

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO PLANNING COMMISSION
January 21, 2016**

A meeting of the Louisville Metro Planning Commission was held on January 21, 2016 at 1:15 p.m. at the Old Jail Building, located at 514 W. Liberty Street, Louisville, Kentucky.

Commission members present:

Donnie Blake, Chairman
Jeff Brown
Vince Jarboe
Robert Kirchdorfer
Clifford Turner
David Tomes
Marilyn Lewis
Chip White

Commission members absent:

Robert Peterson

Staff Members present:

Emily Liu, Planning Director
Joe Reverman, Planning Assistant Director
Brian Davis, Planning Supervisor
Julia Williams, Planner II
Christopher Brown, Planner II
Will Ford, Communication Specialist
Tammy Markert, Transportation Planning
Tony Kelly, MSD
John G. Carroll, Legal Counsel
Jonathan Baker, Legal Counsel
Pamela M. Brashear, Management Assistant

The following matters were considered:

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APPROVAL OF MINUTES

JANUARY 7, 2016 PLANNING COMMISSION REGULAR MEETING MINUTES

On a motion by Commissioner Tomes, seconded by Commissioner Jarboe, the following resolution was adopted.

RESOLVED, that the Planning Commission does hereby **APPROVE** the minutes of its meeting conducted on January 7, 2016.

The vote was as follows:

YES: Commissioners Brown, Jarboe, Kirchdorfer, Lewis, Tomes and Turner
NOT PRESENT FOR THIS CASE: Commissioner Peterson
ABSTAINING: Commissioners Blake and White

PLANNING COMMISSION MINUTES
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PUBLIC HEARING

CASE NO. 15AREA1002

Case No:	15area1002
Request:	Area-wide Change in Zoning for the Portland Neighborhood
Project Name:	Portland Area-Wide Re-Zoning
Location:	Multiple properties in the Portland Neighborhood
Owner:	Multiple Owners
Applicant:	Louisville Metro
Representative:	Louisville Metro
Jurisdiction:	Louisville Metro
Council District:	5-Cheri Bryant-Hamilton
Case Manager:	Julia Williams, RLA, AICP, Planner II

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

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

Agency Testimony:

00:07:41 Mrs. Williams discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Cheri Bryant-Hamilton, 903 Southwestern Parkway, Louisville, Ky. 40211

Summary of testimony of those in favor:

00:18:58 Councilwoman Bryant-Hamilton stated the neighborhood is in favor of the proposal. "It's been a long time coming to get these changes recommended for approval."

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PUBLIC HEARING

CASE NO. 15AREA1002

Deliberation

00:19:44 Planning Commission deliberation. The commissioners are in agreement that the plan is very well thought out and will benefit the neighborhood.

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

On a motion by Commissioner Tomes, seconded by Commissioner Turner, the following resolution was adopted.

WHEREAS, the Planning Commission finds that the area wide rezoning complies with the applicable guidelines and policies of Cornerstone 2020; and

WHEREAS, the Planning Commission further finds that the area wide rezoning complies with Guideline 1, Community Form of Cornerstone 2020. The area wide rezoning will ensure that new development will be designed to be compatible with the scale and form of existing development in the neighborhood, as well as with the pattern of existing uses. The neighborhood is comprised of predominantly residential uses and a grid pattern of streets, alleys and sidewalks; and

WHEREAS, the Planning Commission further finds that the area wide rezoning complies with Guideline 2, Centers of Cornerstone 2020. The area wide rezoning will promote an efficient use of land and investment in existing infrastructure. The area wide rezoning will encourage commercial, office and multi-family residential developments to take place in and around identified activity centers in the neighborhood. The area wide rezoning will encourage vitality and a sense of place in the neighborhood; and

WHEREAS, the Planning Commission further finds that the area wide rezoning complies with Guideline 3, Compatibility of Cornerstone 2020. The area wide rezoning will encourage commercial uses on these properties, which have been identified to have been used as commercial both historically and currently. The area wide rezoning will encourage commercial, office and multi-family residential developments to take place in and around identified activity centers in the neighborhood. For the reasons stated above, the area wide rezoning will preserve the character of the existing neighborhood; and

WHEREAS, the Planning Commission further finds that the area wide rezoning complies with Guideline 5, Natural Areas and Scenic and Historic Resources. The area wide rezoning will help preserve this historically single family residential neighborhood

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and encourage commercial, office and multi-family residential developments to take place in and around identified activity centers in the neighborhood; and

WHEREAS, the Planning Commission further finds that the area wide rezoning complies with Guideline 6, Economic Growth and Sustainability. The area wide rezoning will encourage commercial, office and multi-family residential developments to take place in and around identified activity centers in the neighborhood where existing infrastructure is adequate to support these uses; and

WHEREAS, the Planning Commission further finds that the area wide rezoning complies with Guideline 14, Infrastructure. The area wide rezoning will encourage effective and appropriate connections between land use patterns and supporting infrastructure; and

WHEREAS, the Planning Commission further finds that based on the reasons stated above, or otherwise stated in the staff report, and as depicted in the maps presented at the Planning Commission public hearing, the area wide rezoning complies with all other Guidelines and Policies of Cornerstone 2020; and

WHEREAS, the Planning Commission further finds that the existing zoning classification is inappropriate and the proposed zoning classification is appropriate. The area wide rezoning will ensure that new development will be designed to be compatible with the scale and form of existing development in the neighborhood, as well as with the pattern of existing uses. The neighborhood is comprised of predominantly residential uses and a grid pattern of streets, alleys and sidewalks. The area wide rezoning will encourage a mix of appropriate uses according to the specified zoning district on the identified properties, some of which have been identified to have been used as commercial uses historically and currently.

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND**, to Metro Council, **APPROVAL** of Case No. 15AREA1002, the area-wide change in zoning for multiple properties in the Portland Neighborhood based on the evidence and testimony heard today and the favorable staff report.

The vote was as follows:

YES: Commissioners Blake, Brown, Jarboe, Kirchdorfer, Lewis, Tomes, Turner and White

NOT PRESENT AND NOT VOTING: Commissioner Peterson

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PUBLIC HEARING

CASE NO. 15ZONE1021

Case No: 15zone1021
Request: Change in zoning from R-4 to PEC and C-1
Project Name: Hurstbourne Station
Location: 7300 South Hurstbourne Parkway and TB 636 Lot
155

Owner: Hurstbourne Corporate Group, LLC
David A. Dries, Manager
15510 Champion Lakes Place
Louisville, Ky. 40245

Robert and Nancy Williamson

Applicant: Hurstbourne Corporate Group, LLC
David A. Dries, Manager
15510 Champion Lakes Place
Louisville, Ky. 40245

Representative: BTM Engineering Inc.
John Addington, RLA
3001 Taylor Springs Drive
Louisville, Ky. 40220

Frost Brown Todd LLC
Glenn A. Price, Jr.
400 West Market Street, 32nd floor
Louisville, Ky. 40202

Jurisdiction: Louisville Metro
Council District: 2- Barbara Shanklin
Case Manager: **Julia Williams, RLA, AICP, Planner II**

CONTINUED FROM THE JANUARY 7, 2016 PLANNING COMMISSION HEARING

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

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

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CASE NO. 15ZONE1021

Agency Testimony:

00:24:26 Mrs. Williams discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Glenn Price, Frost Brown Todd, 400 West Market Street, Louisville, Ky. 40202
John Addington, BTM Engineering, 3001 Taylor Springs Drive, Louisville, Ky. 40220

Summary of testimony of those in favor:

00:30:01 Mr. Price stated there was no opposition from the neighbors, but there were some concerns from Metro Council staff. Some binding elements have been drafted to address those concerns.

Mr. Price read the following proposed binding elements:

1. **Truck transfer or freight terminal uses.** A detailed district development plan for a truck transfer or freight terminal use having loading/unloading doors in a building of 400,000 square feet or greater square feet on an individual lot shall require approval of the Planning Commission and the Louisville Metro Council base on the criteria stated in LDC 11.4.7.E.2
2. **Residential uses.** Subject to the exceptions shown in the second sentence below, (i) a residential use having a density greater than permitted in Residential Single-Family District R-4 and (ii) any multi-family use shall require approval of the Planning Commission and the Louisville Metro Council based on the criteria stated in LDC 11.4.7.E.2. A nursing home, home for the infirm or aged, rehabilitation home, or other healthcare residential facility and/or retirement community shall not require approval of the Louisville Metro Council.

The following spoke neither for nor against the request:

Rebecca Browning, 5805 Lisa Court, A-11, Louisville, Ky. 40291

Summary of testimony of those neither for nor against:

00:35:14 Ms. Browning said she wants the area of Fegenbush and Bardstown Rd. to stay as it is for the animals to have a place to live. Also, she doesn't want the beauty to be lost.

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Deliberation

00:37:24 Commissioner Brown agrees with the additional binding elements. They address everyone's concerns. He also requests a couple of notes be added to the development plan: to restrict access to a few those lots directly from Hurstbourne and Fegenbush. Mr. Addington stated he will have the notes added to the plan when it's ready to go through review next Wed. (for Mon. submittal). Commissioner Brown read the notes into the record as follows: 1. No direct access from Hurstbourne Pkwy. To lot 7, 8, 9, 10 and 11 shall be permitted. 2. No direct access from Fegenbush Ln. to lots 4 and 5 shall be permitted.

The other commissioners agree the proposal is appropriate and are glad the issues have been worked out between the applicant and Councilwoman's office.

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

Zoning Change from R-4 to PEC and C-1

On a motion by Commissioner Jarboe, seconded by Commissioner Kirchdorfer, the following resolution was adopted.

WHEREAS, The Planning Commission finds that the proposed zone change from R-4 Residential Single Family District to PEC Planned Employment Center District and C-1 Commercial District (the "proposal") conforms to KRS 100.213 because it is in agreement with the adopted Comprehensive Plan for Louisville and Jefferson County, Kentucky, within which this property lies, as further detailed in these Findings; and

WHEREAS, The Planning Commission further finds that the proposal conforms to Community Form Guideline 1 and all applicable Policies adopted thereunder, including Policy 1.B.10, Suburban Workplace Form District Goal G1 and Objective G1.1, Community Design Goal G2 and Objectives G2.1, G2.2, G2.3, Land Use Goal G3 and Objectives G3.1 and G3.3, Site Design Goal G4 and Objectives G4.1, G4.2, G4.3 and G4.4 because the 37.13-acre site lies within the Suburban Workplace Form District; because appropriate access to the site will occur via Hurstbourne and Fegenbush Lane; because the development will be flexible to accommodate a user of a large parcel or a cluster of smaller uses; because the proposal for PEC and C-1 zoning allows for a mix of compatible uses; because site perimeters will be compatible with adjacent properties by use, buffering and screening; because buffer and landscape

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standards and lighting and noise controls will ensure compatibility among the uses on-site and with adjacent properties; and because all parking facilities will meet the minimum requirements of the Land Development Code; and

WHEREAS, The Planning Commission further finds that the proposal conforms to Compatibility Guideline 3 and all applicable Policies adopted thereunder, including Policies 3.1, 3.2, 3.5, 3.6, 3.7, 3.8, 3.9, 3.11, 3.12, 3.17, 3.21, 3.22, 3.23, 3.24 and 3.28 because development of this site will be consistent with its intended function under Suburban Workplace Form District guidelines; because the development will be compatible with the scale and site design of nearby development, including Mercy Academy and Wildwood Green, which will be protected through the use of substantial buffers and landscaping; because the proposal is not a non-residential expansion into a residential area; because other non-residential uses exist in the immediate area, including a proposed commercial shopping center at the intersection of South Hurstbourne Parkway and Fegenbush Lane; because the proposed Wildwood Green, a multi-family use (R-7 Multi-Family), is an abutting property northeast of the Subject Site; because the site will not be a source of odor or adverse air quality emissions, excessive traffic, noise, lighting nuisances or visual nuisances; because the lighting will meet the requirements of the Land Development Code; because the Subject Site is located across Fegenbush Lane from an existing activity center, which includes Globalport Business Centre; an industrial distribution and business center, and General Electric Appliance Park; because the Subject Site also has close proximity to UPS Worldport facilities near Louisville International Airport; because all building setbacks, lot dimensions and building heights will be compatible with adjacent development and will be in accordance with Land Development Code requirements; because parking facilities and landscape adequacy will be reviewed in detail for each individual lot; because requirements for outdoor amenities and focal points will be determined at the time of development of each site; and because signs will conform to Land Development Code requirements; and

WHEREAS, The Planning Commission further finds that the proposal conforms to Open Space Guideline 4 and all applicable Policies adopted thereunder, including Policies 4.1, 4.4., 4.5 and 4.7; because open space is provided onsite via landscape buffer areas and setbacks; and because maintenance of open space will be provided for; and

WHEREAS, The Planning 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 5.1, 5.2 and 5.6 and Social and Cultural Resources Goal D1 and Objective D1.1 because development of the property will respect the natural features of the site and will avoid substantial topographical changes; because there are no steep or severe slopes on site; because on-site soils drain well and are highly permeable; and because no soils on-site are classified as wet soils; and

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WHEREAS, The Planning Commission further finds that the proposal conforms to Economic Growth and Sustainability Guideline 6 and all applicable Policies adopted thereunder, including Policies 6.1, 6.2, 6.4, 6.6 and 6.8 because Core Graphic 10 identifies South Hurstbourne Parkway as a major arterial roadway and identifies Fegenbush Lane as a minor arterial roadway; because the requested PEC district permits M-2 industrial uses having the potential for more than 100 employees; because the site is located immediately adjacent to two arterials; South Hurstbourne Parkway and Fegenbush Lane; and because the proposed C-1 area of the Subject Site has immediate access to South Hurstbourne Parkway, a major arterial, and has excellent access to Fegenbush Lane; and

WHEREAS, The Planning Commission further finds that the proposal conforms to Circulation Guideline 7 and all applicable Policies adopted thereunder, including Policies 7.1, 7.2, 7.3, 7.4, 7.6, 7.8, 7.10, 7.12, 7.13, 7.14, 7.16 and 7.19 and Pattern of Development Goal E3 because although there is no transit service on South Hurstbourne Parkway in the vicinity of the site, Transit Authority of River City (TARC) Route 23 is located along the Fegenbush Lane frontage of the site; because adequate access for all forms of transportation – vehicular, pedestrian and bicyclists – is provided for on-site; because the Department of Public Works approved the development Plan on November 4, 2015, indicating that space for adequate parking facilities is located on the Subject Site, that the roadways will provide for uniform access and circulation, and that the site design provides for efficient and safe movement of vehicles and pedestrians; and

WHEREAS, The Planning Commission further finds that the proposal conforms to Transportation Facility Design Guideline 8 and all applicable Policies adopted thereunder, including Policies 8.9 and 8.11 because access is provided to all lots via internal roadway network as shown on the development plan; and because stub streets are provided for access to adjacent lots and multiple types of roadways are proposed within the site; and

WHEREAS, The Planning Commission further finds that the proposal conforms to Bicycle, Pedestrian and Transit Guideline 9 and all applicable Policies adopted thereunder, including Policies 9.1, 9.2, 9.3 and 9.4, Moving People and Goods Goal A1, Goal A2 and Objectives A2.1 and A2.2, Bicycle and Pedestrian Circulation Plan Planning Goal H1, Goal H2 and Objective H2.2 and H2.5, Safety Goal H3 and Objective H3.1, Promotion Goal H4, Site Design Standards for Alternative Transportation Modes Goal I1 and Objective I1.1, Goal I2 and Objective I2.1, Goal I3 and Objective I3.1, Goal I4 and Objective I4.1, Goal I5 and Objective I5.1 and Goal I7 and Objective I7.1 because sidewalks are proposed throughout the development as detailed in General Note No. 25 of the development plan; because bicycle parking facilities will be provided

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within the development as detailed in General Note No. 17 of the development plan; and because transit service serves the Fegenbush Lane frontage of the site; and

WHEREAS, The Planning Commission further finds that the proposal conforms to Flooding and Stormwater Guideline 10 and all applicable Policies adopted thereunder, including Policies 10.1, 10.2, 10.3, 10.4, 10.7, 10.10 and 10.11 and Water Goal B1 and Objective B1.3 because the development of Hurstbourne Station minimizes the potential for the impacts of flooding, and will effectively manage stormwater runoff; because storm sewers will be sized appropriately for the full development of the site; because storm sewers will discharge into on-site sewer and drainage easements, as provided for by the Metropolitan Sewer District (MSD); because there will be no impact to the regulatory floodplain because all structures will be located above the floodplain; because compensatory storage is not required; because no buildings are proposed to be located within the 100-year FEMA regulatory floodplain; because there is no impact to existing stream valleys and no disturbance to jurisdictional waters of the United States as defined by the U.S. Army Corp of Engineers; because the proposal received the approval of MSD on November 4, 2015 which indicates, among other things, that detention facilities will adequately accommodate stormwater from the site based on a fully developed watershed; that the on-site drainage system will likewise accommodate the "through" drainage system of water flows on-site and off-site, and that peak stormwater runoff rates post-development will not exceed pre-development rates; and

WHEREAS, The Planning Commission further finds that the proposal conforms to Air Quality Guideline 12 and all applicable Policies adopted thereunder, including Policies 12.1, 12.2, 12.3, 12.5, 12.6, 12.7 and 12.8 and Air Goal C1 because South Hurstbourne Parkway, a major arterial, is located along the frontage of the site, as is Fegenbush Lane, a minor arterial; because Fegenbush Lane is a transit route; because sidewalks will be located throughout the development and are situated to encourage the use of these alternate modes of transportation by on-site workers and area residents; and because the proposal received the approval of the Louisville Air Pollution Control District on August 14, 2015; and

WHEREAS, The Planning Commission further finds that the proposal conforms to Landscape Character Guideline 13 and all applicable Policies adopted thereunder, including Policies 13.1, 13.2, 13.4, 13.5 and 13.6, Habitat and Biodiversity Goal F1 and Objective F1.1 and Goal F2 because street trees and landscaping will be provided on roadways throughout the Subject Site; because native plant species will be installed; because planting and buffering plans, wherever required, will be implemented; and because an adequate tree canopy will be provided for the Subject Site as indicated in the Tree Canopy Calculations shown on the development plan; and

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WHEREAS, The Planning Commission further finds that the proposal conforms to Infrastructure Guideline 14 and all applicable Policies adopted thereunder, including Policies 14.2, 14.3, 14.4, 14.6 and 14.7 because the proposal has adequate service for all necessary utilities; because one or more common utility corridors will exist in the development that includes gas, electric, water, telephone, cable and telecommunications; because an adequate water supply for domestic and fire-fighting purposes will serve the site; and because utilities will be located underground wherever possible and will be situated where recommended by each utility for appropriate maintenance and repair access; and

WHEREAS, The Planning Commission further finds that the proposal conforms to Community Facilities Guideline 15 and all applicable Policies adopted thereunder, including Policy 15.9 because adequate fire fighting services will be provided by the Buechel Fire Protection District; and

WHEREAS, The Planning Commission further finds that the proposal conforms to all other applicable Goals, Objectives, Guidelines and Policies of the Comprehensive Plan; and

WHEREAS, The Planning Commission further finds that all necessary utilities, including gas, electric, water, telephone, cable and telecommunications, are either presently exist on-site or will be constructed, and essential public services, including sidewalks, will be constructed to serve the site; and

WHEREAS, The Louisville Metro Planning Commission finds that implementation of the proposed uses on the Subject Site is anticipated to begin within twelve (12) months of final approval.

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND**, to Metro Council, **APPROVAL** of Case No. 15ZONE1021, change in zoning from R-4 to PEC and C-1 based on the staff report, testimony heard today and the applicant's finding of fact.

The vote was as follows:

YES: Commissioners Blake, Brown, Jarboe, Kirchdorfer, Lewis, Tomes, Turner and White

NOT PRESENT AND NOT VOTING: Commissioner Peterson

General District Development Plan and Binding Elements

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CASE NO. 15ZONE1021

On a motion by Commissioner Jarboe, seconded by Commissioner Kirchdorfer, the following resolution was adopted.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** Case No. 15ZONE1021, the Detailed District Development Plan, including the binding elements on pages 12 and 13 of the staff report as well as the two additions proposed by the applicant based on the staff report, testimony heard today and applicant's finding of facts.

Proposed Binding Elements

1. The development shall be in accordance with the approved general district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. Prior to development (includes clearing and grading) of each site or phase of this project, the applicant, developer, or property owner shall obtain approval of a detailed district development plan in accordance with Chapter 11, Part 6. Each plan shall be in adequate detail and subject to additional binding elements.
3. 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. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
 - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to

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- requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
- d. A major subdivision plat creating the lots and roadways as shown on the approved district development plan shall be recorded prior to issuance of any building permits.
 - e. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
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. 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 property owner shall provide a cross over access easement if the property to the west is ever developed for a nonresidential use. A copy of the signed easement agreement shall be provided to Planning Commission staff upon request.
 9. No idling of trucks shall take place within 200 feet of residential development. No overnight idling of trucks shall be permitted on-site.
 10. **Truck transfer or freight terminal uses.** A detailed district development plan for a truck transfer or freight terminal use having loading/unloading doors in a building of 400,000 square feet or greater square feet on an individual lot shall require approval of the Planning Commission and the Louisville Metro Council base on the criteria stated in LDC 11.4.7.E.2

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11. Residential uses. Subject to the exceptions shown in the second sentence below, (i) a residential use having a density greater than permitted in Residential Single-Family District R-4 and (ii) any multi-family use shall require approval of the Planning Commission and the Louisville Metro Council based on the criteria stated in LDC 11.4.7.E.2. A nursing home, home for the infirm or aged, rehabilitation home, or other healthcare residential facility and/or retirement community shall not require approval of the Louisville Metro Council.

The vote was as follows:

YES: Commissioners Blake, Brown, Jarboe, Kirchdorfer, Lewis, Tomes, Turner and White

NOT PRESENT AND NOT VOTING: Commissioner Peterson

Subdivision

On a motion by Commissioner Jarboe, seconded by Commissioner Kirchdorfer, the following resolution was adopted.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** Case No. 15ZONE1021, subdivision plan based on the applicant's finding of facts, staff report and testimony heard today.

The vote was as follows:

YES: Commissioners Blake, Brown, Jarboe, Kirchdorfer, Lewis, Tomes, Turner and White

NOT PRESENT AND NOT VOTING: Commissioner Peterson

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PUBLIC HEARING

CASE NO. 15ZONE1017

Case No: 15ZONE1017
Request: Change in zoning from R-4 to C-2 on 2.5 acres with
Variances, Parking Waiver, Land Development Code Waiver
and Detailed District Development Plan
Project Name: Gordon Motor Sports
Location: Hurstbourne Parkway
Owner: Vandebrook Properties, LLC
5801 Bardstown Road
Louisville, Ky. 40291
Applicant: Vandebrook Properties, LLC
5801 Bardstown Road
Louisville, Ky. 40291
Representative: Glenn Price
Frost Brown Todd
400 West Market Street, 32nd floor
Louisville, Ky. 40202
Jurisdiction: Louisville Metro
Council District: 22 – Robin Engel
Case Manager: Christopher Brown, Planner II

NOTE: COMMISSIONER BROWN LEFT AT THE BEGINNING OF THIS CASE

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

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

Agency Testimony:

00:44:12 Mr. Brown discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

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CASE NO. 15ZONE1017

Glenn Price, Frost Brown Todd, 400 West Market Street, Louisville, Ky. 40202
Kevin Young, Land Design and Development, 503 Washburn Avenue, Louisville, Ky.
40222

Michael Gordon, 5801 Bardstown Road, Louisville, Ky. 40291

Summary of testimony of those in favor:

00:59:50 Mr. Price stated that the applicant wishes to operate a prestigious automobile dealership as well as maintain a residence on the property. The use will be low intensity as there won't be many customers on site. Also, the applicant is aware of the buffering, screening and lighting issues.

01:06:22 Mr. Young stated that the setback will be 65-70 feet to protect the neighbors to the east.

Mr. Young handed out (to Commissioners) a response letter to the neighbor's concerns. There will be a self-imposed 15 foot for a total of 40 foot landscape buffer area. Also, the cars will not be serviced on site, all lighting will be bollard style, a privacy fence will be provided, a self-imposed 25 foot non-disturb area and trees on the tree line will be preserved.

01:13:13 Mr. Price read the following additional binding element into the record: The following uses shall not be permitted onsite without a duly noticed public hearing and approval by the planning commission: auction sales, automobile repair garages, billiard parlors and game rooms, bingo halls and parlors, boat sales, book binding, cleaning, pressing and drying establishments, dance halls, fraternities and sororities, exposition building or center, flea market, indoor paint ball ranges, laser tag, tattoo, body art and piercing parlors, package liquor stores, restaurants where dancing or entertainment is allowed, rubber stamp manufacture, skating rinks, taverns, bars and saloons, theaters, automobile service stations, car washes, boarding and lodging houses, and tourist homes.

The following spoke neither for nor against the request:

Sherry Archer, 4912 Clarmar Road, Louisville, Ky. 40299

Summary of testimony of those neither for nor against:

01:15:40 Ms. Archer stated she wants to make sure the applicant does what he says he's going to do, not just rezone and flip it to make a profit.

Rebuttal:

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CASE NO. 15ZONE1017

01:17:55 Mr. Gordon said if he can't get the zoning changed, he will sell it otherwise, he wants to live there.

Mr. Gordon stated he's willing to invest because of the growth in that area.

Deliberation

01:24:30 Commissioner Tomes said the property is not viable for R-4 so the request is appropriate. Commissioner White stated that the staff report was very clear and precise. Also, likes the fact that the proposed house will also be a buffer. Chairman Blake remarked that the proposal is a good fit for the neighborhood. Also, there are 3 additional binding elements proposed by the applicant – lighting, 15 ft. LBA and uses.

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

Zoning Change from R-4 to C-2

On a motion by Commissioner White, seconded by Commissioner Jarboe, the following resolution was adopted.

WHEREAS, The Planning commission finds that the proposal conforms to KRS 100.213 because it is in agreement with Comprehensive Plan for Louisville and Jefferson County, Kentucky as detailed in these findings of fact; and

WHEREAS, The Planning Commission further finds that the proposal conforms to Community Form Guideline 1 and all applicable Policies adopted thereunder, including Policy 3 because the site lies within the Neighborhood Form District and is compliant therewith; because the proposed automobile dealership use is a low intensity use having little traffic, and is at a scale which is appropriate for nearby neighborhoods; because the proposal is not a neighborhood "center" even though located with frontage on South Hurstbourne Parkway, an arterial roadway; and

WHEREAS, The Planning Commission further finds that the proposal conforms to Centers Guideline 2 and all applicable Policies adopted thereunder, including Policies 2, 3, 4, 8 and 15 because alternative transportation modes are encouraged through the provision of sidewalks along the South Hurstbourne Parkway frontage; because the proposed use is an automobile dealership and Centers Guideline 2, Policy 2 recognizes "car dealerships" as businesses which do "not fit well into a compact center" and are

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appropriate being located outside a designated activity center; because due to its successful unique business model, this dealership will not cause significant volumes of traffic to and from the site; and because the number of parking spaces on site, a total of nine (9), with two (2) of the nine set aside for the residential unit, and the remaining seven (7) being available for customer and employee parking is appropriate; and

WHEREAS, The Planning Commission further finds that the proposal conforms to Compatibility Guideline 3 and all applicable Policies adopted thereunder, including Policies 1, 2, 5, 6, 7, 8, 9, 21, 22, 23, 24 and 28 because the proposed dealership has its frontage on South Hurstbourne Parkway with a residential living unit facing the homes along Clarmar Road to the rear; because the proposed building materials will be appropriate for this site; because the proposal will not be a source of odor, air quality emissions, excessive traffic, noise, lighting or visual impacts; because the proposal will conform to all lighting requirements of the Land Development Code; because adequate buffering will be provided all around the site and setbacks will be observed except for one variance has been granted; and because signs will be located and sized pursuant to Land Development Code restrictions; and

WHEREAS, The Planning Commission further findst that the proposal conforms to Natural Areas and Scenic and Historic Resources Guideline 5 and all applicable Policies adopted thereunder, including Policies 5.1, 5.2 and 5.6 and social and Cultural Resources Goal D1 and Objective D1.1 because there are no steep or severe slopes on-site; because on-site soils drain well and are highly permeable; and because no soils on-site are classified as wet soils; and

WHEREAS, The Planning Commission further finds that the proposal conforms to Circulation Guideline 7 and all applicable Policies adopted thereunder, including Policies 1, 2, 3, 10, 13 and 16 because the Louisville Department of Public Works has approved the proposal indicating, among other things, that the development provides adequate access for motorists and pedestrians, to, from and through the development; because there is no transit services on this section of Hurstbourne Parkway; because adequate parking is provided for even with the grant of the parking waiver; and because cross access is not provided and would not be appropriate due to the lower intensity zoning classification of surrounding properties on Hurstbourne Parkway; and

WHEREAS, The Planning Commission further finds that the proposal conforms to Bicycle, Pedestrian and Transmit Guideline 9 and all applicable Policies adopted thereunder, including Policies 1, 3 and 4 because sidewalks are proposed along the South Hurstbourne Parkway frontage and internal to the site; because bicycle storage facilities will be located within the building and because South Hurstbourne Parkway is not a transit route; and

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WHEREAS, The Planning Commission further finds that the proposal conforms to Flooding and Stormwater Guideline 10 and all applicable Policies adopted thereunder, including Policies 1, 2, 3, 4, 7, 10 and 11; because the development of the site will minimize the potential for the impacts of flooding, and effectively manages stormwater runoff; because there is no impact to the regulatory floodplain because all structures will be located above the floodplain; because no buildings are proposed to be located within the 100-year FEMA regulatory floodplain; because the Metropolitan Sewer District (MSD) has approved the development plan and all construction plans will be reviewed and approved by MSD prior to construction; because detention facilities (on-site detention basin) will adequately accommodate stormwater from the site, based on a fully developed watershed; because the on-site drainage system will likewise accommodate the “through” drainage system of water flows on-site and off-site; and because peak stormwater runoff rates post-development will not exceed pre-development rates; and

WHEREAS, The Planning Commission further finds that the proposal conforms to Air Quality Guideline 12 and all applicable Policies adopted thereunder, including Policies 1, 2, 6 and 8 because the Louisville Air Pollution Control District has approved the proposal which indicates, among other things, that the proposal conforms to Air Quality Guideline 12 and related Policies; and

WHEREAS, The Planning Commission further finds that the proposal conforms to Landscape Character Guideline 13 and all applicable Policies adopted thereunder, including Policies 1, 2, 4, 5 and 6 because landscaping will be provided as shown on the development plan; because native plant species will be installed; because planting and buffering plans, wherever required, will be implemented; and because an adequate tree canopy will be provided for the Subject Site; and

WHEREAS, The Planning Commission further finds that the proposal conforms to Infrastructure Guideline 14 and all applicable Policies adopted thereunder, including Policies 2, 3, 4, 6 and 14.7 because the proposal has adequate service for all necessary utilities; because a common utility corridor exists in the development that includes gas, electric, water, telephone, cable and telecommunications; because an adequate water supply for domestic and fire-fighting purposes will serve the site; and because utilities will be located underground and will be situated where recommended by each utility for appropriate maintenance and repair access; and

WHEREAS, The Planning Commission further finds that the proposal conforms to Community Facilities Guideline 15 and all applicable Policies adopted thereunder, including Policy 15.9 because adequate fire fighting services will be provided by the Jeffersontown Fire Protection District; and

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WHEREAS, The Planning Commission further finds that the proposal conforms to all other applicable Goals, Objectives, Guidelines and Policies of the Comprehensive Plan; and

WHEREAS, The Planning Commission further finds that all necessary utilities, including gas, electric, water, telephone, cable and telecommunications, either presently exist on-site or will be constructed and all essential public services, including sidewalks will be constructed to serve the site; and

WHEREAS, The Planning Commission further finds that implementation of proposed uses is anticipated to begin within twelve (12) months of final approval.

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND**, to Metro Council, **APPROVAL** of Case No. 15ZONE1017, change in zoning from R-4 to C-2 based on the staff report, the applicant's justification, the testimony heard today and the applicant's finding of facts.

The vote was as follows:

YES: Commissioners Blake, Jarboe, Kirchdorfer, Lewis, Tomes, Turner and White

NOT PRESENT AND NOT VOTING: Commissioner Peterson

ABSTAINING: Commissioner Brown

Variance

On a motion by Commissioner White, seconded by Commissioner Jarboe, the following resolution was adopted.

WHEREAS, The requested variance will not adversely affect the public health, safety or welfare since safe pedestrian access is provided from the public rights-of-way to the building entrance; and

WHEREAS, The requested variance will not alter the essential character of the general vicinity since there are varying setbacks that exist throughout the Hurstbourne Parkway corridor; and

WHEREAS, The requested variance will not cause a hazard or nuisance to the public since safe pedestrian access is provided from the public rights-of-way to the building entrance and since safe vehicular maneuvering has been provided on the site; and

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WHEREAS, The requested variance will not allow an unreasonable circumvention of the zoning regulation since the proposed development allows the residential portion of the structure to be placed in proximity to the adjacent residential uses while providing the non-residential uses on the site nearest Hurstbourne Parkway; and

WHEREAS, The requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone since the proposal is a mixed residential and non-residential proposal. The additional setback being requested allows the outdoor display and circulation associated with the non-residential portion of the use to be located adjacent to Hurstbourne Parkway; and

WHEREAS, the Louisville Metro Planning Commission finds, 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 by requiring movement of the building toward Hurstbourne Parkway and interrupting proper vehicular circulation on the site; and

WHEREAS, the Louisville Metro Planning Commission further finds 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 since the lot existed at its shallow depth with surrounding residential prior to the current ownership.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** Case No. 15ZONE1017, Variance #1 from chapter 5.3.1.C.5, table 5.3.2 of the Land Development Code to allow the building to exceed the 80 foot maximum front yard setback based on the staff report, the applicant's justification and the testimony heard today.

The vote was as follows:

YES: Commissioners Blake, Jarboe, Kirchdorfer, Lewis, Tomes, Turner and White

NOT PRESENT AND NOT VOTING: Commissioner Peterson

ABSTAINING: Commissioner Brown

Parking Waiver

On a motion by Commissioner White, seconded by Commissioner Jarboe, the following resolution was adopted.

WHEREAS, Guideline 7 Policy 10 states that parking requirements should take into account the density and relative proximity of residences to businesses in the market

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area, the availability and use of alternative modes of transportation, and the character and pattern of the form district. Additional considerations including hours of operation and opportunities for shared parking may be factored on a site by site basis. On-site parking standards should reflect the availability of on-street and public parking. Parking standards should include the minimum and maximum number of spaces required based on the land use and pattern of development in the area. The subject site is located in a suburban area along a major arterial with a mix of uses requiring a lower level amount of parking. There is multi-modal access to the site from the street frontage in addition to the vehicular spaces being provided; therefore, the parking waiver is in compliance with the Comprehensive Plan; and

WHEREAS, The applicant has provided as many parking spaces in front of the structure as possible to afford space for display along the street frontage as well as parking within garage spaces for the second story residential use proposed within the structure; and

WHEREAS, The requested waiver is the smallest possible reduction of parking spaces that would accommodate the proposed use for the automobile sales as well as the residential use on the site and the parking spaces to be provided are located directly adjacent to the office portion of the building; and

WHEREAS, There are sufficient parking spaces on site available to accommodate the parking space demand created by the proposed uses on the subject site. For these reasons, and the reasons stated above, adjacent or nearby properties will not be adversely affected; and

WHEREAS, the Louisville Metro Planning Commission finds, the parking space demand created by the proposed uses on the subject site, the requirements found in table 9.1.2 of the Land Development Code, which mandate the number of parking spaces required to be provided off-street, do not accurately depict the parking needs of the proposed use due to the unique nature of the mixed use being proposed with higher end automobile sales and second story residential. The requested reduction will accommodate the parking demand to be generated by the proposed use; and

WHEREAS, the Louisville Metro Planning Commission further finds there are sufficient parking spaces that will be available on site to meet the demand for the proposed uses. There are no on-street or public spaces in the area that can be used for the site and its related parking demand.

RESOLVED, that the Louisville Metro Planning Commission does hereby
RECOMMEND, to Metro Council, **APPROVAL** of Case No. 15ZONE1017, the parking

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waiver to reduce the minimum required amount of parking from 29 spaces to 9 spaces based on the staff report, testimony heard today and the applicant's finding of fact.

The vote was as follows:

YES: Commissioners Blake, Jarboe, Kirchdorfer, Lewis, Tomes, Turner and White

NOT PRESENT AND NOT VOTING: Commissioner Peterson

ABSTAINING: Commissioner Brown

Development Plan and Binding Elements

On a motion by Commissioner White, seconded by Commissioner Jarboe, the following resolution was adopted.

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

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

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

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

WHEREAS, the Louisville Metro Planning Commission finds, the overall site design and land uses are compatible with the existing and future development of the area. Appropriate landscape buffering and screening will be provided to screen adjacent properties and roadways. Buildings and parking lots will follow a pattern of varying setbacks along the Hurstbourne Parkway corridor; and

WHEREAS, the Louisville Metro Planning Commission further finds the development plan conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code with the exception of the requested relief which meets the standards of review.

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RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the Detailed District Development Plan and the binding elements as presented by the applicant as well as the Wilson, Jonas email as well as the binding elements listed on pages 17 and 18 of the staff report **SUBJECT** to the following Binding Elements:

Proposed Binding Elements

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. The development shall not exceed 17,280 square feet of gross floor area.
3. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
4. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested:
 - a. The development plan must receive full construction approval from Louisville Metro Department of Codes and Regulations Construction Permits and Transportation Planning Review and the Metropolitan Sewer District.
 - b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
 - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
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

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implemented prior to requesting 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 or 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.
8. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the January 21, 2016 Planning Commission public hearing.

Applicant's Proposed Binding Elements

9. Lighting will be directed down and away from the Morning Pointe property consistent with Chapter 4, Part 1 of the Land Development Code. All display lighting, which is located only in the front of Gordon Motor Sports' showroom and will be limited to "bollard" style lighting fixtures, a maximum of 4 feet in height.
10. **Landscape buffer area (LBA) adjacent to Morning Pointe.** The applicant will provide a 15-foot LBA along the property line shared with Morning Pointe. The LBA will be planted at a Category 3 planting density per Table 10.2.4. This 15-foot LBA will provide a joint planted buffer area of 40 feet between the two properties.
11. The following uses shall not be permitted onsite without a duly noticed public hearing and approval by the planning commission: auction sales, automobile repair garages, billiard parlors and game rooms, bingo halls and parlors, boat sales, book binding, cleaning, pressing and drying establishments, dance halls, fraternities and sororities, exposition building or center, flea market, indoor paint ball ranges, laser tag, tattoo, body art and piercing parlors, package liquor stores, restaurants where dancing or entertainment is allowed, rubber stamp

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manufacture, skating rinks, taverns, bars and saloons, theaters, automobile service stations, car washes, boarding and lodging houses, and tourist homes.

The vote was as follows:

YES: Commissioners Blake, Jarboe, Kirchdorfer, Lewis, Tomes, Turner and White

NOT PRESENT AND NOT VOTING: Commissioner Peterson

ABSTAINING: Commissioner Brown

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PUBLIC HEARING

CASE NO. 15ZONE1031

Case No: 15zone1031
Request: Change in zoning from R-6 to EZ-1 and OR-3
Project Name: Pac-Van
Location: 522 N. 34th Street, TB 11G Lots 53/54,
TB 10D Lot 29 and TB 11J Lot 136

Owner: Murphy Properties, LLC
Connie M. Murphy, Manager
10717 Sun Ridge Road
Goshen, Ky. 40026

Applicant: Pac-Van, Inc.
Doc Smith
9155 Harrison Park Court
Indianapolis, In. 46216

Representative: Gresham, Smith and Partners
Jon Henney
101 South 5th Street, Suite 1400
Louisville, Ky. 40202

Seiller Waterman LLC
Joseph Cohen
462 South 4th Street, Suite 2200
Louisville, Ky. 40202

Jurisdiction: Louisville Metro
Council District: 5- Cheri Bryant Hamilton
Case Manager: Julia Williams, RLA, AICP, Planner II

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

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

Agency Testimony:

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01:34:54 Mrs. Williams discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Gordon Rose, Seiller Waterman LLC, 462 South 4th Street, Suite 2200, Louisville, Ky. 40202

Jon Henney, Gresham, Smith and Partners, 101 South 5th Street, Suite 1400
Louisville, Ky. 40202

Summary of testimony of those in favor:

01:41:31 Mr. Rose said the business is sales and leasing of mobile offices, mobile storage containers and mobile bulk water storage containers. The remainder of the property is used for inventory. "What we're trying to do with regard to the R-6 component of tract 1, is to make the zoning reflect how it's been used since the year 2000." There's no expansion or changes, just bringing it into compliance. The applicant would like to move their office to the vacant lot at a future date. The applicant agrees to all 9 binding elements listed in the staff report.

01:47:04 Mr. Henney stated it's very well screened now but there will be additional trees and vegetation added where there are gaps.

Commissioner Brown provided a sketch showing some gravel to be moved. "This will restore the road with minimal construction so the center line shifts over, there is no right-of-way dedication requirement, but it would mean cleaning up some of that gravel that's in the public right-of-way and restoring the grass." Mr. Henney will check with his client.

On a motion by Commissioner White, seconded by Commissioner Jarboe, the following resolution was adopted.

NOTE: COMMISSIONER BROWN LEFT

RESOLVED, that the Louisville Metro Planning Commission does hereby **CONTINUE** this case after the last case on the agenda.

By general consensus, the Committee continued this case to be heard after the last case on the agenda.

02:21:23 Reconvened - Commissioner Jarboe left and Commissioner Brown returned to the meeting.

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02:22:02 Mr. Henney said his client agrees with Commissioner Brown's request. Also, "The biggest cost of doing anything would be mobilization so we would like to be able to tie those improvements to when the improvements to the OR-3 lot are done."

02:23:25 Commissioner Brown read his proposed binding element into the record: The applicant shall remove gravel from within the Parker Ave. right-of-way and restore grass as shown on the exhibit as part of the improvements to Lot 2.

02:25:43 Mr. Kelly, MSD, stated that when he first saw this plan, no construction was proposed for lot 1. Lot 2 must have been added at a later date. "This is not much more than adding a residential driveway and home to that lot. The increased water is going to travel to Parker Ave. and back onto their lot or across the alley and back onto their lot. There will not be an increase of water onto the adjacent property owners."

Deliberation

02:27:55 Planning Commission deliberation.

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

Zoning Change from R-6 to OR-3 and EZ-1

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

WHEREAS, A Traditional Workplace is a form characterized by predominantly small to medium scale industrial and employment uses. The streets are typically narrow, in a grid pattern and often have alleys. Buildings have little or no setback from the street. Traditional workplaces are often closely integrated with residential areas and allow a mixture of industrial, commercial and office uses. New housing opportunities should be allowed as well as civic and community uses; and

WHEREAS, Traditional workplaces should be served by public transportation. Because of the close proximity to residential areas, parking should be encouraged to be located mostly off-street and behind buildings. There should be adequate buffering of nearby neighbors from noise, odors, lighting and similar conditions; and

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WHEREAS, the Louisville Metro Planning Commission finds, in order to encourage reinvestment, rehabilitation and redevelopment in these areas, flexible and creative site design should be encouraged along with a respect for the traditional pattern of development in the surrounding area; and

WHEREAS, the Louisville Metro Planning Commission further finds the proposal will not affect the existing street pattern. Public transit is not available in this area. Access to transit is available from an existing sidewalk north of Parker along 35th Street. Parking for the site is interior to the site, to the rear, and on street. All buffers and setbacks are being met. The proposed office building meets the required setbacks. The building will meet design requirements within the LDC. The proposal is not a non-residential expansion into a residential area as there are other non-residential uses located nearby.

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND**, to Metro Council, **APPROVAL** of Case No. 15ZONE1031, a change in zoning from R-6 to OR-3 and EZ-1 for the parcels listed at this site based on the staff report, testimony heard today and the applicant's justification statement.

The vote was as follows:

YES: Commissioners Blake, Brown, Kirchdorfer, Lewis, Tomes, Turner and White
NOT PRESENT AND NOT VOTING: Commissioners Jarboe and Peterson

Development Plan and Binding Elements

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

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

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

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

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

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WHEREAS, the Louisville Metro Planning Commission finds, the overall site design and land uses are compatible with the existing and future development of the area. Appropriate landscape buffering and screening will be provided to screen adjacent properties and roadways. Buildings and parking lots will meet all required setbacks; and

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

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the Detailed District Development Plan and binding elements on pages 12 and 13 of the staff report with an additional binding element to read: The applicant shall remove gravel from within Parker Ave. right-of-way and restore the grass as shown on the exhibit as part of the improvements of Lot 2 shown on the District Development Plan. Construction plans, bond and permit are required prior to construction approval; based on the staff report, testimony heard today and the applicant's justification.

Proposed Binding Elements

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. The development on Lot 2 shall not exceed 1,405 square feet of gross floor area.
3. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
4. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
5. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested:

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- a. The development plan must receive full construction approval from Develop Louisville, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - c. A minor plat or legal instrument shall be recorded consolidating the property into one lot (Lot 2 not included). A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of the approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
 - d. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
6. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
 7. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the 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 façade elevations for Lot 2 shall be in accordance with applicable form district standards and shall be approved by PDS staff prior to construction permit approval.
 9. No idling of trucks shall take place within 200 feet of single-family residences. No overnight idling of trucks shall be permitted on-site.
 10. The applicant shall remove gravel from within Parker Ave. right-of-way and restore the grass as shown on the exhibit as part of the improvements of Lot 2

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shown on the District Development Plan. Construction plans, bond and permit are required prior to construction approval.

The vote was as follows:

YES: Commissioners Blake, Brown, Kirchdorfer, Lewis, Tomes, Turner and White
NOT PRESENT AND NOT VOTING: Commissioners Jarboe and Peterson

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PUBLIC HEARING

CASE NO. 15ZONE1049

Case No: 15ZONE1049
Request: Change in zoning from R-5B to C-R on .27 acres with a Land Development Code Waiver and Detailed District Development Plan
Project Name: 1741 Frankfort Avenue
Location: 1741 Frankfort Avenue
Owner: JDA Properties LLC
William Abel
3401 Bashford Avenue Court
Louisville, Ky. 40218
Applicant: JDA Properties LLC
Laura Leach
3401 Bashford Avenue Court
Louisville, Ky. 40218
Representative: BTM Engineering Inc.
John Addington
3001 Taylor Springs Drive
Louisville, Ky. 40220
Frost Brown Todd LLC
Glenn Price
400 West Market Street, Suite 3200
Louisville, Ky. 40202
Jurisdiction: Louisville
Council District: 9 – Bill Hollander
Case Manager: **Christopher Brown, Planner II**

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

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

Agency Testimony:

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02:04:58 Mr. Brown discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Glenn Price, Frost Brown Todd, 400 West Market Street, Suite 3200
Louisville, Ky. 40202
Mike O'Leary, 1963 Payne Street, Louisville, Ky. 40206

Summary of testimony of those in favor:

02:08:45 Mr. Price represents JDA Properties and stated the building is a historic landmark. A door will be added for ADA access to an elevator. There will be 8-12 employees and occasionally customers will come to the site. There are 5 parking spaces to park on the street abutting the property.

02:16:12 Mr. O'Leary said there were 2 or 3 neighborhood meetings and they were very well attended. "This is a great plan and I support it."

Deliberation

02:17:59 Planning Commission deliberation.

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

Zoning Change from R-5B to CR

On a motion by Commissioner White, seconded by Commissioner Turner, the following resolution was adopted.

WHEREAS, The Planning Commission finds that the proposal conforms to KRS 100.213 because it is in agreement with the Comprehensive Plan for Louisville and Jefferson County, Kentucky as detailed in these Findings; and

WHEREAS, The Planning Commission further finds that the proposal conforms to Community Form Guideline 1 and all applicable Policies adopted thereunder, including Policy 7 because the site lies within the Traditional Marketplace Corridor Form District and is compliant therewith; because the proposed land use is an office and a retail coffee shop or other shop and this new development will respect the predominant rhythm, massing, spacing and design of the existing building; because the building will

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be easily accessible by pedestrians on foot, bicyclists due to bicycle storage facilities on the Site (southwest corner of the Site as shown on the development plan), and by transit service because Frankfort Avenue is a transit route; and because the development is an adaptive re-use of the James Lees Memorial Presbyterian Church and the existing Church building and existing setbacks will be maintained; and

WHEREAS, The Planning Commission further finds that the proposal conforms to Centers Guideline 2 and all applicable Policies adopted thereunder, including Policies 2, 3, 4, 5, 7, 8 and 15 and 16 because the proposal will re-use the existing historic Church building for office and commercial uses; because the proposed retail commercial component is located in the Clifton Neighborhood, which has an existing population to support it; because the proposal is a mixed-use proposal but is not a large development; because no garage is proposed to be located within the building, and parking facilities are not part of this proposal except that on-street parking bordering the Subject Property exists; because the site and the building will be made accessible for persons with disabilities; and because the proposal will be supported by existing utilities and existing Church building materials will be maintained; and

WHEREAS, The Planning 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, 11, 21, 22, 23, 24, 25 and 28 because the proposal is compatible with the scale and site design of nearby existing development because the Church building will be retained and will continue to be utilized; because building materials will remain unchanged from its historic materials except for the addition of the William Street elevator entrance which will comply with the requirements of the Clifton Architectural Review Guidelines; because the proposal will cause no adverse impact to existing residential uses in the immediate vicinity; because the proposal will not be a source of odor or adverse air quality emissions, significant traffic, noise, excessive lighting or nuisance visual impacts; because the existing historic signage will be restored and used by the new occupants; because no new signage is proposed; and because setbacks, building height and building location will remain unchanged; and

WHEREAS, The Planning Commission further finds that the proposal conforms to Open Space Guideline 4 and all applicable Policies adopted thereunder, including Policies 1, 2, 3, 4, 5 and 7 because open space is not required for the site and there are no natural features in existence on the site; and

WHEREAS, The Planning 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 and 7, Social and Cultural Resources Goal D1 and Objective D1.1 because there are no steep or severe slopes on site; because on-site soils drain well and are highly permeable; because no

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soils on-site are classified as wet soils; because the proposal will incorporate an adaptive re-use of the historic Church for the proposed office and commercial uses and the Site has no archaeological features thereon; and

WHEREAS, The Planning Commission further finds that the proposal conforms to Circulation Guideline 7 and all applicable Policies adopted thereunder, including Policies 1, 2, 3, 4, 6, 9, 13 and 16 because although there is no motor vehicle parking or access on the Subject Property, the Louisville Department of Public Works has approved the proposal; because the Department of Public Works approval indicates, among other things, that the development provides adequate access for motorists and pedestrians and meets the minimum parking requirements of the Land Development Code; because the Transit Authority of River City (TARC) provides public transit service along this segment of Frankfort Avenue via TARC Routes 15 and 31; because existing transportation facilities will be maintained with this proposal; because the Department of Public Works required no dedication of right-of-way for this proposal; because cross or joint access is not appropriate for the Subject Property because it is located adjacent to residential property; because the proposal maintains the existing street grid; because the proposal provides for the movement of pedestrians, bicyclists and persons with disabilities; because although no off-street parking is required pursuant to Lane Development Code requirements the owners of the Site will provide surplus parking in the vicinity for employees working at the Subject Property; and

WHEREAS, The Planning Commission further finds that the proposal conforms to Transportation Facility Guideline 8 and all applicable Policies adopted thereunder, including Policies 7, 9 and 10 because adequate measures have been taken to minimize glare, vibration, air pollution, and visual intrusion due to on-site buffering and screening; because the landscaping business does not produce odors and because the approval from the Department of Public Works indicates that the development has adequate sight disturbance and appropriate on-site access for pedestrians and vehicles; and

WHEREAS, The Planning Commission further finds that the proposal conforms to Bicycle, Pedestrian and Transit Guideline 9 and all applicable Policies adopted thereunder, including Policies 1, 2, 3 and 4 because the site is bordered by sidewalks providing easy pedestrian access to and through the Subject Property; because bicycle storage facilities are shown on the development plan (southwest corner of the Site) to encourage the use of bicycles; and because transit service is provided along this segment of Frankfort Avenue via TARC Routes 15 and 31; and

WHEREAS, The Planning Commission further finds that the proposal conforms to Flooding and Stormwater Guideline 10 and all applicable Policies adopted thereunder, including Policies 1, 2, 3, 4, 7, 10 and 11; because the development of the site will

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minimize the potential for the impacts of flooding and effectively manages stormwater runoff; because there is no impact to the regulatory floodplain because all structures will be located above the floodplain; because no buildings are proposed to be located within the 100-year FEMA regulatory floodplain; because the proposal has been approved by the Metropolitan Sewer District (MSD) which indicates, among other things, that the on-site and off-site and peak stormwater runoff rates post-development will not exceed pre-development rates; and

WHEREAS, The Planning Commission further finds that the proposal conforms to Air Quality Guideline 12 and all applicable Policies adopted thereunder, including Policies 1, 2, 6 and 8; because the Louisville Air Pollution Control District (APCD) has approved the proposal which indicates, among other things, that the proposal conforms to Air Quality Guideline 12 and related all Policies because no adverse air quality impacts will be generated by the proposal; and

WHEREAS, The Planning Commission further finds that the proposal conforms to Landscape Character Guideline 13 and all applicable Policies adopted thereunder, including Policies 1, 2, 4, 5 and 6 because landscaping – native plant species – will be provided in accordance with Chapter 10 wherever possible and because planting and buffering plans, wherever required, will be implemented except where one waiver has been granted; and

WHEREAS, The Planning Commission further finds that the proposal conforms to Infrastructure Guideline 14 and all applicable Policies adopted thereunder, including Policies 2, 3, 4, 6 and 14.7 because the proposal has adequate service for all necessary utilities and a common utility corridor exists in the development that includes gas, electric, water, telephone, cable and telecommunication; because an adequate water supply for domestic and fire-fighting purposes will serve the site and utilities will be located underground and will be situated where recommended by each utility for appropriate maintenance and repair access; and

WHEREAS, The Planning Commission further finds that the proposal conforms to Community Facilities Guideline 15 and all applicable Policies adopted thereunder, including Policy 15.9 because adequate fire-fighting services will be provided by the Louisville Fire Protection District No. 2; and

WHEREAS, The Planning Commission further finds that the proposal conforms to all other applicable Goals, Objectives, Guidelines and Policies of the Comprehensive Plan; and

WHEREAS, The Planning Commission further finds that all necessary utilities,

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including gas, electric, water, telephone, cable and telecommunications, are either presently exist on-site or will be constructed and essential public services, including sidewalks, presently exist to serve the site as shown on the development plan; and

WHEREAS, The Planning Commission further finds that implementation of proposed use is anticipated to begin upon final approval.

Waiver

WHEREAS, The waiver will not adversely affect adjacent property owners since the existing building conditions and location will be maintained with some buffering area being provided along the rear and front of the subject site; and

WHEREAS, Guideline 3, policy 9 of Cornerstone 2020 calls for the protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigate when appropriate. Guideline 3, policies 21 and 22 calls for appropriate transitions between uses that are substantially different in scale and intensity or density, and to mitigate the impact caused when incompatible developments occur adjacent to one another through the use of landscaped buffer yards, vegetative berms and setback requirements to address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances. Guideline 3, policy 24 states that parking, loading and delivery areas located adjacent to residential areas should be designed to minimize the impacts from noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered. Guideline 13, policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. 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 air borne and water borne pollutants. The waiver will not violate specific guidelines of Cornerstone 2020 since landscaping will be provided where it can be provided on the site beyond the existing amount; and

WHEREAS, the Louisville Metro Planning Commission finds, the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since the building and adjacent walkway with wall is existing with no ability to provide landscaping in the area; and

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WHEREAS, the Louisville Metro Planning Commission further finds the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant by requiring removal of portions of the existing historic structure.

Development Plan and Binding Elements

WHEREAS, There does not appear to be any environmental constraints on the subject site. Tree canopy requirements of the Land Development Code will be provided on the subject site. The historic resources in regards to the building will be preserved with the proposed use; and

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

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

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

WHEREAS, the Louisville Metro Planning Commission finds, the overall site design and land uses are compatible with the existing and future development of the area. Appropriate landscape buffering and screening will be provided to screen adjacent properties and roadways. Buildings and parking lots will meet all required setbacks; and

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

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND**, to Metro Council **APPROVAL** of Case No. 15ZONE1049, a change in zoning from R-5B to CR; **APPROVE** the waiver from chapter 10.2.4 of the Land Development Code to not provide the required 10 foot landscape buffer area along the eastern property perimeter; and **APPROVE** the Detailed District Development Plan including the binding elements as listed on pages 14 and 15 of the staff report based on the staff report, the applicant's finding of facts and the testimony heard today.

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The vote was as follows:

YES: Commissioners Blake, Jarboe, Kirchdorfer, Lewis, Tomes, Turner and White

NOT PRESENT AND NOT VOTING: Commissioners Brown and Peterson

Proposed 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. 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 Develop Louisville Construction Permit Review, Transportation Planning Review and the Metropolitan Sewer District.
 - b. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
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. 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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5. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.

The vote was as follows:

YES: Commissioners Blake, Jarboe, Kirchdorfer, Lewis, Tomes, Turner and White

NOT PRESENT AND NOT VOTING: Commissioners Brown and Peterson

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STANDING COMMITTEE REPORTS

Land Development and Transportation Committee
No report given.

Site Inspection Committee
No report given.

Planning Committee
No report given.

Development Review Committee
No report given.

Policy and Procedures Committee
No report given.

CHAIRPERSON/DIRECTOR'S REPORT

No report given.

ADJOURNMENT

The meeting adjourned at approximately 4:00 p.m.



Chair



Planning Director