

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO PLANNING COMMISSION
June 16, 2016**

A meeting of the Louisville Metro Planning Commission was held on Thursday, June 16, 2016 at 1:00 p.m. at the Old Jail Building, located at 514 West Liberty Street, Louisville, Kentucky.

Commission members present:

Vince Jarboe, Acting Chairman
Jeff Brown
Clifford Turner
Marilyn Lewis
Lula Howard
Emma Smith

Commission members absent:

Donnie Blake, Chairman
Robert Peterson
David Tomes
Robert Kirchdorfer

No one.

Staff Members present:

Emily Liu, Director, Planning and Design Services
Jon Baker, Legal Counsel
John G. Carroll, Legal Counsel (arrived @ 2:15 p.m.)
Brian Davis, Planning Manager
Julia Williams, Planner II
Laura Mattingly, Planner I
Chris Cestaro, Management Assistant (minutes)

The following matters were considered:

**Planning Commission Minutes
June 16, 2016**

Approval of Minutes

Minutes of the meeting of the June 2, 2016 Planning Commission public hearing.

00:03:39 On a motion by Commissioner Howard, seconded by Commissioner Turner, the following resolution was adopted:

RESOLVED, that the Planning Commission does hereby **APPROVE** the minutes of the June 2, 2016 Planning Commission public hearing.

The vote was as follows:

YES: Commissioners Lewis, Turner, Jarboe, Howard, Smith.

NO: No one.

NOT PRESENT: Commissioners Blake, Peterson, Tomes, and Kirchdorfer

ABSTAINING: Commissioner Brown.

**Planning Commission Minutes
June 16, 2016**

Consent Agenda

Case No. 16STREETS1007

Request: Street name change from Fern Grade Road to Worldport Way

Project Name: Fern Grade Road Name Change

Location: Fern Grade Road from Fern Valley Road to Grade Lane

Owner: BT Property, LLC

Applicant: Thomas Foote

Representatives: Thomas Foote

Jurisdiction: Louisville Metro

Council District: 13 – Vicki Aubrey Welch

Case Manager: Laura Mattingly, Planner I

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.)

An audio/visual recording of the Land Development and Transportation Committee meeting 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.

Agency Testimony:

00:04:36 Laura Mattingly gave a brief summary of the case and showed the site map (see staff report and recording for detailed presentation.) In response to a question from Commissioner Howard, Ms. Mattingly said that the adjoining property owners, who are also the applicants, have signed their notarized consents to the proposal.

Planning Commission Minutes
June 16, 2016

Consent Agenda

00:06:09 On a motion by Commissioner Howard, seconded by Commissioner Turner, the following resolution was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that, based on the evidence, testimony, and the staff report that all of the applicable Guidelines of Cornerstone 2020 and the Comprehensive Plan are being met; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the requested street name change for the portion of Fern Grade Road beginning at Fern Valley Road traveling northeast for approximately 300' and terminating at Grade Lane, be **APPROVED**.

The vote was as follows:

YES: Commissioners Lewis, Brown, Turner, Jarboe, Howard, Smith.

NO: No one.

NOT PRESENT: Commissioners Blake, Peterson, Tomes, and Kirchdorfer.

ABSTAINING: No one.

Planning Commission Minutes
June 16, 2016

Business Session

Case No. 16AMEND1006

Request: CONTINUE TO JULY 21, 2016 PLANNING COMMISSION HEARING Amend Chapter 5 of the Land Development Code Related to Infill in Suburban Form Districts

Project Name: Suburban Infill LDC Text Amendment

Location: Multiple properties in Louisville Metro

Owner: Multiple Owners

Applicant: Louisville Metro

Representative: Louisville Metro

Jurisdiction: Louisville Metro

Council District: 23 – James Peden

Case Manager: Brian Mabry, AICP, Planning Coordinator

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.)

An audio/visual recording of the Land Development and Transportation Committee meeting 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.

Agency Testimony:

00:07:01 Brian Mabry briefly presented the case and requested a Continuance to the July 21, 2016 Planning Commission public hearing.

The following spoke in favor of the proposal:

No one spoke.

The following spoke in opposition to the proposal:

No one spoke.

The following spoke neither for nor against the proposal (“Other”):

No one spoke.

**Planning Commission Minutes
June 16, 2016**

Business Session

Case No. 16AMEND1006

00:08:32 On a motion by Commissioner Howard, seconded by Commissioner Turner, the following resolution was adopted:

RESOLVED, the Louisville Metro Planning Commission does hereby **CONTINUE** this case to the **July 21, 2016** Planning Commission public hearing.

The vote was as follows:

YES: Commissioners Lewis, Brown, Turner, Jarboe, Howard, and Smith.

NO: No one.

NOT PRESENT: Commissioners Blake, Peterson, Tomes, and Kirchdorfer.

ABSTAINING: No one.

**Planning Commission Minutes
June 16, 2016**

Business Session

Case No. 15ZONE1024

Request: CONTINUE TO DATE UNCERTAIN Change in zoning from OR-3 to C-2 on 23.49 acres with Variances, Waivers, a Preliminary Subdivision Plan, General and Detailed Development Plans and modifications to binding elements.

Project Name: University of Louisville Shelbyhurst Research and Office Park

Location: 310 Whittington Parkway; TB 21 Lot 609

Owner: University of Louisville
Grawmeyer Hall
Louisville, KY 40292

Applicant: NTS Development Company
Matthew Ricketts, Representative
600 N. Hurstbourne Parkway Suite 300
Louisville, KY 40222

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

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

Jurisdiction: Louisville Metro

Council District: 18 – Marilyn Parker

Case Manager: Julia Williams, AICP, Planner II

An audio/visual recording of the Land Development and Transportation Committee meeting 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.

**Planning Commission Minutes
June 16, 2016**

Business Session

Case No. 15ZONE1024

Agency Testimony:

00:09:23 Julia Williams explained that the case will be re-noticed and signs re-posted.

The following spoke in favor of the proposal:

Glenn Price, Frost Brown Todd LLC, 400 West Market Street Suite 3200, Louisville, KY 40202 (signed in but did not speak)

The following spoke in opposition to the proposal:

No one spoke.

The following spoke neither for nor against the proposal:

No one spoke.

00:10:07 On a motion by Commissioner Brown, seconded by Commissioner Lewis, the following resolution was adopted:

RESOLVED, the Louisville Metro Planning Commission does hereby **CONTINUE** this case to a date uncertain.

The vote was as follows:

YES: Commissioners Lewis, Brown, Turner, Jarboe, Howard, and Smith.

NO: No one.

NOT PRESENT: Commissioners Blake, Peterson, Tomes, and Kirchdorfer.

ABSTAINING: No one.

**Planning Commission Minutes
June 16, 2016**

Business Session

BE Enforcement Authorization

Project Name: Binding Element Enforcement Authorization

Case Manager: Joseph Haberman, AICP, Planning Manager

An audio/visual recording of the Land Development and Transportation Committee meeting 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.

Agency Testimony:

00:10:47 Joseph Haberman explained that a new member of the Zoning Enforcement team, Jay Lockett, needed to be authorized by the Planning Commission to cite for binding element violations.

RESOLVED, the Louisville Metro Planning Commission does hereby approve the resolution.

The vote was as follows:

YES: Commissioners Lewis, Brown, Turner, Jarboe, Howard, and Smith. .

NO: No one.

NOT PRESENT: Commissioners Blake, Peterson, Tomes, and Kirchdorfer.

ABSTAINING: No one.

**Planning Commission Minutes
June 16, 2016**

Public Hearing

Case No. 16AMEND1010

Project Name: Anchorage R-2A Classification
Applicant: City of Anchorage
Jurisdiction: City of Anchorage
Case Manager: **Brian Davis, AICP, Planning Manager**

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.)

An audio/visual recording of the Land Development and Transportation Committee meeting 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.

Agency Testimony:

00:12:53 Brian Davis presented the case (see staff report and recording for detailed presentation.)

Those in favor of the proposal:

John McGarvey (sp), attorney for the City of Anchorage (no address)

Summary of Testimony of those in favor of the proposal:

00:15:26 In response to a question from Commissioner Howard, John McGarvey said he believed homes were already built on all of the subject lots in the development. He discussed some of the reasons for the proposed creation of the R-2A classification.

Those in opposition to the proposal:

No one spoke.

**Planning Commission Minutes
June 16, 2016**

Public Hearing

Case No. 16AMEND1010

Those neither for nor against the proposal:

No one spoke.

Deliberation:

00:17:31 Commissioners' deliberation.

00:18:22 On a motion by Commissioner Brown, seconded by Commissioner Lewis, the following resolution was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that Resolution Number 4, Series 2015, adopted by the City Council of the City of Anchorage November 9, 2015 requested the Planning Commission develop a new category for the zoning code of the City of Anchorage to be known as R-2A; and,

WHEREAS, the Commission further finds that, following further study by the City of Anchorage, and a hearing conducted within the City by the Planning Commission, it was determined that down-zoning those residential lots within Stonebridge from R-4 to R-2 would result in the creation of several nonconforming lots, and, on other lots, possibly create a hardship due to the inability, limited ability, of the property owner to expand their residence; and

WHEREAS, the Commission further finds that the proposed amendments to the Anchorage Development Code comply with Marketplace Strategy, Goal C1, Objective C1.1 of Cornerstone 2020, which recommends improving the efficiency and effectiveness of the development review, approval and permitting process. The amendments facilitate development review, and create development options for property owners, of a unique set of properties in Anchorage with its own zoning district; and

WHEREAS, the Louisville Metro Planning Commission finds that, based on the evidence, testimony, and the staff report that all of the applicable Guidelines of Cornerstone 2020 and the Comprehensive Plan are being met; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the City of Anchorage that the creation of a new Section 4.4A to the Development Code (Anchorage Edition) creating the R-2A Residential Single Family District be **APPROVED**.

**Planning Commission Minutes
June 16, 2016**

Public Hearing

Case No. 16AMEND1010

The vote was as follows:

YES: Commissioners Lewis, Brown, Turner, Jarboe, Howard, and Smith. .

NO: No one.

NOT PRESENT: Commissioners Blake, Peterson, Tomes, and Kirchdorfer.

ABSTAINING: No one.

**Planning Commission Minutes
June 16, 2016**

Public Hearing

Case No. 14AREA1002

Request: Areawide rezoning of several properties within the City of Anchorage

Project Name: Anchorage Areawide Rezoning

Location: Multiple Properties

Owner: City of Anchorage

Applicant: City of Anchorage

Representative: City of Anchorage

Jurisdiction: City of Anchorage

Council District: 17 – Glen Stuckel

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

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.)

An audio/visual recording of the Land Development and Transportation Committee meeting 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.

Agency Testimony:

00:19:09 Brian Davis presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.) He noted that there was one correction to the staff report: under “Request”, the staff report should read, “Areawide rezoning of multiple properties within the City of Anchorage including *two* properties from R-4 to R-1 and **46** properties from R-4 to R-2A.” This was corrected in the Case Summary in the staff report.

The following spoke in favor of the proposal:

John McGarvey (sp), attorney for the City of Anchorage (no address)

**Planning Commission Minutes
June 16, 2016**

Public Hearing

Case No. 14AREA1002

Summary of Testimony of those in favor of the proposal:

00:23:03 John McGarvey (sp) said that the City of Anchorage has worked closely with the homeowners' association of the Stonebridge subdivision. He said the residents affected are in favor of the proposal.

The following spoke in opposition to the proposal:

No one spoke.

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

No one spoke.

00:23:53 Commissioners' deliberation.

Areawide Rezoning

00:24:11 On a motion by Commissioner Smith, seconded by Commissioner Howard, the following resolution was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the proposed City of Anchorage area wide rezoning complies with the Cornerstone 2020 Comprehensive Plan and with all of the applicable Guidelines and Policies it contains; and

WHEREAS, the Commission further finds that the proposed rezoning complies with Guideline 1.B.3 of the Cornerstone 2020 Comprehensive Plan. The subject properties are located in areas which are characterized by predominately residential uses; and

WHEREAS, the Commission further finds that the City of Anchorage does not recognize the R-4 zoning district, therefore, the properties involved currently do not have a legally recognized zoning classification; and

WHEREAS, the Commission further finds that the R-1 zoning designation for the property identified as 915 Old Harrods Creek Road is appropriate because the R-1 zoning designation is best suited for the property, its use and the surrounding area; and

Planning Commission Minutes
June 16, 2016

Public Hearing

Case No. 14AREA1002

WHEREAS, the Commission further finds that the R-1 zoning designation for the property identified as 805 Surrey Lane is appropriate because the surrounding properties are also zoned R-1; and

WHEREAS, the Commission further finds that the R-2A zoning designation is appropriate for the other properties identified as part of this areawide rezoning application due to the special circumstances surrounding the development of the Stone Bridge Subdivision; and

WHEREAS, the Louisville Metro Planning Commission finds that, based on the evidence, testimony, and the staff report that all of the applicable Guidelines of Cornerstone 2020 and the Comprehensive Plan are being met; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the City of Anchorage that the Areawide rezoning of multiple properties within the City of Anchorage including two properties from R-4 to R-1 and 46 properties from R-4 to R-2A on properties described in the attached legal description be **APPROVED**.

The vote was as follows:

YES: Commissioners Lewis, Brown, Turner, Jarboe, Howard, and Smith. .

NO: No one.

NOT PRESENT: Commissioners Blake, Peterson, Tomes, and Kirchdorfer.

ABSTAINING: No one.

**Planning Commission Minutes
June 16, 2016**

Public Hearing

Case No. 15ZONE1025

Request: Change in zoning from R-7 to C-N on 0.11 acre with Waivers

Project Name: Best Choice Office Residential

Location: 3151 West Broadway

Owner/Applicant: Best Choice LLC
Katrena Scott, Representative
1839 Cypress Street
Louisville, KY 40210

Representative: Best Choice LLC
Katrena Scott, Representative
1839 Cypress Street
Louisville, KY 40210

Jurisdiction: Louisville Metro

Council District: 5 – Cheri Bryant Hamilton

Case Manager: Brian Davis, AICP, Planning Manager

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.)

An audio/visual recording of the Land Development and Transportation Committee meeting 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.

Agency Testimony:

00:26:01 Brian Davis presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.)

**Planning Commission Minutes
June 16, 2016**

Public Hearing

Case No. 15ZONE1025

00:31:23 Commissioner Howard asked about a sign pole that was shown on the development plan – will there be signage there? Mr. Davis said the applicant did want to have some signage, and discussed what could be permitted in the proposed zoning category.

00:34:10 In response to a question from Commissioner Brown, Mr. Davis discussed access to the parking area.

The following spoke in favor of the proposal:

Katrena Scott, 1839 Cypress Street, Louisville, KY 40210

Summary of testimony of those in favor of the proposal:

00:35:10 Katrena Scott, the applicant, discussed temporary activities that she was interested in having on the site. She said she was going to apply for a temporary activities permit.

The following spoke in opposition to the proposal:

No one spoke.

The following spoke neither for nor against the proposal (“Other”):

No one spoke.

Deliberation:

00:38:02 Commissioners’ deliberation.

00:41:02 Mr. Davis read a revised binding element #6 into the record, as follows:

“There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system permitted on the site, unless a Temporary Activity Permit has been requested and approved by the appropriate Louisville Metro agency.”

Zoning

On a motion by Commissioner Brown, seconded by Commissioner Turner, the following resolution was adopted:

**Planning Commission Minutes
June 16, 2016**

Public Hearing

Case No. 15ZONE1025

WHEREAS, the Louisville Metro Planning Commission finds that, based on the evidence, testimony, and the staff report that all of the applicable Guidelines of Cornerstone 2020 and the Comprehensive Plan are being met; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the change in zoning from R-7 to C-N on property described in the attached legal description, be **APPROVED**.

The vote was as follows:

YES: Commissioners Lewis, Brown, Turner, Jarboe, Howard, and Smith. .

NO: No one.

NOT PRESENT: Commissioners Blake, Peterson, Tomes, and Kirchdorfer.

ABSTAINING: No one.

Waiver of Section 10.2.4 for Property Perimeter Landscape Buffer Area; Detailed District Development Plan, and Binding Elements (includes revised binding element #6)

00:43:01 On a motion by Commissioner Brown, seconded by Commissioner Howard, the following resolution was adopted:

(Waiver) **WHEREAS**, the Louisville Metro Planning Commission finds that the waiver will not adversely affect adjacent property owners. The applicant states in their justification there is currently less than two feet between the adjoining property to the east. The applicant is not proposing changes to the structure, so the building will remain residential in character and the proposed use will have little to no effect on the adjoining property owners; and

WHEREAS, the Commission further finds that, because of the residential character of the structure and lot, and because the applicant is not altering the site, the waiver will not violate any guidelines of Cornerstone 2020; and

WHEREAS, the Commission further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant. Not granting the waiver would require the applicant to demolish the existing structure. The applicant wishes to keep the structure because it is in good condition and is a contributing structure to the historic district; and

**Planning Commission Minutes
June 16, 2016**

Public Hearing

Case No. 15ZONE1025

WHEREAS, the Commission further finds that the applicant stated at LD&T that she intends to construct a privacy fence along the east and north property lines. This will provide some of the buffering normally required by the required landscape buffer; and

(Development Plan) WHEREAS, the Commission further finds that the property is located within the Marlowe Place Bungalow Historic District and the existing house is a contributing structure. The applicant is not proposing any changes to this structure. Tree canopy requirements of the Land Development Code will be provided on the subject site; and

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

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

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

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

WHEREAS, the Commission further finds that, based on the evidence and testimony presented, the applicant's justification, and the staff report that, with the exception of the Landscape Waiver, all of the applicable Guidelines of Cornerstone 2020 and the Comprehensive Plan are being met; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Waiver of Section 10.2.4 for Property Perimeter Landscape Buffer Area and the Detailed District Development Plan, **SUBJECT** to the following binding elements:

Binding Elements

Planning Commission Minutes
June 16, 2016

Public Hearing

Case No. 15ZONE1025

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 1,296 square feet of gross floor area.
3. No outdoor advertising signs, pennants, balloons, or banners shall be permitted on the site.
4. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
5. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested:
 - a. The development plan must receive full construction approval from Develop Louisville, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - c. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
6. ~~There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system permitted on the site.~~ There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system permitted on the site, unless a Temporary Activity Permit has been requested and approved by the appropriate Louisville Metro agency." *(Revised at June 16, 2016 Planning Commission hearing.)*
7. There shall be no direct access to the site from West Broadway.

**Planning Commission Minutes
June 16, 2016**

Public Hearing

Case No. 15ZONE1025

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

9. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the June 16, 2016 Planning Commission meeting.

The vote was as follows:

YES: Commissioners Lewis, Brown, Turner, Jarboe, Howard, and Smith. .

NO: No one.

NOT PRESENT: Commissioners Blake, Peterson, Tomes, and Kirchdorfer.

ABSTAINING: No one.

**Planning Commission Minutes
June 16, 2016**

Public Hearing

Case No. 16ZONE1017

Request: Change in zoning from R-7 to C-M on 2.5 acres, Detailed District Development Plan; Sign Variance, and Landscape Buffer Waiver

Project Name: 1403 Browns Lane

Location: 1403 Browns Lane

Owner: Fruitful Ministries LLC
Don Blevins, President
1403 Browns Lane
Louisville, KY 40207

Applicant: Citadel Storage Partners
Dan Kunau, Representative
333 East Main Street Suite 400
Louisville, KY 40202

Representative: Cliff Ashburner
Dinsmore & Shohl, LLP
101 South Fifth Street
Louisville, KY 40202

Kevin Young/Ann Richard
Land Design & Development, Inc.
503 Washburn Avenue
Louisville, KY 40222

Jurisdiction: St. Matthews

Council District: 26 – Brent Ackerson

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

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.)

**Planning Commission Minutes
June 16, 2016**

Public Hearing

Case No. 16ZONE1017

An audio/visual recording of the Land Development and Transportation Committee meeting 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.

Agency Testimony:

00:44:04 Brian Davis presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.)

00:50:12 Mr. Davis discussed a question from Commissioner Howard regarding three Guidelines in the staff report (Pages 8 and 9) which staff stated did not meet requirements.

The following spoke in favor of the proposal:

Cliff Ashburner, Dinsmore & Shohl, LLP, 101 South Fifth Street, Louisville, KY 40202

Kevin Young/Ann Richard, Land Design & Development, Inc., 503 Washburn Avenue, Louisville, KY 40222

Summary of testimony of those in favor of the proposal:

00:53:30 Before the applicant's representative began his presentation, Mr. Davis said the applicant had submitted findings of fact/justification statement and he passed that out to the Commissioners.

00:53:39 Cliff Ashburner, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.)

00:01:13 Mr. Ashburner noted that the applicant has talked to the City of St. Matthews about providing landscaping material (trees and shrubs) that could not be used on the site to other areas within the City where it might be needed (like a fee-in-lieu).

01:02:56 In response to a question from Commissioner Turner, Mr. Ashburner discussed the accesses.

**Planning Commission Minutes
June 16, 2016**

Public Hearing

Case No. 16ZONE1017

01:05:26 Commissioner Brown discussed sidewalks and recommended making a pedestrian connection. He and Mr. Ashburner discussed specific area/s.

01:09:30 Ann Richard asked if this was something that could be worked out with the Metro Public Works engineer when the applicant arrived at the construction plan phase. She said the applicant is willing to provide the connection, but would need to work out the exact location with government agencies.

The following spoke in opposition to the proposal:

No one spoke.

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

No one spoke.

Rebuttal:

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

Deliberation:

01:10:12 Commissioners' deliberation.

Zoning

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

WHEREAS, the Louisville Metro Planning Commission finds that the applicant, Citadel Storage Partners, LLC ("Citadel") proposed to rezone the property at 1403 Browns Lane to allow for the construction of a 174,997 square foot three story self-storage facility from R-7 to C-M. The subject property contains 2.5 acres and improvements currently housing the Fruitful Ministries Church and day care facility. The proposal includes the removal of the existing buildings and the construction of the proposed new building, parking and detention/water quality features. The subject property is surrounded by the Browns Lane Right of Way (a limited access road in this section), The Brook treatment facility and an extended stay hotel called Crossland Economy Studios. The subject property is located in the Regional Center Form District; and

Planning Commission Minutes
June 16, 2016

Public Hearing

Case No. 16ZONE1017

WHEREAS, the Commission further finds that the proposal meets the intent of **Guideline 1-Community Form** as the subject property is located in the Regional Form, a form district that contains a mixture of high intensity uses, where redevelopment is encouraged and because the proposed development includes covered parking/loading areas, as encouraged by this Guideline; and

WHEREAS, the Commission further finds that the proposal meets the intent of **Guideline 2-Centers** as the subject property is located in an existing Regional Center with shared access to Browns Lane and because the proposed redevelopment will allow for a compact storage solution for many of the residents and businesses in the vicinity of the subject property; and

WHEREAS, the Commission further finds that the proposal meets the intent of **Guideline 3-Compatibility** as the proposed building will be three stories in height and will be constructed of masonry materials and glass, with a facade that appears more office than storage building; because the loading area will be contained in a covered area, mitigating noise issues and potential lighting issues; because the subject property is located in an intensely developed area of St. Matthews, near several hospital buildings/offices, retail outlets and apartments, meaning that it will have little impact on the traffic situation in this area of the community and because the proposed sign on the proposed building is similar to other attached signage in the area; and

WHEREAS, the Commission further finds that the proposal meets the intent of **Guideline 4-Open Space** as the proposal is to redevelop a site that is already largely paved and does not contain any significant natural features because the redevelopment will improve drainage on the subject property, where it appears water stands in the existing parking area and because the redevelopment will, through its compact design, provide more storage on less land than a traditional self-storage facility; and

WHEREAS, the Commission further finds that the proposal meets the intent of **Guideline 5-Natural Areas and Scenic and Historic Resources** as the proposed redevelopment is of a site that has no known historic or natural resources; and

WHEREAS, the Commission further finds that the proposal meets the intent of **Guideline 7-Circulation and Guideline 9-Bicycle, Pedestrian and Transit** as the proposal is to redevelop the subject property, which contains a school that generates some peak hour traffic and uses an existing shared access drive; because the nearest TARC stop to the subject property is 1,000 feet away as the

Planning Commission Minutes
June 16, 2016

Public Hearing

Case No. 16ZONE1017

crow flies, according to TARC; because it is highly unlikely that customers will deposit or retrieve stored goods on foot, by bicycle or on a bus; and because the proposed redevelopment is providing adequate parking for employees and customers; and

WHEREAS, the Commission further finds that the proposal meets the intent of **Guideline 10-Flooding and Stormwater and Guideline 11-Water Quality** as the subject property is not located in a floodplain but is located in a flat area that will need to be slightly engineered to make sure that surface water leaves the property and makes it into the nearby drainage system; because there are no streams on or near the subject property; and because the applicant will provide water quality and erosion control measures to comply with the most up to date MSD requirements applicable to the subject property; and

WHEREAS, the Commission further finds that the proposal meets the intent of **Guideline 12-Air Quality** as the proposed use is compact and will provide more useable square feet of storage on this previously developed site than a similar single-story self-storage facility; because the compact nature of the development will result in less tree canopy being disturbed than another style of storage facility; and because the location of the proposed use so close to its potential business and individual customers, its location should also work to reduce the proposal's impact on air quality; and

WHEREAS, the Commission further finds that the proposal meets the intent of **Guideline 13-Landscape Character** as, although the proposed redevelopment will add to the amount of impervious area on the subject property and will remove some low brush and a few trees, the applicant will provide landscape buffering and plant or donate trees to be planted off-site; and

WHEREAS, the Commission further finds that, based on the evidence and testimony presented, the applicant's justification, and the staff report that all of the applicable Guidelines of Cornerstone 2020 and the Comprehensive Plan are being met, noting that Items #16 and #49 in the Comprehensive Plan checklist in the staff report have been addressed with the addition of the sidewalk connection between the access road and the public right of way; and Item #B6 (see recording for detailed motion justification); now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the City of St. Matthews that the requested change in zoning from R-7 Residential Multi-Family District to C-M Commercial Manufacturing for 2.5 acres on property described in the attached legal description, be **APPROVED**.

Planning Commission Minutes
June 16, 2016

Public Hearing

Case No. 16ZONE1017

The vote was as follows:

YES: Commissioners Lewis, Brown, Turner, Jarboe, Howard, and Smith. .

NO: No one.

NOT PRESENT: Commissioners Blake, Peterson, Tomes, and Kirchdorfer.

ABSTAINING: No one.

- **Detailed District Development Plan**
- **Variance from Article 11.D.2.c of the Development Code (St. Matthews) to permit an attached sign to exceed the maximum allowable height**
- **Waiver from Article 12.D of the Development Code (St. Matthews) to waive the 10-foot and 15-foot landscape buffer area around the perimeter**

01:21:27 On a motion by Commissioner Brown, seconded by Commissioner Howard, the following resolution was adopted:

(Waiver) WHEREAS, the Louisville Metro Planning Commission finds that the applicant, Citadel Storage Partners, LLC, proposed to construct a multi-story self-storage facility on Browns Lane in St. Matthews. The subject property is surrounded by an extended stay hotel to the north, Browns Lane and Norton Hospital to the west and the Brook treatment facility to the south and east. The proposed design includes 15' yard areas on all sides of the building in which plantings are required under the Development Code. However, in consultation with the St. Matthews Fire Dept., the applicant has determined that "grassy pavers" should be installed in these areas. The pavers will allow the areas to remain open and kept in grass but will also allow emergency access to all sides of the proposed building; and

WHEREAS, the Commission further finds that the proposed waiver will not adversely affect adjacent property owners because the applicant will provide the required landscape buffer width, but instead of providing trees and shrubs within the landscape buffer area, will install "grassy pavers," allowing for the area to be vegetated with grass; because the property to the east is largely wooded and the area directly to the south is currently used as a shared driveway that will be removed; and because the portion of the property directly adjacent to the property to the North is currently used as a driveway and will be open grassy area; and

Planning Commission Minutes
June 16, 2016

Public Hearing

Case No. 16ZONE1017

WHEREAS, the Commission further finds that the waiver will not violate the Comprehensive Plan for all of the reasons stated in the applicant's justification statement with regard to the proposed re-zoning of the site and because the particular design alternative proposed was negotiated with the City of St. Matthews Fire Department in order to provide adequate fire protection around the proposed structure; because the applicant will donate landscape material in the same amount as the landscape material required to be located within the landscape buffer area to the Brook or the City of St. Matthews for placement in its parks and rights-of-way; and

WHEREAS, the Commission further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant because the applicant would not be required to provide access ways around the proposed building, which will be sprinklered, if it were not for the specific request of the St. Matthews Fire Department and because the design alternative proposed allows for a vegetated look and Fire Department access to the building in case of emergency; and

WHEREAS, the Commission further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of land because the applicant will not be able to complete the project as proposed without the requested relief and because allowing for the fire access road to be maintained in grass and allowing the applicant to donate landscaping material to be placed in the nearby community is a reasonable compromise in this situation; and

(Variance) WHEREAS, the Commission further finds that the applicant, Citadel Storage Partners, LLC, proposes to construct a multi-story self-storage facility on Browns Lane in St. Matthews. The subject property is surrounded by an extended stay hotel to the north, Browns Lane and Norton Hospital to the west and the Brook treatment facility to the south and east. The proposed design includes the "Citadel Storage" sign positioned at a height of approximately forty feet and within the building's overhang. The subject property sits below both the Browns Lane R.O.W. and the Watterson Expressway R.O.W; and

WHEREAS, the Commission further finds that the City of St. Matthews Ordinance 14-04 provides that an attached sign shall not "extend to a height greater than twenty-five (25) feet above ground, except that buildings located in the C-3 District and hospitals may have an attached sign of any height." City of St. Matthews Ordinance 14-04, D.2.c. The applicant requested a variance from this ordinance in order to position its sign at a height of approximately forty feet within the building's overhang; and

Planning Commission Minutes
June 16, 2016

Public Hearing

Case No. 16ZONE1017

WHEREAS, the Commission further finds that the variance will not adversely affect the public health, safety or welfare as the construction of a sign higher than that currently provided for by the regulations, but within the building's overhang, will not impact the health, safety or welfare of the neighboring properties, or the general public; and

WHEREAS, the Commission further finds that the variance will not alter the essential character of the general vicinity because the subject property is surrounded by an extended stay hotel to the north, Browns Lane and Norton Hospital to the west and the Brook treatment facility to the south and east and because the proposed sign is consistent with the commercial nature of the surrounding area and will allow the signs to be seen from both Browns Lane and the Watterson Expressway; and

WHEREAS, the Commission further finds that the variance will not cause a hazard or a nuisance to the public as this variance requests regards permission to construct a sign only slightly higher than that currently provided for by the regulations; it is not a request that threatens the health, safety or welfare of the neighboring properties, or the general public; and

WHEREAS, the Commission further finds that the variance will not allow an unreasonable circumvention of the requirements of the zoning regulations as the height requested is approximately fifteen feet higher than provided for by the regulations and is necessary because of the elevation of the surrounding R.O.W. and the distance of the proposed building from the roads; and

WHEREAS, the Commission further finds that the subject property is below the elevation of both roads the signage will face, a sign placed at a lower height would minimize visibility and be aesthetically awkward, as a lower sign would alter the symmetry of the structure's design; and

WHEREAS, the Commission further finds that the applicant has yet to construct this structure but the circumstances are the result of the application of the height requirement to a property with the particular grade differences present in this case, and the applicant sought relief from the regulation prior to commencing construction and positioning the sign; and

(DDDP) WHEREAS, the Commission further finds that there are no natural resources on the site; and

**Planning Commission Minutes
June 16, 2016**

Public Hearing

Case No. 16ZONE1017

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

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

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

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

WHEREAS, the Commission further finds that, based on the evidence and testimony presented, the applicant's justification, and the staff report that, with the exception of the waiver, the development plan conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Development Code (St. Matthews); now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the City of St. Matthews that the requested Detailed District Development Plan; the Variance from Article 11.D.2.c of the Development Code (St. Matthews) to permit an attached sign to exceed the maximum allowable height; and the Waiver from Article 12.D of the Development Code (St. Matthews) to waive the 10-foot and 15-foot landscape buffer area around the perimeter; with the addition of a sidewalk to serve the subject property and connect to the existing sidewalk to the south, as well as a connection to Browns Lane, with that exact location to be determined at the construction approval phase for the site; be **APPROVED**, and **SUBJECT** to the following binding elements:

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

Planning Commission Minutes
June 16, 2016

Public Hearing

Case No. 16ZONE1017

2. The development shall not exceed 174,997 square feet of gross floor area.
3. No outdoor advertising signs, pennants, balloons, or banners shall be permitted on the site.
4. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
5. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested:
 - a. The development plan must receive full construction approval from Develop Louisville, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Article 12 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - c. A reciprocal access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be created between the adjoining property owners and recorded. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
6. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system permitted on the site.
7. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties

**Planning Commission Minutes
June 16, 2016**

Public Hearing

Case No. 16ZONE1017

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 June 16, 2016 Planning Commission meeting.
9. The subject property shall only be used for those uses allowed in the C-M zoning district that are otherwise allowed in the C-2 zoning district and for "Warehouse, storage" but for no other use permitted in the M-1 zoning district. Any amendment to this binding element shall require approval from the Louisville Metro Planning Commission and from the City Council of the City of St. Matthews.

The vote was as follows:

YES: Commissioners Lewis, Brown, Turner, Jarboe, Howard, and Smith. .

NO: No one.

NOT PRESENT: Commissioners Blake, Peterson, Tomes, and Kirchdorfer.

ABSTAINING: No one.

**Planning Commission Minutes
June 16, 2016**

Public Hearing

Case No. 16ZONE1012

Request: Change in zoning from R-6 to OR-3 on 3.79 acres with Variances, Waivers, and a District Development Plan with Binding Elements

Project Name: Glenview Trust Office Building

Location: 6700 Overlook Drive

Owner: Fred M. Ferriell
5365 Ouachita Drive
Lake Worth, FL 33467

Applicant: Glenview Trust Company
Scott Neff, Representative
4969 U.S. Highway 42 Suite 2000
Louisville, KY 40222

Representative: Kyle P. Galloway
Duncan, Galloway, Egan & Greenwald
9750 Ormsby Station Road Suite 210
Louisville, KY 40223

Kevin Young/Ann Richard
Land Design & Development, Inc.
503 Washburn Avenue Suite 101
Louisville, KY 40222

Jurisdiction: Louisville Metro

Council District: 16 – Kelly Downard

Case Manager: Julia Williams, RLA, AICP, Planner II

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.)

**Planning Commission Minutes
June 16, 2016**

Public Hearing

Case No. 16ZONE1012

An audio/visual recording of the Land Development and Transportation Committee meeting 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.

Agency Testimony:

01:23:10 Julia Williams presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.)

The following spoke in favor of the proposal:

Kyle P. Galloway, Duncan, Galloway, Egan & Greenwald, 9750 Ormsby Station Road Suite 210, Louisville, KY 40223

Kevin Young, Land Design & Development, Inc., 503 Washburn Avenue Suite 101, Louisville, KY 40222

Tawana Edwards, 4969 U.S. Highway 42, Louisville, KY 40222

Summary of testimony of those in favor of the proposal:

01:29:09 Kyle Galloway presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.)

01:29:51 Kevin Young reviewed some of the technical aspects of the site plan.

01:34:24 Mr. Galloway continued with his presentation and discussed the applicant's justification/s.

The following spoke in opposition to the proposal:

No one spoke.

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

No one spoke.

Deliberation:

01:39:35 Commissioners' deliberation.

Planning Commission Minutes
June 16, 2016

Public Hearing

Case No. 16ZONE1012

Zoning

00:41:00 On a motion by Commissioner Brown, seconded by Commissioner Lewis, the following resolution was adopted:

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

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

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

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

Planning Commission Minutes
June 16, 2016

Public Hearing

Case No. 16ZONE1012

WHEREAS, the Commission further finds that the proposal is within a mixed density corridor that has been created along US 42. The proposal is surrounded by mixed density residential. The proposal is for high intensity office zoning but is located along a major arterial and primary collector. It will have little impact on adjacent residential uses. The proposal will not create a new center but will be for new construction. OR-3 permits other high density residential and office uses. The proposal is compact and located in the vicinity to other similar and more intense uses making the proposal a cost effective investment. The proposal is part of a high density corridor that has been established along US 42. The zoning is complementary to other zoning in the area, which encourages a sense of place. The proposal is for the construction of office uses but also permits residential. The proposal is for a multi-story office; and

WHEREAS, the Commission further finds that, based on the evidence and testimony presented and the staff report that all of the applicable Guidelines of Cornerstone 2020 and the Comprehensive Plan are being met; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the requested change in zoning from R-6 to OR-3 on property described in the attached legal description, be **APPROVED**.

The vote was as follows:

YES: Commissioners Lewis, Brown, Turner, Jarboe, Howard, Smith.

NO: No one.

NOT PRESENT: Commissioners Blake, Kirchdorfer, Tomes, and Peterson.

ABSTAINING: No one.

- **VariANCES:**
 - **Variance #1 from Table 5.3.2 to exceed the maximum 80' setback along all roadways.**
 - **Variance #2 from Table 5.3.2 to exceed the maximum 30' building height by 15'.**
- **Waiver from Chapter 5.9.2 to not provide a pedestrian connection from Overlook Drive to the building entrance.**
- **District Development plan – NOTE: The applicant will work with the Kentucky Transportation Cabinet on the pedestrian connection on the subject site for a ADA-compliant path that crosses US 42.**

01:42:09 On a motion by Commissioner Brown, seconded by Commissioner

Planning Commission Minutes
June 16, 2016

Public Hearing

Case No. 16ZONE1012

Turner, the following resolution was adopted:

(Variance #1) **WHEREAS**, the Louisville Metro Planning Commission finds that the requested variance will not adversely affect the public health, safety or welfare since the building will be buffered where it is adjacent to residential; and

WHEREAS, the Commission further finds that the requested variance will not alter the essential character of the general vicinity since the proposal is along 3 roadways with one of those roadways being a parkway. There are also steep slopes and a floodplain affecting the setbacks along two roadways; and

WHEREAS, the Commission further finds that the requested variance will not cause a hazard or nuisance to the public since the building will be buffered where it is adjacent to residential; and

WHEREAS, the Commission further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations since there are some environmental constraints that prevent the setbacks being provided along all 3 roadways; and

WHEREAS, the Commission further finds that the requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone. There are some environmental constraints that prevent the setbacks being provided along all 3 roadways. The 3 frontages are a special circumstance; and

WHEREAS, the Commission further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant. There are some environmental constraints that prevent the setbacks being provided along all 3 roadways. Disruption to those constraints would be a hardship and would cause the applicant to have to build a bigger building than necessary; and

WHEREAS, the Commission further finds that the circumstances are the result of action of the applicant taken subsequent to the adoption of the zoning regulations from which relief is sought; and

(Variance #2) **WHEREAS**, the Commission further finds that the requested variance will not adversely affect public health safety or welfare since the tallest portion of the building is located to away from the closest residential development; and

WHEREAS, the Commission further finds that the requested variance will not alter the essential character of the general vicinity since there are other taller

Planning Commission Minutes
June 16, 2016

Public Hearing

Case No. 16ZONE1012

structures located in the vicinity; and

WHEREAS, the Commission further finds that the requested variance will not cause a hazard or nuisance to the public since the tallest portion of the building is located away from the closest residential development; and

WHEREAS, the Commission further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations since the tallest portion of the building is located away from the closest residential development and there are other taller structures located in the vicinity; and

WHEREAS, the Commission further finds that the requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone since the tallest portion of the building is located away from the closest residential development; and

WHEREAS, the Commission further finds that the strict application of the provisions of the regulation would deprive the applicant of reasonable use of the land since there are other taller structures located in the vicinity; and

WHEREAS, the Commission further finds that the circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought; and

(Waiver) **WHEREAS**, the Commission further finds that the waiver will not adversely affect adjacent property owners since pedestrian connections have been provided from the nearest major intersection at Brownsboro and Seminary Drive. Sidewalks are provided along all roadways; and

WHEREAS, the Commission further finds that the waiver will not violate specific guidelines of Cornerstone 2020. Guideline 9, Policy 1 states that new development should provide, where appropriate, for the movement of pedestrians, bicyclists and transit users with walkways for access to public transportation stops. Pedestrians are provided for around the site and from the major intersection. The topography of the site would not make the pedestrian connections cost effective; and

WHEREAS, the Commission further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since the topography of the site would not make the pedestrian connections cost effective; and

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

Planning Commission Minutes
June 16, 2016

Public Hearing

Case No. 16ZONE1012

the land or would create an unnecessary hardship on the applicant since the topography of the site would not make the pedestrian connections cost effective; and

(District Development Plan) **WHEREAS**, the Commission further finds that the conservation of natural resources on the property proposed for development, including: trees and other living vegetation, steep slopes, water courses, flood plains, soils, air quality, scenic views, and historic sites, is being met. Tree canopy requirements of the Land Development Code will be provided on the subject site. The intermittent stream, steep slopes, and 100 year flood plain will be mainly left undisturbed; and

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

WHEREAS, the Commission further finds that there are no open space requirements with the current proposal. Open space is provided in the floodplain area and steep slopes on the site; and

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

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

WHEREAS, the Commission further finds that, based on the evidence and testimony presented and the staff report that all of the applicable Guidelines of Cornerstone 2020 and the Comprehensive Plan are being met; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Variance from Table 5.3.2 to exceed the maximum 80' setback along all roadways; the requested Variance from Table 5.3.2 to exceed the

Planning Commission Minutes
June 16, 2016

Public Hearing

Case No. 16ZONE1012

maximum 30' building height by 15'; the requested Waiver from Chapter 5.9.2 to not provide a pedestrian connection from Overlook Drive to the building entrance; and the District Development plan, **SUBJECT** to the following binding elements:

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. The development shall not exceed 40,000 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) is requested:
 - a. The development plan must receive full construction approval from Develop Louisville, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
 - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - d. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
6. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.

**Planning Commission Minutes
June 16, 2016**

Public Hearing

Case No. 16ZONE1012

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 enter into a reciprocal cross-over access easement with the property located along the northern boundary of the subject property, but only in the event such adjoining property owner redevelops its property for non-residential use and, in conjunction with such re-development, is required by the Planning Commission to enter into a reciprocal cross-over access easement with the property owner. A copy of the signed easement agreement shall be provided to Planning Commission staff upon request.
9. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the June 16, 2016 Planning Commission meeting.

The vote was as follows:

YES: Commissioners Lewis, Brown, Turner, Jarboe, Howard, Smith.

NO: No one.

NOT PRESENT: Commissioners Blake, Kirchdorfer, Tomes, and Peterson.

ABSTAINING: No one.

**Planning Commission Minutes
June 16, 2016**

Public Hearing

Case No. 16ZONE1005

Request: Change in zoning from R-4 to C-N on approximately 1.65 acres with a Variance and Waivers.

Project Name: Dollar General

Location: 9267 Smyrna Parkway

Owner: Robert Penrod
41 Lakeview Drive
Scottsville, KY 42164

Applicant: Zarembo Group LLC
Aaron J. Brooker, Representative
14600 Detroit Avenue Suite 1500
Lakewood, OH 44107

Representative: Glenn A. Price Jr.
Frost Brown Todd
400 W. Market Street 32nd Floor
Louisville, KY 40202

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

Jurisdiction: Louisville Metro

Council District: 23 – James Peden

Case Manager: Julia Williams, RLA, AICP, Planner II

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.)

**Planning Commission Minutes
June 16, 2016**

Public Hearing

Case No. 16ZONE1005

An audio/visual recording of the Land Development and Transportation Committee meeting 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.

Agency Testimony:

01:43:29 Julia Williams presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.)

The following spoke in favor of the proposal:

Erik Lattig, Frost Brown Todd, 400 W. Market Street 32nd Floor, Louisville, KY 40202

Christopher Brown, BTM Engineering, Inc., 3001 Taylor Springs Drive, Louisville, KY 40220

Aaron Brooker, Zaremba Group LLC, 14600 Detroit Avenue Suite 1500, Lakewood, OH 44107

Summary of testimony of those in favor of the proposal:

01:50:17 Erik Lattig, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.)

The following spoke in opposition to the proposal:

No one spoke.

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

No one spoke.

Rebuttal:

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

Deliberation:

01:58:38 Commissioners' deliberation.

**Planning Commission Minutes
June 16, 2016**

Public Hearing

Case No. 16ZONE1005

Zoning

02:00:47 On a motion by Commissioner Brown, seconded by Commissioner Lewis, the following resolution was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the proposal conforms to the Highview Neighborhood Plan. Under Form District Policy A.2.(e) of the Plan Elements of the Cornerstone 2020 Comprehensive Plan (the "Comprehensive Plan"), plans, studies and strategies legislatively developed subsequent to the adoption of the Comprehensive Plan, such as the Highview Neighborhood Plan adopted in June 2015, are intended to take precedence over the more general guidelines of Cornerstone 2020. The Highview Neighborhood Plan makes land use recommendations that encourage commercial development to occur in dedicated neighborhood activity centers. Land Use Recommendation #2 of the Highview Neighborhood Plan indicates that neighborhood activity centers/nodes shown in Figure 2.4 are the preferred location for future medium to high density development, and provides that such centers/nodes should be centered around a defined intersection and be walkable in size, defined as being no more than ¼ mile from edge to edge. In addition, Land Use Recommendation #6 of the Highview Neighborhood Plan recommends that commercial development should be limited within neighborhood activity centers shown in Figure 3.7. The Proposal complies with the Highview Neighborhood Plan as the Subject Property is within the neighborhood activity center located in and around the intersection of Smyrna Parkway and Cooper Chapel Road as shown in Figure 2.4 and Figure 3.7 of the Highview Neighborhood Plan and such center is walkable in size in that the distance between the Smyrna/Cooper Chapel intersection and the northern entrance of L&N Credit Union development is less than ¼ mile from edge to edge; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Community Form Guideline 1**. The Proposal conforms to Community Form Guideline 1 and all applicable Policies adopted thereunder, including Policy 1.8.3. The site is located within the Neighborhood Form District, and is consistent with the Neighborhood Form District because the grocery and sundries store will provide a necessary service near existing residential areas in the Smyrna Parkway-Cooper Chapel Road area. The size and scale of the proposal is also consistent with this Form District, which is located at the intersection of a primary collector (Smyrna Parkway) and an Expressway (Gene Snyder Freeway) and is consistent with the Highview Neighborhood Plan given that the Subject Property

Planning Commission Minutes
June 16, 2016

Public Hearing

Case No. 16ZONE1005

is within the neighborhood activity center which is located at the intersection Smyrna Parkway and Cooper Chapel Road; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Compatibility Guideline 3**. The Proposal conforms to Compatibility Guideline 3 and all applicable Policies adopted thereunder, including Policies 3.1, 3.2, 3.4, 3.6, 3.7, 3.8, 3.9, 3.11, 3.12, 3.21, 3.22, 3.23, 3.24 and 3.28. The site and structures will be accessible to persons with disabilities, and will be in accordance with all local, state and federal laws protecting persons with disabilities. Building materials will be compatible with the nearby commercial uses and residential areas, and will be Nichiha brick veneer panels on the three facades facing Smyrna Parkway and the adjacent properties to the north and south, glass and the use of corrugated steel for the rear facade facing the heavily treed portion of the Parent Tract to the east of the Subject Property. The building and related parking are situated toward the center of the property, which will reduce visibility of parking areas from adjacent streets, the adjacent properties to the north and south and the adjacent residential subdivision to the east. Lighting will conform to the Land Development Code. It is anticipated that the Proposal will receive the approval of Louisville Metro Department of Public Works ("DPW"). It is anticipated that the Proposal will receive the approval of Louisville Air Pollution Control District ("APCD"). It is anticipated that the Proposal will receive the approval of the Metropolitan Sewer Department ("MSD"). All setback requirements have been met, [except where one maximum setback is exceeded and a variance has been requested]. Appropriate landscape buffer requirements have been met. The proposal will conform with all signage requirements of the Land Development Code. Appropriate transition between the adjacent commercial uses, residential areas and the proposed development will be ensured by substantial perimeter landscape and buffer areas around the Subject Property; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Natural Areas and Scenic and Historic Resources Guideline 5**. 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, 5.3, 5.4 and 5.6 because the Subject Property does not appear to affect any historic resources and the proposed location of the developed portions of the Subject Property respect the heavily treed portions of the Parent Tract, and other areas with steep slopes and unstable soils; and

Planning Commission Minutes
June 16, 2016

Public Hearing

Case No. 16ZONE1005

WHEREAS, the Commission further finds that the proposal meets the intents of **Circulation Guideline 7**. The Proposal conforms to Circulation Guideline 7 and all applicable Policies adopted thereunder, including Policies 7.1, 7.2, 7.3, 7.9, 7.10, 7.15 and 7.16. Pedestrian connectivity is provided throughout and sidewalks will be constructed internally along all dedicated roadways. Access is provided to and from Smyrna Parkway. The site will be served by the transit services of the Transit Authority of River City ("TARC"). TARC Route #45 Okolona Express provides service for the site because Smyrna Parkway is part of the route. It is anticipated that no dedication of right-of-way will be required by the Department of Public Works. The development exceeds the minimum parking requirement of the Land Development Code. Entry design serving the Subject Property and the future development areas of the Parent Tract is unified; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Bicycle, Pedestrian and Transit Guideline 9**. 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. Sidewalks will be constructed internally along all dedicated roadways providing easy pedestrian access to and through the Subject Property. Transit service is provided along this segment of Smyrna Parkway via TARC Route 45; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Flooding and Stormwater Guideline 10**. 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. The development of the site will minimize the potential for the impacts of flooding and effectively manages stormwater runoff. The proposal will not have an adverse effect on the watershed based on full development of the watershed. On-site detention facilities will provide for adequate compensatory stormwater storage. There is no impact to the regulatory floodplain because all structures will be located above the floodplain. No buildings are proposed to be located within the 100-year FEMA regulatory floodplain. It is anticipated that the Proposal will receive the approval of the Metropolitan Sewer District ("MSD"). Moreover, the on-site drainage system will accommodate the "through" drainage system of water flows on-site and off-site. Peak stormwater runoff rates post-development will not exceed pre-development rates; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Air Quality Guideline 12**. The proposal conforms to Air Quality Guideline 12 and all applicable Policies adopted thereunder, including Policies 12.1, 12.3 and

**Planning Commission Minutes
June 16, 2016**

Public Hearing

Case No. 16ZONE1005

12.8. It is anticipated that the development will not generate significant volumes of traffic to cause a degradation of ambient air quality standards. The proposal is situated at a location where it can take advantage of TARC Route #45. Sidewalks are proposed for the frontage of the Subject Property along Smyrna Parkway. It is anticipated that the Louisville Air Pollution Control District will approve the Proposal. If approved, the APCD approval will indicate, 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 Commission further finds that the proposal meets the intents of **Landscape Character Guideline 13**. The proposal conforms to Landscape Character Guideline 13 and all applicable Policies adopted thereunder, including Policies 1, 2, 4, 5 and 6. A Tree Preservation Plan will be submitted to the Planning Commission staff for review and approval prior to the beginning of construction. The heavily treed portion of the Parent Tract to the east of the Subject Property will be preserved so as to provide a natural buffer between the Subject Property and the adjacent residential subdivision. Landscaping- native plant species --will be provided in accordance with Chapter 10 of the Land Development Code wherever possible. Additional Landscape Buffer Areas around the perimeter of the site and roadways, wherever required, will be implemented in accordance with the Land Development Code specifications; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Infrastructure Guideline 14**. 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. The proposal has adequate service for all necessary utilities. An adequate water supply for domestic and fire-fighting purposes serves the site. New 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 Commission further finds that the proposal meets the intents of **Community Facilities Guideline 15**. The proposal conforms to Community Facilities Guideline 15 and all applicable Policies adopted thereunder, including Policy 15.9. Adequate firefighting services will be provided by the Highview Fire Protection District; and

WHEREAS, the Commission further finds that all necessary utilities, including gas, electric, water, telephone, cable and telecommunications, either presently

**Planning Commission Minutes
June 16, 2016**

Public Hearing

Case No. 16ZONE1005

exist on-site or will be constructed. Essential public services, including sidewalks, will be constructed to serve the site as described above; and

WHEREAS, the Commission further finds that, based on the evidence and testimony presented, the applicant's justification statement and the staff report that all of the applicable Guidelines of Cornerstone 2020 and the Comprehensive Plan are being met; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the requested change in zoning from R-4 to C-N on property described in the attached legal description, be **APPROVED**.

The vote was as follows:

YES: Commissioners Lewis, Brown, Turner, Jarboe, Howard, Smith.

NO: No one.

NOT PRESENT: Commissioners Blake, Kirchdorfer, Tomes, and Peterson.

ABSTAINING: No one.

- **Variance from 5.3.1.C.5 to reduce the non-residential to residential setback from 30' to 25'.**
- **Waiver #1 from 5.6.1.C to not provide 50% clear glazing on the Smyrna Parkway façade.**
- **Waiver #2 from 10.2.4.B to permit the encroachment of an easement in an LBA by more than 50%.**
- **Waiver #3 from 10.3.5 to not provide the berm in the parkway buffer.**
- **District Development plan**

02:00:59 On a motion by Commissioner Brown, seconded by Commissioner Lewis, the following resolution was adopted:

(Variance) WHEREAS, the Louisville Metro Planning Commission finds that the requested variance will not adversely affect the public health, safety or welfare since the encroachment is for the access road and adjacent to property that the applicant owns and is vacant; and

WHEREAS, the Commission further finds that the requested variance will not alter the essential character of the general vicinity since the encroachment is for

Planning Commission Minutes
June 16, 2016

Public Hearing

Case No. 16ZONE1005

the access road and adjacent to property that the applicant owns and is vacant;
and

WHEREAS, the Commission further finds that the requested variance will not cause a hazard or nuisance to the public since the encroachment is for the access road and adjacent to property that the applicant owns and is vacant; and

WHEREAS, the Commission further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations since the encroachment only involves the access point to the property; and

WHEREAS, the Commission further finds that the requested variance arises from special circumstances which do not generally apply to land in the same zone since the parcel is being subdivided by the owner and applicant; and

WHEREAS, the Commission further finds that the strict application of the regulations provide the applicant of reasonable use of the land since the encroachment is for the access road and adjacent to property that the applicant owns and is vacant; and

WHEREAS, the Commission further finds that the circumstances are the result of action of the applicant taken subsequent to the adoption of the zoning regulations from which relief is sought; and

(Waiver #1) WHEREAS, the Commission further finds that the requested waiver conforms to Compatibility Guideline 3 and Policy 3.4 and 3.9. The proposal conforms to Compatibility Guideline 3 and all applicable Policies adopted thereunder, including Policy 3.4 and 3.9 because interior stock space is needed to provide for consumer goods including grocery and sundry items. If this interior space cannot be provided within this grocery and sundries store, then it will be unable to provide those goods in a manner similar to all other Dollar General stores. In addition, due to the distance of the building from the sidewalk and right-of-way line, the waiver has minimal impact on the intent of the requirement; and

WHEREAS, the Commission further finds that the requested waiver conforms to the intent of the Land Development Code. The intent of the Code is to enliven the building façade; however, for this type of land use it is necessary to provide adequate interior wall space to locate consumer goods. Due to the distance of the building from the street edge and the sidewalk, the waiver is a minimal request; and

Planning Commission Minutes
June 16, 2016

Public Hearing

Case No. 16ZONE1005

WHEREAS, the Commission further finds that compliance with the regulation would substantially impact the desired site pattern of the development because the grocery store would be unable to stock the consumer goods which Dollar General customers expect when coming to this or any other Dollar General location. Thus, compliance with the regulation is not appropriate and the granting of the waiver would result in a development more in keeping with the Comprehensive Plan and the overall intent of the Land Development Code; and

WHEREAS, the Commission further finds that the requested waiver will have no adverse impacts on adjacent property owners because it only affects the amount of glazing on this building with no effect on adjacent property owners; and

WHEREAS, the Commission further finds that the strict application of the regulation would deprive the applicant of the reasonable use of the land and would create an unnecessary hardship on the applicant because the application of the regulation to this site would cause Dollar General not to be able to provide the consumer goods provided at all other Dollar General stores; and

(Waivers #2 and #3 - of section 10.2.4. to allow a utility easement to encroach more than 50% into the landscape buffer area and from 10.3.5 to not provide the berm in the parkway buffer)

WHEREAS, the Commission further finds that the waivers will not adversely affect adjacent property owners since the landscape requirements will still be met and a 3' screen provided; and

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

Planning Commission Minutes
June 16, 2016

Public Hearing

Case No. 16ZONE1005

landscape design standards for different land uses within urbanized, suburban, and rural areas. The intent of landscape buffer areas is to create suitable transitions where varying forms of development adjoin, to minimize the negative impacts resulting from adjoining incompatible land uses, to decrease storm water runoff volumes and velocities associated with impervious surfaces, and to filter air borne and water borne pollutants. The landscape requirements will still be met and a 3' screen provided; and

WHEREAS, the Commission further finds that the extent of the waivers of the regulations is the minimum necessary to afford relief to the applicant since the landscape requirements will still be met and a 3' screen provided; and

WHEREAS, the Commission further finds that the strict application of the provisions of the regulations would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant since the landscape requirements will still be met and a 3' screen provided; and

(DDP) WHEREAS, the Commission further finds that there do not appear to be any environmental constraints or historic resources on the subject site. Tree canopy requirements of the Land Development Code will be provided on the subject site; and

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

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

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

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

Planning Commission Minutes
June 16, 2016

Public Hearing

Case No. 16ZONE1005

WHEREAS, the Commission further finds that, based on the evidence and testimony presented, the applicant's justification and the staff report that all of the applicable Guidelines of Cornerstone 2020 and the Comprehensive Plan are being met; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Variance from 5.3.1.C.5 to reduce the non-residential to residential setback from 30' to 25'; the requested Waiver #1 from 5.6.1.C to not provide 50% clear glazing on the Smyrna Parkway façade; the requested Waiver #2 from 10.2.4.B to permit the encroachment of an easement in an LBA by more than 50%; the requested Waiver #3 from 10.3.5 to not provide the berm in the parkway buffer; and the District Development plan, **SUBJECT** to the following binding elements:

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. The development shall not exceed 7,500 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) is requested:
 - a. The development plan must receive full construction approval from Develop Louisville, Louisville Metro Public Works and the Metropolitan Sewer District.

Planning Commission Minutes
June 16, 2016

Public Hearing

Case No. 16ZONE1005

- b. A minor subdivision plat or legal instrument shall be recorded creating the lot lines as shown on the development plan. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
 - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - d. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
6. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
7. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
8. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
9. The property owner shall provide a cross over access easement if the property to the north is ever redeveloped. The property owner shall provide a cross over access easement if the property to the south is ever developed non-residentially. A copy of the signed easement agreement shall be provided to Planning Commission staff upon request.
10. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the June 16, 2016 Planning Commission meeting.

**Planning Commission Minutes
June 16, 2016**

Public Hearing

Case No. 16ZONE1005

11. No idling of trucks shall take place within 200 feet of residential development.
No overnight idling of trucks shall be permitted on-site.

The vote was as follows:

YES: Commissioners Lewis, Brown, Turner, Jarboe, Howard, Smith.

NO: No one.

NOT PRESENT: Commissioners Blake, Kirchdorfer, Tomes, and Peterson.

ABSTAINING: No one.

**Planning Commission Minutes
June 16, 2016**

STANDING COMMITTEE REPORTS

Land Development and Transportation Committee

No report given.

Legal Review Committee

No report given.

Planning Committee

No report given.

Policy and Procedures Committee

No report given

Site Inspection Committee

No report given.

ADJOURNMENT

The meeting adjourned at approximately 3:08 p.m.



Chairman



Division Director

