the subject site in the rear property line Landscape Buffer Area.

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9. Outdoor lighting shall be directed down and away from residential areas. Lighting fixtures shall have a 90-degree cut-off.
10. Elevations for Tract 1 shall be submitted to Planning and Design staff for review and approval prior to issuance of building permits for Tract 1.

The vote was as follows:

YES: Commissioners Brown, Howard, Smith, Carlson, Peterson, Ferguson, Jarboe, and Tomes.

NOT PRESENT: Commissioner Lewis.

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CASE NO. 18ZONE1011

Request: Change in zoning from R-5A to PRD and a Revised Detailed District Development Plan
Project Name: Moss Creek
Location: 6110 Goalby Drive
Owner: Moss Creek Enterprises, LLC
Applicant: Moss Creek Enterprises, LLC
Representative: Dinsmore & Shohl, LLP
Jurisdiction: Louisville Metro
Council District: 12 – Rick Blackwell

Case Manager: Joel Dock, Planner II

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

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

Agency Testimony:

02:30:22 Joel Dock presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.)

The following spoke in favor of this request:

Clifford Ashburner, Dinsmore & Shohl, 101 South Fifth Street Suite 2500, Louisville, KY 40202

Summary of testimony of those in favor:

02:32:30 Clifford Ashburner, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.)

02:35:22 Mr. Ashburner pointed out two issues with binding elements in the staff report:

Proposed adding one sentence to binding element #, to read as follows:

11. The structures shall appear substantially similar to the renderings submitted at the July 21, 2005 and May 20, 2015 public hearing. All condominium structures shall be principally faced on all four sides with brick but may also feature accent treatments, gable details, cornices and so forth of other possible building materials such as vinyl. ***Structures on Lot 11 shall appear substantially similar to the building elevations submitted at the May 10, 2018 public hearing.***

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Eliminate BE #13 regarding signature entrances.

The following spoke in opposition to this request:

No one spoke.

Deliberation:

02:37:42 The Commissioners concur that the proposal is justified.

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

Change in zoning from R-5A, Multi-family Residential to PRD, Planned Residential Development

02:39:53 On a motion by Commissioner Carlson, seconded by Commissioner Peterson, the following resolution, based on the Staff Analysis, evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that that the proposal meets the intents of Guideline 1: Community Form because The PRD district supports a mix of choices and allows for the incorporation of a new style of housing to this multi-family development; the PRD zoning district allows for a maximum density of 7.26 du/ac. It is located in area with a limited impact on surrounding properties and is in a location that provides access to commercial services; the housing style proposed does not appear to be venture too far from the previously approved multi-family layout. The new style will add to the diversity of opportunity for potential home owners and/or tenants and will be compatible with nearby development; and the majority of the streets on this site have been constructed and sidewalks are provided throughout the development to enhance pedestrian connectivity; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 2 – Centers because the proposed change in zoning constitutes an increase in density which will have limited impact on adjacent residential uses. Greenwood Road is a minor arterial; an activity center serves the development at the intersection of Greenwood and Terry Roads; proposed rezoning is for low-density (7.26 du/ac) attached unit development; the proposed PRD 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; proposed rezoning is for low-density (7.26 du/ac) attached unit development; proposed rezoning is for low-density (7.26 du/ac) single-family subdivision; connections or stubs to adjacent properties are provided where possible to encourage cross access and support the development of adjacent lands; utility easements are provided and would allow for extensions to adjacent developments; parking is adequately accounted for on the subject site. The proposed

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units will provide individual driveways and garages to serve the units; and sidewalks within the development allow for connection to an activity center serves the development at the intersection of Greenwood and Terry Roads; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 3: Compatibility because The proposal is generally compatible within the scale and site design of nearby existing development and with the form district's pattern of development. The proposed PRD is allows for the integration of single- family residence within a multi-family development; the proposed building materials increase the new development's compatibility; the style of the proposed use allows for a transition from multi-family to adjoin single-family lots and provides buffering and landscaping previously proposed; traffic will be no greater than previously would have existed from the proposed multi-family use on-site; light trespass requirements of the Land Development Code will adequately mitigate adverse impacts of lighting.; the proposal includes a variety of housing types, including, but not limited to, single family detached, single family attached, multi-family, zero lot line, average lot, cluster and accessory residential structures, that reflect the form district pattern. The proposal introduces single- family attached units onto a multi-family development; the proposed land use is a lower density than that of the existing; the PRD district supports a mix of choices and allows for the incorporation of a new style of housing to this multi-family development; the addition of the proposed units and zoning district allows for a wider choice in housing options for population in the area; appropriate transitions will be provided to adjacent uses; the proposed land use is less dense than the existing zoning district and its impact would be limited; setbacks, lot dimensions and building heights are compatible with those of nearby developments that meet form district standards; and residential site design standards of LDC 5.4.2 are applicable; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 4: Open Space because open space is being provided to meet the needs of the proposed district; open space design is consistent with the pattern of development in the Neighborhood Form District; and tree canopy is being provided as required; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 5: Natural Areas and Scenic and Historic Resources because tree canopy is being provided as required and the site does not appear to contain any sensitive natural features; staff of Historic Preservation has reviewed the preliminary development plan and found that the proposed zoning change will not affect any known cultural or historic resources; and the site does not appear to contain any sensitive natural features related to soils and permeability; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 7: Circulation because the majority of the streets on this site have been constructed and sidewalks are provided throughout the development; the majority of the streets on this site have been constructed and sidewalks are provided throughout the development support access to surrounding land uses, and contribute to the appropriate development of adjacent lands; and the majority of the streets on this site have been constructed and sidewalks are provided throughout the development; and

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WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 8: Transportation Facility Design because the majority of the streets on this site have been constructed and sidewalks are provided throughout the development. Stub streets have been provided to connect to existing infrastructure; the PRD portion of this multi-family development site are through areas of similar intensity; the development provides for an appropriate functional hierarchy of streets and appropriate linkages between activity areas in and adjacent to the development site; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 9: Bicycle, Pedestrian and Transit because the majority of the streets on this site have been constructed and sidewalks are provided throughout the development to promote the movement of pedestrians, bicyclists and transit users around and through the development; and

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

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 13: Landscape Character because there are no natural corridors for habitat or migration on the site; and

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

RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the requested **Change in zoning** from R-5A, Multi-family Residential to PRD, Planned Residential Development be approved.

The vote was as follows:

YES: Commissioners Brown, Howard, Smith, Carlson, Peterson, Ferguson, Jarboe, and Tones.

NOT PRESENT: Commissioner Lewis.

Revised Detailed District Development Plan and Binding Elements

02:40:28 On a motion by Commissioner Carlson, seconded by Commissioner Peterson, the following resolution, based on the Standard of Review and Staff Analysis, evidence and testimony heard today, was adopted:

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WHEREAS, the Louisville Metro Planning Commission finds that there are no features of historic significance on the property and no apparent natural resources. Open space, landscaping, and tree canopy are being provided as required; and

WHEREAS, the Commission further finds that provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community has been provided as the majority of the streets on this site have been constructed and sidewalks are provided throughout the development to enhance pedestrian connectivity; and

WHEREAS, the Commission further finds that open space, landscaping, and tree canopy are being provided as required; and

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

WHEREAS, the Commission further finds that the overall site design and land uses are compatible with the existing and future development of the area. The housing style proposed does not appear to be venture too far from the previously approved multi-family layout. The new style will add to the diversity of opportunity for potential home owners and/or tenants. Setbacks, lot dimensions and building heights are compatible with those of nearby developments that meet form district standards. Residential site design standards of LDC 5.4.2 are applicable; and

WHEREAS, the Commission further finds that the development plan conforms to applicable guidelines and policies of the Comprehensive Plan as demonstrated in Cornerstone 2020 Staff Analysis for the change in zoning request and to requirements of the Land Development Code; now, therefore be it

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

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. The density of the development shall not exceed 7.0 7.9 dwelling units per acre (195 221 units on 27.9 acres).
3. Except for for-sale/development advertisement and signature entrance signs permitted by the Land Development Code, no outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site, except a signature entrance.

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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, or site disturbance permit) is requested:
 - a. The development plan must receive full construction approval from Louisville Metro Department of Inspections, Permits and Licenses, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. 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.
6. If a clearing, grading or site construction permit is not issued within one year of the date of approval of the plan or rezoning, whichever is later, the property shall not be used in any manner unless a revised district development plan is approved or an extension is granted by the Planning Commission.
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. 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 applicant shall provide documentation showing that the development complies with all the regulations from Chapter 4, Part 1, Section 3, Lighting, prior to the issuance of a construction permit. These regulations include the following items: Mounting Height Limit, Luminaire Shielding, Canopy Lighting Level, and Light Trespass.
11. The structures shall appear substantially similar to the renderings submitted at the July 21, 2005 and May 20, 2015 public hearing. All condominium structures shall be

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principally faced on all four sides with brick but may also feature accent treatments, gable details, cornices and so forth of other possible building materials such as vinyl. Structures on Lot 11 shall appear substantially similar to the building elevations submitted at the May 10, 2018 public hearing.

12. The address number shall be displayed on all structures prior to requesting a certificate of occupancy for that structure. Street signs shall also be installed prior to the issuance of a certificate of occupancy.
13. Street trees and screening along the development's perimeter shall be as depicted on the colored site plan and other landscape elevations presented at the July 21, 2005 public hearing.
14. There shall be no construction entrance other than at Greenwood Road.

The vote was as follows:

YES: Commissioners Brown, Howard, Smith, Carlson, Peterson, Ferguson, Jarboe, and Tomes.

NOT PRESENT: Commissioner Lewis.

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CASE NO. 18ZONE1005

Request:	Change in zoning from U-N to C-R and a Detailed District Development Plan with a Landscape Waiver
Project Name:	3200 Rudd Avenue
Location:	3200 Rudd Avenue
Owner:	Bruce Cohen
Applicant:	Bruce Cohen
Representative:	Bruce Cohen
Jurisdiction:	Louisville Metro
Council District:	5 – Cheri Bryant Hamilton

Case Manager: Laura Mattingly, AICP, Planner II

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

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

Agency Testimony:

02:44:50 Laura Mattingly presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.)

The following spoke in favor of this request:

Bruce Cohen, 619 Floral Terrace, Louisville, KY

Summary of testimony of those in favor:

02:48:43 Bruce Cohen, the applicant, presented his case and showed a Power Point presentation. His presentation included a brief history of the site and its connection to the Portland neighborhood.

The following spoke in opposition to this request:

No one spoke.

Deliberation:

02:52:35 The Commissioners concur that the proposal is justified.

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

Change in Zoning

02:55;36 On a motion by Commissioner Carlson, seconded by Commissioner Smith, the following resolution, based on the Standard of Review and Staff Analysis, evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that that the proposal meets the intents of Guideline 1: Community Form because the proposal does not affect the existing street pattern; while the proposal is not a new neighborhood center, it is introducing an additional neighborhood serving use; this proposal includes no new construction and is utilizing and restoring an existing building, therefore is not impacting any open space. It is also located along the entry path to the Portland Wharf Park; and the proposal is for the reuse of an existing building for commercial and residential purposes; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 2: Centers because the proposal will not create a new center but it involves the repurposing of an existing building; the Portland neighborhood is a historic urban neighborhood with more than sufficient population to support a small commercial use; the proposal is efficient and cost effective because it is utilizing an existing building; this proposal is not a center but does provide a service which will serve the neighborhood. It is also a mixed-use proposal; this proposal includes residential above commercial; the proposal is not a larger development within a center; the proposal does not include any additional curb cuts; utilities for the site are existing; the site has sidewalks and transit located in close proximity; and TARC routes run along Portland Ave and Bank Street, blocks away from the proposal; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 3: Compatibility because no new construction is proposed; the existing building was historically non- residential and is being returned to a corner commercial use therefore it is not a non-residential expansion into a residential area; APCD has no issues with the proposal; traffic impacts for this proposal will be minimal and the applicant has provided all requirements regarding transportation; all lighting will comply with Land Development Code standards; the proposal is located on a corner in an urban residential neighborhood with local streets. There are nearby mixed uses and a transit route; the proposal will not be able to provide the required 15' landscape buffer area along the western property line but screening is in place that provides an appropriate transition to the neighboring use; the proposal will not be able to provide the required 15' landscape buffer area along the western property line but screening is in place that provides an appropriate transition to the neighboring use; the building is existing with no new construction proposed and is compatible with nearby development; there is no parking or loading areas proposed on site; street parking will be used; a parking garage is not proposed; and any proposed attached signage will be in compliance with LDC standards; and

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WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 4: Open Space because the provision of open space for this proposal is not required by the LDC and is not appropriate for this site; open space is not required; and as there is no new construction, any natural features of the site are being left intact; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 5: Natural Areas and Scenic and Historic Resources because as there is no new construction, any natural features of the site are being left intact; the proposal is for the adaptive reuse of an existing structure; and soils are not an issue for the site; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 6: Economic Growth and Sustainability because this site is within an established neighborhood with existing vehicular, pedestrian and transit infrastructure; the proposal is not located in a downtown; the proposal is not for industrial; this proposal is a commercial and residential use and is located near other non-residential uses, as well as approximately two blocks from Portland Ave/ Northwestern Pkwy, a minor arterial; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 7: Circulation because Transportation staff has reviewed the plan and determined that no roadway improvements are warranted; there is an existing sidewalk network and nearby transit stops; this proposal does not constitute additional transportation facilities, as it is a small site; no dedication of right of way is required for this proposal; parking requirements have been met with street parking along N 32nd Street; and cross access is not appropriate in this situation; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 8: Transportation Facility Design because a stub street is not necessary because the site is within an existing developed neighborhood; access to the development is through public rights of way; while the existing roadways are not connected at the corner due to the berm for the railway that cut through the neighborhood, this has been in place for many years and the site can be accessed from both Rudd Ave and N 32nd Street; and

WHEREAS, the proposal meets the intents of Guideline 9: Bicycle, Pedestrian and Transit because sidewalks are provided for transit users and pedestrians. Existing sidewalks are located along the street frontage and the structure is set close to the road; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 10: Flooding and Stormwater because MSD has reviewed the plan to ensure adequate drainage. No new impervious area is proposed and no streams are impacted by the proposal; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 12: Air Quality because APCD has no issues with the proposal; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 13: Landscape Character because Natural corridors are not evident in or around the proposal; and

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WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 14: Infrastructure because existing utilities serve the site and water is available to the site; also, Health department has no issues with the proposal and has determined adequate means of sewage treatment is in place; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the requested Change in Zoning from U-N, Urban Neighborhood to C-R, Commercial Residential on 0.09 acres be **APPROVED**.

The vote was as follows:

YES: Commissioners Brown, Howard, Smith, Carlson, Peterson, Ferguson, Jarboe, Tomes.

NOT PRESENT: Commissioner Lewis.

Detailed District Development Plan and Landscape Waiver

02:56:09 On a motion by Commissioner Carlson, seconded by Commissioner Smith, the following resolution, based on the Standard of Review and Staff Analysis, evidence and testimony heard today, and the applicant's Waiver justification, was adopted:

(Waiver) WHEREAS, the Louisville Metro Planning Commission finds that the waiver will not adversely affect adjacent property owners as the building is existing with no proposed exterior changes that will negatively impact the property to the west. Additionally, there is an existing privacy fence in place that screens the rear yard from the adjacent property; and

WHEREAS, the Commission further finds that the waiver will not violate specific guidelines of Cornerstone 2020. Guideline 3, Policy 9 of Cornerstone 2020 calls for protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigation when appropriate. Guideline 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 area is to create suitable transitions where varying forms of development adjoin, to minimize the negative impacts resulting from adjoining incompatible land uses, to

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decrease storm water runoff volumes and velocities associated with impervious surfaces, and to filter airborne and waterborne pollutants. These guidelines are not violated as there is existing screening in the rear yard that prevents visual intrusions on the residential use to the west and no further changes are proposed to the site that would negatively impact adjacent property owners or cause a negative impact on the public right of way; and

WHEREAS, the Commission further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the conditions are existing and no other relief is being requested; and

WHEREAS, the Commission further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land and would create an unnecessary hardship on the applicant as providing the required landscape buffer area would require the demolition of the existing structure; and

WHEREAS, the Commission further finds that the requested Waiver will not adversely affect adjacent property owners because the change will not increase foot or vehicular traffic on the west side of the property. The waiver and zoning change will allow the building, which has been vacant and deteriorating for years, to be restored and re-inhabited. This is a benefit to the adjacent property owners and neighborhood; and

WHEREAS, the Commission further finds that the waiver will not violate the Comprehensive Plan because the proposed zoning change will restore the building of its historical, original use (commercial on the first floor and residential on the second), which is in line with the goals of the form district; and

WHEREAS, the Commission further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant because the building is existing; and

WHEREAS, the Commission further finds that a strict application of the regulation/s would cause an extreme hardship, since buildings are existing; and

(DDDP) WHEREAS, the Commission further finds that LOJIC has not identified any natural resources on site and the applicant will be making no changes to the site to affect tree canopy, soils or any other natural resources; and

WHEREAS, the Commission further finds that provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community have been provided through the existing street network and sidewalks; and

WHEREAS, the Commission further finds that this development does not require open space, as it does not meet the threshold for open space or outdoor amenity requirements; and

WHEREAS, the Commission further finds that the Metropolitan Sewer District has approved the preliminary development plan and will ensure the provisions of adequate drainage facilities on

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

WHEREAS, the Commission further finds that the overall site design and land uses are compatible with the existing and future development of the area, as the character of the existing structure will remain the same. The contribution of the building to the character of the area will be improved with this development, as the building will be renovated; and

WHEREAS, the Commission further finds that this development generally conforms to the Comprehensive Plan and Land Development Code with only one waiver requested due to existing conditions; Now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Waiver from Section 10.2.4 to eliminate the required property perimeter landscape buffer area on the western property line AND the requested Detailed District Development Plan, **SUBJECT** to the following binding elements:

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
3. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
4. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested:
 - a. The development plan must receive full construction approval from Develop Louisville, Louisville Metro Public Works and the Metropolitan Sewer District.
5. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.

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6. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system permitted on the site.
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.

The vote was as follows:

YES: Commissioners Brown, Howard, Smith, Carlson, Peterson, Ferguson, Jarboe, Tomes.

NOT PRESENT: Commissioner Lewis.

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PUBLIC HEARING

CASE NO. 17ZONE1071

Request: Change in zoning from C-1 and R-4 to C-2 and a Detailed District Development Plan with Conditional Use Permit and a Landscape Waiver
Project Name: Mini-Storage
Location: 12307 – 12313 Old LaGrange Road
Owner: Alibro Holdings, LLC
Applicant: CRP & Associates Inc.
Representative: CRP & Associates Inc.
Jurisdiction: Louisville Metro
Council District: 17 – Glen Stuckel

Case Manager: Laura Mattingly, AICP, Planner II

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

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

Agency Testimony:

02:57:49 Laura Mattingly presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.)

The following spoke in favor of this request:

Charles Podgursky, CRP & Associates, 7321 New LaGrange Road Suite 111, Louisville, 40222

Summary of testimony of those in favor:

03:02:09 Charles Podgursky, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.)

The following spoke in opposition to this request:

No one spoke.

Deliberation:

03:05:57 The Commissioners concur that the proposal is justified.

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

Change in Zoning

03:07:53 On a motion by Commissioner Carlson, seconded by Commissioner Smith, the following resolution, based on the Cornerstone 2020 Checklist, and the evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that that proposal meets the intents of Guideline 1: Community Form because the building setback from Old La Grange Road is adequate and the required 10' vehicle use area landscape buffer area is provided; this use is proposed in a mixed-use area, with office, commercial, residential and an industrial park nearby; the proposal has provided a sidewalk along the Old Lagrange Road frontage and there is a transit route along La Grange Road; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 3: Compatibility because the proposed building materials appear to be in character with the surrounding area; this proposal does not create a non-residential expansion into a residential area; the current zoning is mostly non- residential with only a portion of the parcel being zoned R-4; the site design and proposed buffers and landscaping aide in mitigating any potential odor or emissions created by vehicles associated with the development. APCD has no issues with the proposal; the proposed use does not typically generate high volumes of traffic and the site will be accessed from the adjacent roadway and away from the residential area to the north; a note has been placed on plan that states that all lighting will be directed downwards and away from surrounding development; the proposal is a higher intensity use than what the current zoning allows. It is located just off of Lagrange Rd, a major arterial which does have transit access. The site is located among other commercial uses and near the Gene Snyder Freeway; the proposal has provided adequate buffering and screening adjacent to lower intensity uses and setbacks are generally compliant; the proposal has provided adequate buffering and screening adjacent to lower intensity uses and setbacks are generally compliant. The internal building orientation adds additional buffering of the vehicular use area; building height and massing are appropriate and the setbacks appear to be compatible with nearby development; there is no parking or loading near residential; a 10' VUA LBA is proposed adjacent to Old La Grange Road; a parking garage is not proposed; and signs will be in conformance with Land Development Code standards; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 4: Open Space because the building square footage does not hit the threshold for open space; open space is not required with this proposal.; and tree canopy requirements are being met and will be providing more tree canopy than what currently exists on the site; and

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WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 5: Natural Areas and Scenic and Historic Resources because the proposal does not appear to negatively impact any natural resources as the site is cleared of trees and LOJIC has not identified any other natural features; this site is vacant and therefore no historic resources appear to be affected; and LOJIC has not identified any hydric soils on site; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 6: Economic Growth and Sustainability because the proposal is not located in a downtown; this proposal is located near other office/industrial uses where infrastructure exists; the use is not likely to produce large amounts of traffic. It is located along the minor arterial of Lagrange Road; and this proposal will have very few employees but is located along a minor arterial; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 7: Circulation because Transportation staff has determined that no roadway improvements are required; the applicant has provided sidewalks and a pedestrian access to the office entrance. Bike racks are provided and there is a transit line along LaGrange Road; transportation facilities are adequate; dedication of ROW is not required; the proposal includes adequate parking to support the use; and the proposed access is adequate; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 8: Transportation Facility Design because roadway connections are adequate; access is proposed from Old Lagrange Rd and does not impact the single family residential properties to the north; and the existing road network is unaffected; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 9: Bicycle, Pedestrian and Transit because the applicant has provided sidewalks and a pedestrian access to the office entrance; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 10: Flooding and Stormwater because MSD has approved the proposal; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 12: Air Quality because APCD has no issues with the proposal; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 13: Landscape Character because the proposal does not appear to impact any natural corridors; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 14: Infrastructure because existing utilities are available and will be utilized to serve the site; Louisville Water Company has adequate infrastructure in place to supply the development as proposed; and the Health Department has no issues with the proposal; now, therefore be it

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RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the requested Change in zoning from C-1 Commercial and R-4 Single Family Residential to C-2Commercial on 1.81 acres be **APPROVED**.

The vote was as follows:

YES: Commissioners Brown, Howard, Smith, Carlson, Peterson, Ferguson, Jarboe, and Tomes.

NOT PRESENT: Commissioner Lewis.

Conditional Use Permit

03:08:57 On a motion by Commissioner Carlson, seconded by Commissioner Smith, the following resolution, based on the Standard of Review and Staff Analysis and the evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the proposal consistent with the applicable policies of the Comprehensive Plan because the proposal for mini-warehouses does generally comply with the applicable Guidelines within Cornerstone 2020, as detailed in the Comprehensive Plan checklist; and

WHEREAS, the Commission further finds that the proposal is compatible with surrounding land uses and the general character of the area including such factors as height, bulk, scale, intensity, traffic, noise, odor, drainage, dust, lighting, appearance because the proposed Mini-Warehouses appear to be at a scale appropriate with the surrounding area, and will seemingly have limited impact on adjacent and nearby residential uses. The proposal provides appropriate transitions to adjacent residential uses through the use of landscape buffer yards, setbacks and screening. While relief is requested from the 30' setback, the design and mitigation measures proposed appear to provide good transitions for surrounding uses. Therefore, the proposal is compatible with surrounding uses and the general character of the area; and

WHEREAS, the Commission further finds that improvements to the site and right-of-way made necessary by the proposed development, such as transportation and drainage, have been adequately provided to serve the proposed use; and

WHEREAS, the Commission further finds that the proposal provides appropriate transitions to adjacent residential uses through the use of landscape buffer yards, setbacks and screening. Setbacks and building heights are compatible with nearby properties due to the layout of buildings and the screening provided; and

WHEREAS, the Commission further finds that the proposal provides a consistent 30' foot landscape buffer area adjacent to the residential zoning district. The requested relief for encroachments is located on the western property line abutting commercial uses. The setback and buffer adjacent to non-compatible uses is adequate; and

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WHEREAS, the Commission further finds that no outdoor storage areas are proposed on the development plan; and

WHEREAS, the Commission further finds that no toxic or hazardous materials will be stored on the property; and

WHEREAS, the Commission further finds that no retail or wholesale or distributing activities are proposed on the site; and

WHEREAS, the Commission further finds that all loading doors and vehicle maneuvering areas are facing the interior of the site, away from the exterior of the property; and

WHEREAS, the Commission further finds that all proposed structures are one story in height and do not exceed 15 feet in height; and

WHEREAS, the Commission further finds that the proposed freestanding sign will conform to size, height and style requirements of the Land Development Code; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Conditional Use Permit to allow self-storage with relief to allow encroachments into the 30' required setback.

The vote was as follows:

YES: Commissioners Brown, Howard, Smith, Carlson, Peterson, Ferguson, Jarboe, and Tomes.

NOT PRESENT: Commissioner Lewis.

Landscape Waiver and DDDP

03:09:47 On a motion by Commissioner Carlson, seconded by Commissioner Smith, the following resolution, based on the Standard of Review and Staff Analysis and the evidence and testimony heard today, was adopted:

(Waiver) WHEREAS, the Louisville Metro Planning Commission finds that the waiver will not adversely affect adjacent property owners as all planting and screening requirements will still be met and the structures themselves are oriented inward and act as additional buffer; and

WHEREAS, the Commission further finds that the waiver will not violate specific guidelines of Cornerstone 2020. Guideline 3, Policy 9 of Cornerstone 2020 calls for protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigation when appropriate. Guideline 3, Policies 21 and 22 call for appropriate transitions

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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. These guidelines are not violated as the applicant has provided as much buffer as the site design will allow and all planting requirements will be met with the buildings themselves serving as a buffer from drive aisles; therefore the plan meets the intent of the Comprehensive Plan; and

WHEREAS, the Commission further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as all plantings and screening will still be met; and

WHEREAS, the Commission further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land and would create an unnecessary hardship on the applicant as it would require a major redesign of the site with fewer buildings; and

(DDDP) WHEREAS, the Commission further finds that Karst Terrain was identified on this site. A geotechnical survey will be completed for this site and the applicant will follow the recommendations contained in the report. Tree canopy requirements of the Land Development Code will be provided on the subject site; and

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

WHEREAS, the Commission further finds that no open space is required for this site; and

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

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WHEREAS, the commission further finds that the overall site design and land uses are compatible with the existing and future development of the area, as there is existing commercial/office to the north and south. Appropriate landscape buffering and screening will be provided to screen adjacent properties and roadways; and

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

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Waiver of Section 5.5.4.B.1 to allow a reduction of 20' of the required 50' landscape buffer required when an industrial use abuts a residential use in the Suburban Workplace form district; **AND** the requested Detailed District Development Plan with Binding Elements, **SUBJECT** to the following binding elements:

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
3. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
4. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested:
 - a. The development plan must receive full construction approval from 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.
5. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting

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issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.

6. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
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 materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the May 10, 2018 Planning Commission hearing.

The vote was as follows:

YES: Commissioners Brown, Howard, Smith, Carlson, Peterson, Ferguson, Jarboe, and Tomes.

NOT PRESENT: Commissioner Lewis.

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STANDING COMMITTEE REPORTS

Land Development & Transportation Committee

No report given.

Site Inspection Committee

No report given.

Planning Committee

No report given.

Development Review Committee

No report given.

Policy & Procedures Committee

No report given.

CHAIRPERSON/DIRECTOR'S REPORT

No report given

ADJOURNMENT

The meeting adjourned at approximately 4:27 p.m.

Chairman

Division Director