

PLANNING COMMISSION MINUTES
June 7, 2018

PUBLIC HEARING

CASE NO. 17ZONE1048

Request: Change in zoning from R-4 to C-2, landscape waiver, variances for front setback, and a Detailed District Development Plan

Project Name: Bullitt Lane Restaurants

Location: 400 Bullitt Lane

Owner: Timothy L. & Robert S. Boden

Applicant: Timothy L. & Robert S. Boden

Applicant's Representative: John Addington - BTM Engineering, Inc.

Jurisdiction: Louisville Metro

Council District: 18 – Marilyn Parker

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:

01:09:54 Joel Dock presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.)

01:13:08 In response to a question from Commissioner Brown, Mr. Dock discussed binding elements #7 and #8 regarding sidewalk construction (see recording for detailed discussion.) He added that the applicant may be able to provide more information.

01:15:19 Commissioner Howard asked for clarification about the location of the variance for the parking.

The following spoke in favor of this request:

John Addington, BTM Engineering, 3001 Taylor Springs Drive, Louisville, KY 40220

Summary of testimony of those in favor:

01:16:15 John Addington, the applicant's representative, presented the applicant's case and showed a Power Point presentation.

01:21:21 In response to a question from Commissioner Carlson, Mr. Addington said the goal is to have both buildings on the site have a coordinated architectural look.

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The following spoke in opposition to this request:

No one spoke.

Deliberation:

01:22:06 The Commissioners concurred that the request 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.

Rezoning

01:23:44 On a motion by Commissioner Brown, seconded by Commissioner Peterson, the following resolution, based on the Cornerstone 2020 checklist, the applicants' justification, and evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the intents of Guideline 1: Community Form because the subject property lies within the Campus Form Area as identified by Core Graphic 1 of the Cornerstone 2020 Comprehensive Plan. In the graphic, the form is described as a master planned area(s) with a mix of uses, support services and a common square plaza. Guideline I.B.II discusses a mixture of uses being encouraged that may include residential or commercial that would primarily serve the people whom work or live on the Campus. The particular Campus form area along Bullitt Lane and Oxmoor Court encompasses the mix of land uses surrounding the Oxmoor Center Mall and the properties that back up to the Watterson Expressway and 1-64. There is an existing mixture of uses that range from office and residential to restaurants and retail. Cornerstone 2020 also discussed that the form should be compact and walkable, with multiple buildings, central gathering areas, extensive open space, internal shared parking, private walkways and roadways, and shared utilities and signage; and

WHEREAS, the Commission further finds that the proposal complies with Guideline 1, Community Form, since it adds to the mixture of nonresidential uses that serve the residents and individuals working within the offices of the existing Campus form district. The development will include the elements discussed within the form such as full pedestrian connectivity, a central gathering area shared between the two buildings, shared parking for the lot and a compact layout meeting the minimum parking needs. The proposal connects to the existing road system and network along Bullitt Lane; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 2: Centers. The proposed rezoning complies with Guideline 2, Centers, as specifically stated in

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Policy A.1& 3 since it is located in a Campus center with new construction to provide a commercial use to the area that has sufficient population to support it. The site of the proposed development is along the commercial corridor of Bullitt Lane adjacent to the Watterson Expressway. There is a nearby multi-family residential complex and office which both have populations that would be served by the new commercial property. The development has a compact pattern focused around a central shared plaza/patio space that allows for easy access by bicycle, car and pedestrians. The sidewalk network throughout the development will encourage appropriate pedestrian activity and promote accessibility by alternative modes of transportations. These elements of the development are in accordance with Policies A.4, 5, 13, 15 & 16; and

WHEREAS, the Commission further finds that the proposed rezoning complies with Guideline 3 – Compatibility of the Cornerstone 2020 Compressive Plan because the Campus Form District identifies its intent to allow a mixture of land uses as long as they are designed to be compatible with each other and any impacts are appropriately mitigated. The subject property is a proposed non-residential use along a corridor of other non-residential uses specifically adjacent to it. The buildings will be providing a variety of materials and architectural animating features which will serve as a point of compatibility with the campus area. All of these building elements will be in accordance with the Land Development Code. Appropriate setbacks and landscape buffer areas will be provided along the property boundaries adjacent to the roadway/expressway. The setbacks, buffers and screening will allow for appropriate transition from the proposed non-residential uses to the roadway network in accordance with Policy A.4, 21, 22 & 23. The single story height of the development is compatible with the scale of the existing properties located within the larger Campus Form District. Lighting will be compliant with the Land Development Code to mitigate any adverse impacts of lighting from the proposed development on nearby properties. All site signage will be compatible with the form district pattern; and

WHEREAS, the Commission further finds that the proposed rezoning and new development will be located within an existing activity center adjacent to the Oxmoor Mall property. It will have full accessibility to people with disabilities consistent with federal, state and local regulations. The parking areas for the development are not located adjacent to any residential uses the internal and perimeter landscaping will result in diminished impact of the parking, loading and delivery areas around the development. The parking is designed to be safe and allow multi-modal access to the site. For the aforementioned reasons, the proposed development complies with Guideline 3 of the Comprehensive Plan; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guidelines 4 & 5: Open Space, Natural Areas and Scenic & Historic Resources. Open space and an outdoor amenity area are being provided as part of the development to provide meet the needs of the community as a component of development. The open space design is compliant with the Land Development Code which follows from Policy A.4 to create open space design consistent with the pattern of development in the form district. The proposal integrates natural features as highlighted in Guideline 5, Policy A.I into the pattern of development by preserving the southern portion of the site within the local regulatory floodplain and any protect waterway buffers along this portion of the property. There are no identified hydric soils, severe, steep or unstable slopes

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that would create an impediment to the proposed rezoning and associated development. Accordingly, the proposed development meets Guidelines 4 & 5 of the Cornerstone 2020 Comprehensive Plan; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guidelines 7, 8 & 9: Circulation, Transportation Facility Design and Bicycle, Pedestrian & Transit. The rezoning is located along a local level road with the rear of the property against Watterson Expressway ROW. Bullitt Lane connects to another local level roadway at Oxmoor Lane which continues on to Shelbyville Road, a major arterial. The access points to the site are from Bullitt Lane near unimproved ROW at Bunsen Parkway. There are only two curb cuts to facilitate safe vehicular access to the site. The proposal will contribute its proportional share of roadway improvements with sidewalk improvements within the Bullitt Lane ROW. The external and internal sidewalk network promotes bicycle and pedestrian use around and throughout the development. Appropriate access and adequate parking will be provided to further promote safe vehicular access and support the proposed commercial uses. Bicycle amenities will be provided at front entrance to the development in accordance with the Land Development Code. Therefore, the proposed rezoning and development comply with Guidelines 7, 8 and 9 of the Cornerstone 2020 Comprehensive Plan; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guidelines 10 & 11: Flooding, Stormwater & Water Quality. The subject site is located with the southern portion of the property within the 100 year floodplain and local regulatory floodplain; therefore, the proposed development has been placed outside of the identified floodplain to mitigate any negative impacts. The site does not contain steep slopes, unstable or hydric soils. The proposed development is located on a site that will enable proper stormwater handling and release management that will not adversely affect adjacent and downstream properties. There will be no increase in velocity at point of discharge at property line and no increase in drainage run-off to the right of way. The storm water detention design will receive approval from MSD prior to construction. In addition, an Erosion Prevention and Sediment Control Plan utilizing best management practices will be implemented prior to construction. The project will meet all MS4 Water Quality Regulations established by MSD with proper use of green best management practices. For above mentioned reasons, the proposed rezoning and development comply with Guidelines 10 & 11 of the Cornerstone 2020 Comprehensive Plan; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 12: Air Quality. As previously demonstrated, the proposal represents a compact and efficient land use pattern. It utilizes the existing roadway network within the Campus Form. The proposed development is a commercial use with proper circulation and connectivity that will promote multi-modal connectivity to and on the site with an effort to increase pedestrian use. These combined efforts will aid in reducing the air quality impacts of the development. The campus area serving use proposed on the subject property complies with Guideline 12 of the Cornerstone 2020 Comprehensive Plan; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 13: Landscape Character. The proposed rezoning and development complies with Guideline 13 of

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Cornerstone 2020 of the Comprehensive Plan by meeting the majority of all landscape requirements of the Land Development Code. Sufficient landscape buffers will be provided along the property perimeters adjacent to the roadway networks to ensure compatibility of the site. Tree preservation practices will be followed within the identified tree canopy credit area to the south of the proposed uses that incorporate the native plant communities of the property. The overall tree canopy requirement for the lot will be exceeded. Interior landscaping will be installed within the vehicular use area to break up the parking areas and enhance the overall aesthetics of the site; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guidelines 14 & 15: Infrastructure and Community Facilities. The proposal complies with Guidelines 14 & 15 of the Cornerstone 2020 Comprehensive Plan because the subject property will be served by existing utilities and infrastructure which have adequate carrying capacity to accommodate the proposed development. All necessary utilities are available to the site. Fire hydrants will be provided to comply with Kentucky Building Code requirements. The subject property is served by the Louisville Fire Protection District #4 and Louisville Metro Police Department; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 1: Community Form because the zoning district and proposed use provide supportive services to the nearby regional center form district, office uses within the Campus form, and nearby residential uses; the proposal provides for continued connection to existing pedestrian infrastructure. Outdoor dining allows for amenity and gathering spaces; connection to the street network is provided; and no additional streets or connected to streets is needed; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 2: Centers because a new center is not being created. Rather the uses are being incorporated into an existing campus center of mixed uses; the proposal is not for retail purposes, but the specific use requested has sufficient permanent and future population, as well as consumer and employee traffic to support the use; the proposal is compact and appears to use only the land that is necessary to accommodate the needed infrastructure; while the use or zoning district does not create a new center, it incorporates appropriately within an existing center and continues the development of the center. Sidewalks and vehicular connection are provided to serve the use; the proposal is located in a mixed-use area of varying intensities; the proposal is relatively small compared to nearby regional center footprints; each individual parking lot has the ability to serve the other user as the restaurants are interconnected through pedestrian facilities; the proposal is designed to share utility hookups and service entrances with adjacent developments, and utility lines are placed underground in common easements; and the proposal provides ease of access by all modes of transportation; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 3: Compatibility because the proposed design of the structures is consistent with development in the area; the proposal continues the non-residential progression of development along the frontage roadway; no adverse odor or emissions are typically associated with the proposed uses; traffic would not appear to be a major concern of this development as the regional Malls nearby present a much greater traffic concern and surrounding facilities provide supportive

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services for those in the area for interaction with the regional Mall; lighting will be in compliance with LDC 4.1.3; the use is not a higher intensity than surrounding uses as a restaurant is compatible and supportive to surrounding uses; the proposal provides appropriate transitions as surrounding uses are similar in intensity and landscaping is being provided; the proposed land use is compatible with the surrounding area; setbacks, lot dimensions and building heights are compatible with those of nearby development; parking loading and delivery areas are not adjacent to residential areas; landscaping is provided along roadways and within parking areas; no parking garages are proposed; and signage will be in compliance with Ch.8 of the LDC; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 4: Open Space because open space is provided in the form of outdoor dining space. Open space is not required for a development of this size; the site is in the Campus Form district; and minimum tree canopy standards will be met; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 5: Natural Areas and Scenic and Historic Resources because the proposal is sensitive to the natural features of the site as much of the land is contained in regulatory floodplain and persevered as TCCA; the applicant has agreed to work with historic resources staff persons to identify any artifacts that may be present on the site; and the proposal is sensitive to the natural features of the site as much of the land is contained in regulatory floodplain and persevered as TCCA; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 6: Economic Growth and Sustainability because the project is located in a Campus form district and is a non-industrial development; and Bullitt Lane is an interior roadway serving multiple non-residential establishments and having immediate access to an arterial roadway and interstate; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 7: Circulation because the proposal will contribute its proportional share of the cost of roadway improvements and other services and public facilities made necessary by the development through physical improvements to these facilities, contribution of money, or other means. The proposal promotes mass transit, bicycle and pedestrian use and provides amenities to support these modes of transportation as pedestrian connections and bicycle parking has been provided; facilities are compatible with adjacent developments connection to the roadway; no dedications to public ways are required; parking is sufficient to support the use; and parking lots serve each restaurant through pedestrian connections; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 8: Transportation Facility Design because parking lots serve each restaurant through pedestrian connections; access to the site is through similar and/or compatible development; and Bullitt Lane serves as a local access road for non-residential development; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 9: Bicycle, Pedestrian and Transit because the proposal promotes mass transit, bicycle and

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pedestrian use and provides amenities to support these modes of transportation as pedestrian connections and bicycle parking has been provided; and

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

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

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 13: Landscape Character because No natural corridors are apparent on-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 proposal has access to an adequate supply of potable water and water for fire-fighting purposes; and the proposal has adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the requested Change-in-Zoning from R-4, Single-Family Residential to C-2 , Commercial on property described in the attached legal description be **APPROVED**.

The vote was as follows:

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

NOT PRESENT: Commissioners Lewis and Smith.

ABSTAINING: Commissioner Robinson.

Variance and Waiver

01:24:37 On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution, based on the Standard of Review and Staff Analysis, the applicant's justifications, and evidence and testimony heard today, were adopted:

(Variance) WHEREAS, the Louisville Metro Planning Commission finds that the requested variance will not adversely affect the public health, safety and welfare because there will be a 15' landscape buffer area provided along Bullitt Lane and sidewalks for safe pedestrian access to the site; and

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WHEREAS, the Commission further finds that the requested variance will not alter the essential character of the general vicinity because the variance will allow parking setbacks similar to the established developments in the area suburban form districts. The existing developments in the general vicinity have similar setbacks where parking is allowed within the 25' front setback while providing similar LBAs; and

WHEREAS, the Commission further finds that the requested variance will not cause a hazard or nuisance to the public because all LBA's and setbacks will match the established pattern of development in the Bullitt Lane, Oxmoor Court and Oxmoor Mall areas. Ample space will be provided for pedestrian and vehicular infrastructure and circulation; and

WHEREAS, the Commission further finds that the requested variance will not allow an unreasonable circumvention of the requirements of the zoning regulations because all required infrastructure and landscape buffers will be provided in compliance with zoning regulations and will be similar to established patterns of development in the vicinity. The applicant proposes to provide 15' of the required 25' setback between parking and ROW; and

WHEREAS, the Commission further finds that the shallow depth of the lot and location along the adjacent expressway ROW restricts the usable area to provide parking, sidewalks and outdoor patios associated with the proposed restaurant uses; and

WHEREAS, the Commission further finds that The strict application of the provisions of the regulation would prevent the applicant from providing sufficient parking and maneuvering that is required for the proposed restaurant uses. It would put parking below the minimum required and complicate maneuvering at both vehicular entrances; and

WHEREAS, the Commission further finds that the applicant is requesting this variance prior to any site disturbance or development; and

WHEREAS, the Commission further finds that the requested variance will not adversely affect public health safety or welfare as the request will not impeded 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 parking facilities in the area appear to vary in their setback to the roadway, many of which appear closer than the required setback; and

WHEREAS, the Commission further finds that the requested variance will not cause a hazard or nuisance to the public as designated pedestrian crossings are provide across drive lanes and the variance does not impact sight lines; and

WHEREAS, the Commission further finds that the requested variance will not allow an unreasonable circumvention of zoning regulations as it has been demonstrated that the request will not impact public health, safety, or welfare; create a hazard or nuisance; and will not impact the character of the area; and

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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 setback requirement is applicable to all properties within the form and the lot does not present any significant development constraints; 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 it has been demonstrated that the request will not impact public health, safety, or welfare; create a hazard or nuisance; and will not impact the character of 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; and

(Waiver) WHEREAS, the Commission further finds that the requested waiver will not adversely affect adjacent property owners since sufficient setback, buffering, screening and planting will be provided along the Bullitt Lane and 1-264 ROWs; and

WHEREAS, the Commission further finds that the requested waiver will not violate the Comprehensive Plan. Guideline 3, policy 9 calls for the protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigate when appropriate. Guideline 3, policy 24 states that parking, loading and delivery areas located adjacent to residential areas should be designed to minimize the impacts from noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered. Guideline 13, policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. The waiver will not violate the Comprehensive Plan since sufficient screening, planting and buffering will be provided on the site; and

WHEREAS, the Commission further finds that the extent of the requested waiver of the regulation is the minimum necessary to afford relief to the applicant since there are extensive utility easements along both the front and rear of the property where landscape buffering is required. The waiver will still allow for sufficient setback, buffering, screening and planting to be provided along the Bullitt Lane and 1-264 ROWs; and

WHEREAS, the Commission further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant since it would require placement of buffering outside of the existing utility easements. It would eliminate needed parking and vehicular maneuvering on the site; and

WHEREAS, the Commission further finds that the waiver will not adversely affect adjacent property owners as the request is being made adjacent to the public right-of-way; and

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WHEREAS, the Commission further finds that the requested waiver will not violate specific guidelines of Cornerstone 2020. Guideline 3, Policy 9 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 to mitigate the impact caused when incompatible developments occur adjacent to one another through the use of landscaped buffer yards, vegetative berms and setback requirements to address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances. Guideline 3, Policy 24 states that parking, loading and delivery areas located adjacent to residential areas should be designed to minimize noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered. Guideline 13, Policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. The intent of landscape buffer areas is to create suitable transitions where varying forms of development adjoin, to minimize the negative impacts resulting from adjoining incompatible land uses, to decrease storm water runoff volumes and velocities associated with impervious surfaces, and to filter airborne and waterborne pollutants. The requested waiver will not violate these guidelines as the width and planting material will be provided as required; 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 width and planting material will be provided as required and utilities must be provided; and

WHEREAS, the Commission further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant as the width and planting material will be provided as required and utilities must be provided; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the requested **Variance** of LDC, section 5.3.5.C.3.a to allow off-street parking to encroach upon 10' front yard; and the requested **Waiver** of Land Development Code (LDC), section 10.2.B to allow LBA/Easement overlap in excess of 50%.

The vote was as follows:

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

NOT PRESENT: Commissioners Lewis and Smith.

ABSTAINING: Commissioner Robinson.

Detailed District Development Plan and Binding Elements

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01:25:36 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 much of the site contains regulatory floodplain which is being preserved as TCCA. The applicant has committed to working with historic preservation officials to located any potential historic artifacts on the property prior to construction; 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 sidewalks and connections have been provided; and

WHEREAS, the Commission further finds that the provision of sufficient open space (scenic and recreational) to meet the needs of the proposed development is being provided as TCCA areas are being preserved in areas within the local regulatory floodplain; 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; and

WHEREAS, the Commission further finds that the development plan conforms to applicable guidelines and policies of the Comprehensive Plan as demonstrated in *Attachment 3* of the staff report; now, therefore be it

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

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
3. 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

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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. Construction Fencing shall also be provided along the Limits of Disturbance as shown on the approved district development plan.

4. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested:
 - a. The development plan must receive full construction approval from Louisville Metro Department of Codes and Regulations Construction Permits and Transportation Planning Review and the Metropolitan Sewer District.
 - b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways for any work within the state 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 Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
5. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
6. The applicant shall work with Urban Design/Historic Preservation Staff and the Kentucky heritage Council to determine if a qualified professional archaeologist is to be hired to examine the project area and make recommendations regarding the need for any additional investigations prior to site/ground disturbance.
7. Construction of sidewalks along the property frontage up to Bunsen Pkwy shall be triggered at such time that Bullitt Lane is extended to Bunsen Pkwy. The owner shall construct the sidewalk or pay a contribution in the amount equal to said construction as determined by the Director of Public Works.
8. The property owner is responsible for funding \$79,000 toward improvements to Bullitt Lane. The funding shall be provided to Metro Public Works when funding is approved for Bunsen Parkway within "The Park at Oxmoor", as recorded in Plat Book page 44, Page 5 in the office of the County Clerk's Office of Jefferson County. A signed contract/agreement, approved by the County Attorney's office, shall be provided to Metro Planning & Design Services and Metro Public Works.
9. The design and appearance of the proposed structures shall be substantially the same as depicted at the June 7, 2018 Planning Commission public hearing.

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The vote was as follows:

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

NOT PRESENT: Commissioners Lewis and Smith.

ABSTAINING: Commissioner Robinson.