

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

A meeting of the Louisville Metro Planning Commission was held on Thursday, April 21, 2016 at 1:00 p.m. at the Old Jail Building, located at 514 West Liberty Street, Louisville, Kentucky.

Commission members present:

Donnie Blake, Chairman
Vince Jarboe, Vice Chairman
Jeff Brown (left the hearing at approximately 3:45 p.m.)
Robert Peterson
Lula Howard
Clifford Turner
David Tomes
Robert Kirchdorfer (left the hearing at approximately 3:45 p.m.)

Commission members absent:

Marilyn Lewis
Chip White

Staff Members present:

Emily Liu, Director, Planning and Design Services
Joseph Reverman, Assistant Director, Planning and Design Services
Joseph Haberman, Planning Manager
John G. Carroll, Legal Counsel
Jon Baker, Legal Counsel
Julia Williams, Planner II
Laura Mattingly-Humphrey, Planner I
Jon Crumbie, Planning and Design Coordinator
Burcum Keeton, Architectural Projects Coordinator
Tammy Markert, Transportation Planning
Chris Cestaro, Management Assistant (minutes)

Others:

Tony Kelly, Metropolitan Sewer District (MSD)

The following matters were considered:

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Approval of Minutes

Minutes of the meeting of the April 7, 2016 Planning Commission public hearing.

00:11:17 On a motion by Commissioner Jarboe, seconded by Commissioner Peterson, the following resolution was adopted:

RESOLVED, that the Planning Commission does hereby **APPROVE** the minutes of the April 7, 2016 Planning Commission public hearing.

The vote was as follows:

YES: Commissioners Brown, Blake, Jarboe, Peterson, and Howard.

NO: No one.

NOT PRESENT: Commissioners White and Lewis.

ABSTAINING: Commissioners Turner, Kirchdorfer, and Tomes.

Minutes of the meeting of the April 11, 2016 special Planning Commission public hearing held at 6:00 p.m.

03:33:02 These minutes were voted on at the end of today's hearing.

03:34:57 Joe Haberman addressed some issues in the April 11, 2016 night hearing minutes having to do with the motion.

03:40:48 On a motion by Commissioner Tomes, seconded by Commissioner Howard, the following resolution was adopted:

RESOLVED, that the Planning Commission does hereby **APPROVE** the minutes of the April 11, 2016 special Planning Commission public hearing held at 6:00 p.m. with changes to the motion as discussed at today's hearing.

The vote was as follows:

YES: Commissioners Blake, Tomes, and Howard.

NO: No one.

NOT PRESENT: Commissioners White, Lewis, Brown, and Kirchdorfer.

ABSTAINING: Commissioners Turner, Jarboe, and Peterson.

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Consent Agenda

Case No. 16STREETS1000

Request: Street Closure of unimproved portion of Gladstone Ave.

Project Name: Gladstone Ave. Closure

Location: Gladstone Ave. between Landor Ave. and Drayton Ave.

Owner: Louisville Metro Government

Applicant: Neville Gough
2621 Landor Avenue
Louisville, KY 40205

Representatives: Neville Gough
2621 Landor Avenue
Louisville, KY 40205

Jurisdiction: Louisville Metro

Council District: 8 – Tom Owen

Case Manager: **Laura Mattingly-Humphrey, Planner I**

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:

00:12:55 Laura Mattingly-Humphrey presented the case and showed the site plan.

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00:15:51 On a motion by Commissioner Tomes, seconded by Commissioner Peterson, the following resolution was adopted:

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the Consent Agenda items.

The vote was as follows:

YES: Commissioners Brown, Turner, Blake, Kirchdorfer, Tomes, Jarboe, Peterson, and Howard.

NO: No one.

NOT PRESENT: Commissioners White and Lewis.

ABSTAINING: No one.

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Public Hearing

Case No. 15ZONE1052

Request: Zoning map amendment from C-2 to EZ-1 on 0.867 acres; Waivers; Variances; and a Detailed District Development Plan for a 31,006 sf distillery

Project Name: Rabbit Hole Distilling

Location: 711 East Jefferson Street and 724 East Market Street

Owner/Applicant: Rabbit Hole Spirits, LLC
Kaveh Zamanian, Representative
1452 Cherokee Road
Louisville, KY 40204

Representatives: Ashley Brock
Lockett & Farley
737 South Third Street
Louisville, KY 40202

Jurisdiction: Louisville Metro

Council District: 4 – David Tandy

Case Manager: **Brian Davis, AICP, Planning Manager
Presented by 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.)

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.

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Agency Testimony:

00:15:45 Julia Williams presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.) Ms. Williams noted changes to the staff report: the square footage should read "32,000" and the height variance is to allow 65 feet, not 45 feet.

The following spoke in favor of the proposal:

Phil Gambrell, Lockett & Farley, 737 South Third Street, Louisville, KY 40202

Rebecca Matheny, Louisville Downtown Partnership, 556 South Fourth Street, Louisville, KY 40202

John Gant, Metro Economic Development, 444 South Fifth Street, Louisville, KY 40202

Kaveh Zamanian, 1452 Cherokee Road, Louisville, KY 40204

Ashley Brock, Lockett & Farley, 737 South Third Street, Louisville, KY 40202

Douglas Pierson, 1159 East Hyde Park Boulevard, Inglewood, CA 90302

Summary of testimony of those in favor of the proposal:

00:25:14 Phil Gambrell, the applicant's representative, presented the applicant's case (see recording for detailed presentation.) He addressed the main issues from the technical review, including: the parking study, the loading dock, and pedestrian counts. He said that documentation has been submitted.

00:26:36 Rebecca Matheny, Executive Director of Louisville Downtown Partnership, spoke in support of the project.

00:27:14 John Gant, Director of Louisville Metro Economic Development, spoke in favor of the project.

00:28:36 Ashley Brock, Civil Engineer for the project, said she was available to answer questions.

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00:28:55 Douglas Pierson, the architect for the project, said he was available to answer questions.

00:29:46 Commissioner Brown and Ms. Williams discussed transportation issues, specifically regarding the loading dock area.

00:32:55 Ashley Brock responded to Commissioner Brown's concerns re. the loading area. Ms. Brock said there would be loading and unloading

00:38:19 Commissioner Brown proposed two additional binding elements, to read as follows:

- "No trucks shall be permitted to encroach into the public right-of-way."
- "No truck maneuvering to *back into* the loading dock shall occur between 7:00 a.m. and 9:00 a.m. or 4:00 p.m. and 6:00 p.m."

00:39:03 Commissioner Jarboe asked about the parking agreement, which had been brought up at LD&T. Ms. Brock said that had been resolved, and said that and the full parking study had been included in the Commissioners' packets. She explained about the parking agreement.

00:41:01 In response to a question from Commissioner Brown, Ms. Brock said there was no ROW dedication and said Brian Davis, the Case Manager, had confirmed that that would not be necessary.

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:

00:42:04 Commissioners' deliberation

Zoning

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00:44:40 On a motion by Commissioner Brown, seconded by Commissioner Tomes, the following resolution was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the intents of **Guideline 1- Community Form**. The subject property is located in a Traditional Neighborhood Form District. The Traditional Neighborhood Form District "is designed to promote diversity and integration of uses and structures in an existing traditional neighborhood through flexible design standards that provide flexibility to meet changing needs, technologies, economics, and consumer preferences." LDC, Section 2.7.4(A)(2) (Dec 2009). The property is currently zoned commercially. The proposed use will continue the established neighborhood pattern of integrated redevelopment, including civic, commercial, and office uses that promote close-to-home work and service opportunities. The use and scale of the development will be appropriate for the adjacent commercial properties and the surrounding neighborhood; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 2 – Centers**. The proposed uses of the property are compatible with the surrounding commercial uses and are of equal intensity. The subject property is located within an existing commercial activity center. The proposed redevelopment will utilize existing utility and road infrastructures. The subject property is currently zoned commercial and will not create a commercial expansion into residential zones. The subject property will utilize existing commercial curb cuts, which promote vehicular and pedestrian safety. The proposed development will provide pedestrian access from Jefferson Street to the building's entrance. The proposed development will not significantly contribute to the existing vehicle air pollution being generated by the daily volume of traffic on Jefferson Street. Outdoor security lighting will be compliant with the Louisville Metro Land Development Code. The proposed building design is compatible with the buildings located on the surrounding uses. The entrance to the building will be on Jefferson Street and the south facade will reflect the use of that part of the building as executive offices and a cafe open to the public; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 3 – Compatibility**. The proposed development is compatible with the distinct site and community design elements of a traditional neighborhood. The proposed uses of the property constitute commercial infill development on a site that was formerly used as a tire and automotive business. The proposed uses of the property include a distillery, retail center, and office. There are scattered residences within a couple of blocks of the proposed development, mostly multi-family uses. There is adequate transition from commercial development to the residential uses, although the transition is less striking because of the urban

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environment. The mix of commercial, residential, manufacturing, retail, and office uses is prominent on Jefferson and Market Streets. The proposed development is consistent with that mix of uses. The proposed development will include all required building/pavement setbacks and landscape buffer areas. The height of the building and all structures on the property will be similar to adjacent properties. The storage of supplies and inventories, including any grain or mash bills, will be limited due to the size of the building and the property; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guidelines 4 - Open Space and Guideline 5 - Natural Areas and Scenic and Historic Resources**. The subject property exists currently as a paved lot surrounding a building and does not include any open space. There are no wetlands or highly permeable soils on the subject property. There are no natural features on the subject property. Although open space is not required of commercial uses in the Louisville Metro Land Development Code, the proposed development includes a reflecting pool, landscaping, and open space surrounding the south and east sides of the building; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 6- Economic Growth and Sustainability**. The subject property is located within 100 feet of a major intersection (Jefferson Street and Shelby Street). The subject property is located within an established commercial activity center and is currently commercially zoned, as are the adjacent properties. The proposed development will not require any additional commercial curb cuts and, therefore, will not create any further intrusions into the roadway system; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 7 – Circulation**. The proposed development will have little impact on the existing road system because it will utilize an existing curb cut on Jefferson Street, thereby requiring no additional disturbance on Jefferson Street. The proposed development will not significantly increase the traffic on Jefferson Street and will not increase the traffic on the larger road network because it replaces an existing commercial business. The proposed development will not require employees, invitees, or customers to travel a great distance from the main commercial intersections on the surrounding streets of Market Street, Clay Street, Jefferson Street, and Shelby Street. Therefore, the impact to surrounding residential areas will be minimal. Pedestrian connections and onsite parking will incorporate existing connections and will not impact the adjacent properties, in compliance with the Louisville Metro Land Development Code; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 8- Transportation Facility Design**. The proposed development

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includes adequate parking and right of way dedication as required along Jefferson Street. There is rear access to the property through Nanny Goat Strut. Vehicle and pedestrian access are available from either Jefferson Street or Clay Street via Nanny Goat Strut; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 9 - Bicycle, Pedestrian and Transit**. The proposed development includes sidewalks that connect to the existing sidewalks on Jefferson Street and will provide bicycle parking as required by the Louisville Metro Land Development Code; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 10- Flooding and Stormwater and Guideline 11- Water Quality**. The proposed development will include a stormwater drainage system approved by Louisville Metropolitan Sewer District. The subject site is not located within a floodplain. The proposed development will comply with on-site detention / infiltration basin requirements to accommodate stormwater from the building and parking areas. During construction, the proposed development will install the appropriate sediment and erosion control methods per MSD's Best Management Practices; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 12 -Air Quality**. The proposed development will comply with air pollution and dust mitigation measures as required by the Air Pollution Control Board; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 13 Landscape Character**. The surrounding properties are developed and there are no landscape or habitat corridors in the general area. The proposed development will comply with the landscape requirements of the Louisville Metro Land Development Code and will include plantings of trees and shrubbery and the construction of a reflecting pool. There are no existing trees located on the subject property, which currently consists of building and asphalt pavement; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 14 – Infrastructure**. The subject property is located near two intersections of major streets and will require no improvements to be made to the existing road system. There is adequate water, electric, and sewer infrastructure currently serving the subject site. Sanitary sewer capacity is available from Louisville MSD; and

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WHEREAS, the Commission further finds that, based on the evidence and testimony presented and the applicant's justification 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 C-2 to EZ-1 on property located in the attached legal description be **APPROVED**.

The vote was as follows:

YES: Commissioners Brown, Turner, Blake, Kirchdorfer, Tomes, Jarboe, Peterson, and Howard.

NO: No one.

NOT PRESENT: Commissioners White and Lewis.

ABSTAINING: No one.

- Waiver #1: Waiver of Section 5.5.1.A.4.b. to allow front loading docks.
- Waiver #2: Waiver of Section 10.2.4.A to eliminate the required landscape buffer area between EZ-1 and adjoining C-2 zone properties.
- Variance #1: Variance from Section 5.2.2.C to allow the front yard setback to exceed zero (0) feet.
- Variance #2: Variance from Section 5.2.2.C to exceed the maximum building height.
- Variance #3: Variance from Section 5.2.2.C to allow the proposed plaza to encroach into the required 15 foot rear yard.
- Variance #4: Variance from Section 5.2.2.C to allow the existing structure to encroach into the required 10 foot side yard.
- Detailed District Development Plan and binding elements

00:45:44 On a motion by Commissioner Brown, seconded by Commissioner Tomes, the following resolution was adopted:

(Waiver #1) WHEREAS, the Louisville Metro Planning Commission finds that there are currently six overhead doors on the existing loading dock. With the renovations this will be reduced to three overhead doors. The loading area is set back approximately 49 feet from the street right-of-way and will be partially shielded from traffic traveling west on Jefferson Street by a portion of the proposed addition; and

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WHEREAS, the Commission further finds that the applicant states “As an adaptive re-use of the existing docks we feel we are not straying from the current character of the neighborhood and furthermore developing the loading dock in conjunction with the Jefferson Street façade should create a cohesive entrance more in tune with the neighborhood than before.”; 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. The applicant wishes to only utilize the existing non-conforming docks , half of which are being removed; and

WHEREAS, the Commission further finds that relocating the loading dock to a different façade would require excessive site demolition and unnecessary additional construction. Also, the applicant is reducing the number of docks by 50 percent and redesigning the area to be an essential function of the distillery; and

(Waiver #2) WHEREAS, the Commission further finds that the development is within a well-established block within an urban area with buildings built at or near the property line on all sides; 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. Requiring the buffer would require significant demolition and construction on a portion of the site and possibly interrupt the flow between properties on other portions of the tract; and

WHEREAS, the Commission further finds that the applicant states “Were we to comply with the requirements of the code, the landscape buffer would cut off access to parking for the adjacent property. We have incorporated the landscape buffer into the parking lot design in a location that does not break up the parking lot. We have also created a larger landscaped area than required.”; and

(Variance #1) WHEREAS, the Commission further finds that the requested variance will not adversely affect the public health, safety or welfare. The applicant states “Improvements to existing buildings and construction of new buildings will create an “Entrance” presence not currently existing in the warehouse space. Landscaping and walkways will create green areas where storm water runoff can be reduced, will add to the character of the Traditional Neighborhood and will draw visitors in toward the entry point of the building. All

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of these elements are designed to integrate with the neighborhood and will not adversely affect the health, safety and welfare.”; and

WHEREAS, the Commission further finds that the existing structure does not meet the setback requirement as defined in Section 5.2.2.C. While the renovation will further pull the building off Jefferson Street, the proposed structure will be of a scale that will be in keeping with the character of the area and maintain its visual connection to Jefferson Street. The applicant states “In keeping with the ‘eclectic feel’ of the NuLu neighborhood, and by taking cues from the neighborhood Streetscape project, we consider our project in keeping with the essential character of the general vicinity.”

WHEREAS, the Commission further finds that the applicant states “The Front Entrance feel of the project draws the visitor inward through indoor/outdoor type spaces that maintain a connectivity between the neighborhood and the inside of the project. It does so in an inviting, respectful and fully accessible way that does not cause a hazard or a nuisance to the public; and

WHEREAS, the Commission further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations. The applicant states “The site includes an existing non-conforming 49 foot deep loading dock. Using sustainable practices, the design of the new project strives to visually improve and integrate the loading dock through façade and canopy development, while reducing the number of truck berths from 6 to 3. Given that the existing loading dock does not conform to front yard setbacks, we believe than existing non-conforming condition can be sustainably re-used for the new development without the allowance of an unreasonable circumvention of the requirements of the zoning regulations.”; 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. The applicant states “Within 3 blocks of the property, there are several prevailing conditions where the front façade is set back from the property line.”; 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. The applicant states “We would like to create a collection area for patrons in front of the entrance to prevent people collecting on the sidewalk. We would consider this a reasonable use of the land. We are not recessing the façade very far and are providing multiple elements that engage the street; and

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

(Variance #2) WHEREAS, the Commission further finds that the building height will not affect public health, safety or welfare; and

WHEREAS, the Commission further finds that the requested variance will not alter the essential character of the general vicinity. The applicant states "The high point of the building will be located toward the center of the property. The scale, use and character of the street frontage will remain consistent with the Traditional Neighborhood."; and

WHEREAS, the Commission further finds that the requested variance will not cause a hazard or nuisance to the public. The applicant states "Because the high point will be located towards the center of the property, this will have a minimum impact to loss of light, excessive shadows or blocking views for adjacent properties."; and

WHEREAS, the Commission further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations. The applicant states "The distilling equipment requires a certain height, projected at 60 feet, which exceeds the maximum allowable. We believe this equipment is essential to the distilling process, our request is not unreasonable. We have also found non-conforming precedents in the area."; and

WHEREAS, the Commission further finds that the applicant states "The need for a variance arises from the height of some of the required equipment for the distilling process. These pieces are taller than allowable by zoning."; and

WHEREAS, the Commission further finds that the strict application of the regulation would prevent the operation from operating functionally as a distillery; and

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

(Variance #3) WHEREAS, the Commission further finds that the requested variance will not adversely affect the public health, safety or welfare. The applicant states "The current rear yard setback is existing and because we are

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incorporating sustainable practices such as adaptive re-use we feel we are improving upon public health, safety and welfare.”; and

WHEREAS, the Commission further finds that the requested variance will not alter the essential character of the general vicinity. The applicant states “The current rear yard setback is existing and we have improved on this by a 50 percent reduction of the existing rear exterior wall. We do not feel this will alter the character because most of the surrounding properties are zoned Commercial which this setback is in compliance with.”; and

WHEREAS, the Commission further finds that the applicant states “The current rear yard setback is existing and current not a hazard to the public. The use of the non-conforming building will not change in a way that would create a hazard or nuisance to the public.”; and

WHEREAS, the Commission further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations. The applicant states “The variance is to maintain the existing conditions, that we are reducing by 50 percent, which we do not believe in an unreasonable circumvention of the requirements of the regulations.”; and

WHEREAS, the Commission further finds that the applicant states “The need for a variance arose from the application for a zoning change from C-2 to EZ-1 which has stricter setback requirements. The desired Adaptive Re-Use of the existing warehouse would require a variance.”; and

WHEREAS, the Commission further finds that the applicant states “The strict application of the provisions would deprive the sustainable practice of adaptive re-use of the existing warehouse.”; and

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

(Variance #4) WHEREAS, the Commission further finds that the side yard setback is an existing condition that the applicant is proposing to maintain and will not affect the public health, safety or welfare of the neighborhood; and

WHEREAS, the Commission further finds that the requested variance will not alter the essential character of the general vicinity. The building’s existing side yard setback along the western property line is allowed under the current C-2

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zoning. The 10 foot side yard is a result of the proposed zoning change to EZ-1; and

WHEREAS, the Commission further finds that the existing side yard setback does not cause a hazard or nuisance to the public. Simply changing the zoning and therefore the required setback does not change this situation; and

WHEREAS, the Commission further finds that the variance is not an unreasonable circumvention of the zoning regulations given it is an existing condition that is allowed in the current zoning district. Asking the applicant to come into compliance would require significant costs that would be an unreasonable request; and

WHEREAS, the Commission further finds that the setback is an existing condition and the change is only because of the requested rezoning; and

WHEREAS, the Commission further finds that strict application would place a significant financial burden on the applicant in terms of demolition of the existing structure, construction costs and design costs; and

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

Detailed District Development Plan and Binding Elements:

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

WHEREAS, the Commission further finds that no additional vehicular or pedestrian facilities are proposed. The applicant will be utilizing existing curb cuts on Jefferson Street. There is an existing sidewalk along the property frontage; and

WHEREAS, the Commission further finds that there are no open space requirements on the site; and

WHEREAS, the Commission further finds that the applicant is working with MSD to handle stormwater runoff from the site; and

WHEREAS, the Commission further finds that the development is in character with the vision for the NULU area. The site has been designed to spark interest

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and draw people into the site. The proposed architecture of the new building is in keeping with the eclectic style of the NULU area while still respecting the Traditional Neighborhood Form District; 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; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Waiver of Section 5.5.1.A.4.b. to allow front loading docks; Waiver of Section 10.2.4.A to eliminate the required landscape buffer area between EZ-1 and adjoining C-2 zone properties; Variance from Section 5.2.2.C to allow the front yard setback to exceed zero (0) feet; Variance from Section 5.2.2.C to exceed the maximum building height; Variance from Section 5.2.2.C to allow the proposed plaza to encroach into the required 15 foot rear yard; Variance from Section 5.2.2.C to allow the existing structure to encroach into the required 10 foot side yard; and the Detailed District Development Plan, **SUBJECT** to the following binding elements:

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Development Code, Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Development Code and 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 **32,000 square feet** of gross floor area on the area to be rezoned.
3. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
4. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested:
 - a. The development plan must receive full construction approval from Louisville Metro Department of Construction Review, Transportation Planning Review and the Metropolitan Sewer District.

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- b. Encroachment permits must be obtained from the Louisville Metro Public Works.
5. If a certificate of occupancy is not issued within two years of the date of approval of the plan or rezoning, whichever is later, the property shall not be used in any manner unless a revised district development plan is approved or an extension is granted by the Planning Commission.
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 or permitted on the site).
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. A legal instrument providing for the long-term use of the (off-site parking spaces or joint-use parking spaces), as shown on the approved general district development plan and in accordance with (Section 9.1.5 Off-Site Parking or Section 9.1.6 Joint Use Parking), shall be submitted and approved by the Planning Commission legal counsel and recorded in the County Clerk's office. 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.
10. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the April 21, 2016 Planning Commission meeting.

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11. No idling of trucks shall take place within 200 feet of residences. No overnight idling of trucks shall be permitted on-site.
12. A legal instrument providing for the long-term use of the off-site parking spaces and joint-use parking spaces, as shown on the approved district development plan, discussed in the parking study submitted for review at the April 21, 2016 Planning Commission public hearing, and in accordance with Section 9.1.5 Off-Site Parking and Section 9.1.6 Joint Use Parking, shall be submitted and approved by the Planning Commission legal counsel and recorded in the County Clerk's office. 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.
13. No trucks shall be permitted to encroach into the public right-of-way.
14. No truck maneuvering to *back into* the loading dock shall occur between the hours of 7:00 a.m. and 9:00 a.m. or 4:00 p.m. and 6:00 p.m.

The vote was as follows:

YES: Commissioners Brown, Turner, Blake, Kirchdorfer, Tomes, Jarboe, Peterson, and Howard.

NO: No one.

NOT PRESENT: Commissioners White and Lewis.

ABSTAINING: No one.

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Public Hearing

Case No. 16AREA1000

Request: Areawide change in zoning from R-4, C-1 and C-2 to EZ-1 Enterprise Zone

Project Name: Renaissance South Business Park
Location: Multiple properties within the Renaissance South Business Park

Owner: Louisville Renaissance Zone Corporation and Others

Applicant: Louisville Metro Council

Representative: Greg Ehrhard
Stites & Harbison, PLLC
400 West Market Street Suite 1800
Louisville, KY 40202

Patrick Dominic
Sabak, Wilson & Lingo
608 South Third Street
Louisville, KY 40202

Jurisdiction: Louisville Metro

Council District: 13 – Vicki Welch

Case Manager: **Jon E. Crumbie, Planning and Design Coordinator**

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 &

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Design Services website, or you may contact the Customer Service staff to view the recording or to obtain a copy.

Agency Testimony:

00:48:59 Jon Crumbie presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.) In response to a question from John Carroll, Legal Counsel for the Planning Commission, Mr. Crumbie said that no property owners had requested to be exempt from this areawide rezoning.

The following spoke in favor of the proposal:

Greg Ehrhard, Stites & Harbison PLLC, 400 West Market Street Suite 1800, Louisville, KY 40202

Patrick Dominic, Sabak, Wilson & Lingo, 608 South Third Street, Louisville, KY 40202

Linda Solley-Kanipe, 4320 Park Boulevard, Louisville, KY 40209

Summary of testimony of those in favor of the proposal:

00:52:54 Greg Ehrhard, attorney for the Louisville Renaissance Zone Corporation, introduced the case. He noted that there is no specific development plan associated with this request, but it came from the Noise Mitigation Program.

00:54:32 Patrick Dominic, a representative for the Louisville Renaissance Zone Corporation, presented the request and showed a Power Point presentation (see recording for detailed presentation.)

01:02:16 Linda Solley-Kanipe was called but declined to speak, unless anyone had questions.

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.

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Deliberation:

01:02:39 Commissioners' deliberation.

01:04:37 On a motion by Commissioner Jarboe, seconded by Commissioner Turner, the following resolution was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that, on February 11, 2016, the Louisville Metro Council (the "Council") passed Resolution No. 16, Series 2016, requesting that the Louisville Metro Planning Commission (the "Commission") consider rezoning portions (collectively, the "Subject Area") of the 3,000 acre Louisville Renaissance Zone from R-4, C-1, and C-2 to EZ-1; and

WHEREAS, the Commission further finds that, based on the staff report, evidence and testimony presented at the public hearing and the proposed findings of fact submitted by the Louisville Renaissance Zone Corporation ("LRZC") that the Subject Area consists of 24 parcels of real estate and includes 26.2 acres, as more particularly described in the materials presented during the public hearing, and that the Subject Area is located in close proximity to the Louisville International Airport at Standiford Field (the "Airport"), Interstate 65, the Gene Snyder Freeway, the CSX rail line, and CSX's Osborn Yard, and is located within the Louisville Renaissance Zone; and

WHEREAS, the Commission further finds that Resolution No. 16, Series 2016, was based principally on the changes to the Subject Area arising from:

- The expansion of the Airport, known as the Louisville Airport Improvement Program ("LAIP"), which began in 1991 and which included the construction of two new parallel runways (concluded in 1998), together with full parallel taxiways and new instrument landing systems for each runway, as well as the construction of a new aircraft rescue and fire-fighting facility and other improvements.
- The significantly increased noise in the Minors Lane residential area resulting from the completion of the new runways that were part of the LAIP.
- The policy decision made by the Louisville Regional Airport Authority (the "Authority"), the City of Louisville, Jefferson County, the Commonwealth of Kentucky and the Federal Aviation Administration, working together with local

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business and community leaders, to relocate voluntarily the incompatible residential uses in areas surrounding the Airport.

- The public investment of more than \$150 million in the Minors Lane voluntary residential relocation program to acquire homes in the vicinity of the Subject Area and to relocate residents to other areas better suited for residential use; and

WHEREAS, the Commission further finds that, as a result of the Minors Lane voluntary residential relocation program described above, the following changes have occurred in and around the Subject Area:

- More than 98% of the 1,064 residences that were located within the Minors Lane voluntary residential relocation area have been acquired by the Authority and are no longer used for residential purposes.
- In addition to the acquisition of residences in the Minors Lane voluntary residential relocation area, the Authority has acquired 40 vacant residential lots and several properties used for various neighborhood-dependent operations in the area, including two churches, a convenience store, and the City Hall for the former city of Minor Lane Heights.
- The majority of the residences that were acquired through the Minors Lane voluntary residential relocation program have been taken down, with the result that the Subject Area is largely unimproved and not currently appropriate for future residential uses.
- Approximately 141.6 acres bordering the northwest portion of the Subject Area was involved in a prior area-wide rezoning (the "2006 Area-wide Rezoning") that culminated in the Council's adoption of Ordinance No. 220, Series 2006, pursuant to which the Council approved a change to that property's zoning classification from R-4 and R-5 to EZ-1. The UPS Centennial Hub is now located on a portion of the 2006 Area-wide Rezoning site and that area has been improved with significant infrastructure intended to accommodate large scale industrial and commercial operations rather than residential and neighborhood-serving uses.
- Approximately 595 acres of property in the vicinity of the Subject Area was involved in a prior area-wide rezoning that culminated in the Council's adoption of Ordinance No. 112, Series 2011, pursuant to which the Council approved a change to that property's zoning classification from R-4, R-5, R-6, R-7, C-1, and C-2 to EZ-1, enabling the construction of new infrastructure

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(including the extension of Air Commerce Drive to South Park Road and the dedication of Export Drive) and the development of multiple acres of land for airport-compatible industrial uses; and

WHEREAS, the Commission further finds that:

- In 2000, the Kentucky General Assembly enacted KRS 65.490 et seq. which provides for economic incentive programs based on what is known as tax increment financing, the function of these programs being to return a percentage of new tax revenues generated in designated development areas to a taxing authority for use in building infrastructure in the designated area.
- KRS 65.493 provides for the creation of development areas for the purpose of creating pilot programs to utilize tax increment financing.
- The Governor of Kentucky, the Mayor of Louisville Metro, and the Authority proposed that the area south of the Airport be designated as the pilot program area to be called the Renaissance Zone to leverage the investments in the Airport and UPS Worldport.
- The Subject Area is part of a development area that was established by the Council through its enactment of Ordinance No. 199, Series 2003, and through such ordinance the LRZC was designated the development agency for this area.
- The Council enacted Ordinance No. 135, Series 2004, which, among other things, contracted for the release of tax increment financing funds and recognized the need for a rational plan for the optimal revitalization and redevelopment of the Renaissance Zone to accomplish the recommendations set forth in the November 2003 Pilot Program Preliminary Planning report of projects (the "Preliminary Planning Report"); and

WHEREAS, the Commission further finds that the Preliminary Planning Report anticipated that the uses of this portion of the Renaissance Zone would include airport-related and airport-compatible uses; and

WHEREAS, the Commission further finds that an area that includes the Subject Area was designated as a Suburban Workplace Form District in the Cornerstone 2020 Comprehensive Plan adopted June 15, 2000, by the Commission, and that the Subject Area is near other airport-compatible uses appropriate for a Suburban Workplace Form District, including a landfill across Outer Loop from the Subject Area, the UPS Centennial Hub and other industrial developments on

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Air Commerce Drive, Transglobal Drive, and Export Drive within the Renaissance South Business Park, the Louisville Metro Commerce Center industrial park, and the UPS Supply Chain Solutions warehouse/distribution complex located to the west of the Subject Area on Outer Loop, and the Ford Louisville Assembly Plant and the Knopp-Melton Industrial Area to the north of the Subject Area; and

WHEREAS, the Commission further finds that the Council's inclusion of the Subject Area within the development area created by Ordinance No. 199, Series 2003, and the Council's recognition and acceptance of the Preliminary Planning Report's expectation that the uses of this portion of the Louisville Renaissance Zone would include airport-related and airport-compatible uses provide evidence that major changes have occurred in the area which have substantially altered the residential character of the area that existed when the Subject Area was first zoned R- 4, C-1, and C-2; and

WHEREAS, the Commission further finds that major changes have occurred in the area which have substantially altered the residential character of the area that existed when the Subject Area was first zoned R-4, C-1, and C-2, which changes include (i) the public policy decision to eliminate the residential uses in certain areas surrounding the Airport, including this area, (ii) the actual removal of the vast majority of the residences from this area, (iii) the designation of the area as a Suburban Workplace Form District, (iv) the increased industrial uses in the vicinity, including the expansion of the landfill across Outer Loop from the Subject Area, the development of the UPS Centennial Hub and other industrial developments on Air Commerce Drive, Transglobal Drive, and Export Drive within the Renaissance South Business Park, and the development of the Louisville Metro Commerce Center industrial park and the UPS Supply Chain Solutions warehouse/distribution complex located to the west of the Subject Area on Outer Loop, and (v) the requirement that the land acquired through the Minors Lane voluntary residential relocation program be used only for purposes which are compatible with noise levels and safety associated with operation of the Airport; and

WHEREAS, the Commission further finds that the R-4, C-1, and C-2 zoning classifications are inappropriate given (i) the public policy decision to eliminate the residential uses in certain areas surrounding the Airport, including this area, and (ii) the requirement that the land acquired through the Minors Lane voluntary residential relocation program be used only for purposes which are compatible with noise levels and safety associated with operation of the Airport; and

WHEREAS, the Commission further finds that the EZ-1 zoning classification is appropriate given (i) the industrial uses in the vicinity, including the landfill across

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Outer Loop from the Subject Area, the UPS Centennial Hub and other industrial developments on Air Commerce Drive, Transglobal Drive, and Export Drive within the Renaissance South Business Park, the Louisville Metro Commerce Center industrial park and the UPS Supply Chain Solutions warehouse/distribution complex located to the west of the Subject Area on Outer Loop, and the Ford Louisville Assembly Plant and the Knopp-Melton Industrial Area to the north of the Subject Area, (ii) the site's proximity to CSX's Osborn Yard, (iii) the Council's inclusion of the property within the development area created by Ordinance No. 199, Series 2003, and (iv) the Council's recognition and acceptance of the Preliminary Planning Report and its expectation that the uses of this portion of the Louisville Renaissance Zone would include airport-related and airport-compatible uses; and

WHEREAS, the Commission further finds that the proposal is in agreement with Cornerstone 2020 Comprehensive Plan Community Form Strategy Goal A1 because it will advance identified land use policies and economic planning initiatives (as set forth in the Preliminary Planning Report) and will contribute to the creation of an environment that is compatible with the site, building and community design characteristics of the Suburban Workplace Form District; and

WHEREAS, the Commission further finds that this proposal is in agreement with Comprehensive Plan Community Form Strategy Goal G1 because it ensures the full use of an industrial area existing within the Suburban Workplace Form District and capitalizes on the site's proximity to the Airport, Interstate 65 and the Gene Snyder Freeway; and

WHEREAS, the Commission further finds that this proposal is in agreement with Comprehensive Plan Marketplace Strategy Objective A1.5 because the classification of the subject property as EZ-1 would allow for development that would serve the community's commercial and industrial needs; and

WHEREAS, the Commission further finds that this proposal is in agreement with Comprehensive Plan Marketplace Strategy Objective C1.4 because the classification of the subject property as EZ-1 would allow for the implementation of the economic development strategy promulgated by the Council's enactment of Ordinances No. 199, Series 2003 and No. 135, Series 2004; and

WHEREAS, the Commission further finds that the proposal is in agreement with Comprehensive Plan Guideline 1 because the uses permitted by EZ-1 are compatible with the scale, rhythm, form and function of development in the area, and because the rezoning advances the emerging pattern of redevelopment recognized through the Council's enactment of Ordinance No. 199, Series 2003,

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Ordinance No. 135, Series 2004, Ordinance No. 220, Series 2006, and Ordinance No. 112, Series 2011; and

WHEREAS, the Commission further finds that according to Part B(I 0) of Guideline 1, suburban workplaces often contain a single large-scale use or a cluster of uses within a master planned development, and part of this site will have the potential of later becoming part of the Renaissance South Business Park; and

WHEREAS, the Commission further finds that the proposal is in agreement with Comprehensive Plan Guideline 3, Policy 17, because it will encourage industries to locate in this Suburban Workplace Form District rather than in isolated industrial sites; and

WHEREAS, the Commission further finds that the proposal is in agreement with Guideline 6, Policy 4, because it would allow industries to locate adjacent to existing industry and would take advantage of the Subject Area's proximity to the Airport, Interstate 65 and the Gene Snyder Freeway; and

WHEREAS, the Commission further finds that, based on the evidence and testimony presented, the staff report, and the applicant's justification 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 areawide change in zoning from R-4, C-1, and C-2 to EZ-1 on property located in the attached legal description be **APPROVED**.

The vote was as follows:

YES: Commissioners Brown, Turner, Blake, Kirchdorfer, Tomes, Jarboe, Peterson, and Howard.

NO: No one.

NOT PRESENT: Commissioners White and Lewis.

ABSTAINING: No one.

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Public Hearing

Case No. 15ZONE1067

Request: Zoning Map Amendment from C-1 to C-2 on 0.56 acres and Detailed District Development Plan for Auto Sales

Project Name: Car Dealership

Location: 5520 Bardstown Road

Owner/Applicant: Cayman Investments LLC
Michael S. Gordon, Representative
5801 Bardstown Road
Louisville, KY 40291

Representative: Ashley Bartley
QK4
1046 East Chestnut Street
Louisville, KY 40205

Jurisdiction: Louisville Metro

Council District: 22 – Robin Engel

Case Manager: **Brian Davis, AICP, Planning Manager
Presented by 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.)

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.

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Agency Testimony:

01:05:46 Julia Williams presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.)

01:09:17 In response to a question from Commissioner Jarboe, Ms. Williams addressed how staff handled the issue of this property being surrounded by C-1 zoning. She said staff looks at the use, the roadway level/s, and if the area serves a neighborhood, or as greater regional population than only residential.

01:11:58 In response to a question from Commissioner Blake, Ms. Williams discussed C-2 uses. Commissioner Blake said this site is already being advertised "for sale or lease" as C-2.

The following spoke in favor of the proposal:

Michael S. Gordon (applicant), 5801 Bardstown Road, Louisville, KY 40291

Ashley Bartley, QK4, 1046 East Chestnut Street, Louisville, KY 40205

Summary of testimony of those in favor of the proposal:

01:13:10 Ashley Bartley, 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:

01:16:30 Commissioners' deliberation.

01:19:34 Commissioner Blake specifically addressed the sign that the applicant put up advertising the property as "C-2" before this hearing was held. Commissioner Howard discussed a typo in binding element #1 (page 13 in the

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staff report); also Commissioners Blake and Howard said the words "vacant site" in the staff report should be changed to "unused site".

01:27:51 In response to a question from Commissioner Howard, Ms. Williams addressed the transportation facilities (items 40 and 43 of staff's findings).

Zoning

01:33:14 On a motion by Commissioner Brown, seconded by Commissioner Peterson, the following resolution was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the intents of **Guideline 1: Community Form**. The property lies within the Suburban Workplace Form District. The proposal is consistent with the existing commercial zoning and use along the Bardstown Road corridor. Sidewalks exist along the property frontage and are being improved upon and extended with a new stub from the sidewalk to parking lot, providing direct pedestrian access onto site. Existing structure and parking are being used for the proposal. Existing curb cut is being reduced and a second one removed creating safer conditions; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 2: Centers**. This site will provide a new service along an already existing active commercial area within a compact space. Existing utilities will be utilized. Parking is located directly adjacent to building minimizing pedestrian and vehicular conflict. Outdoor sales area is located on the perimeter of the lot providing clear views of vehicular traffic and safe conditions. Sidewalk stub from existing sidewalk into parking lot is provided. Site is located on TARC route between two stops; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 3: Compatibility**. The existing structure will be reused; its scale is consistent with other commercial development in the area. Architecture and building materials are consistent with nearby structures. Property is surrounded by other commercial uses. Lighting is compliant with the LDC. Landscaping (three foot screen and trees) will be added to property frontage. Commercial use is located along transit corridors and near activity centers. New handicap ramps will be provided as needed. Transition between roadway and vehicular use area/outdoor sales will be partially screened by landscaping requirements.

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Appropriate setbacks are provided. Parking areas are not located adjacent to residential areas. Existing sign will be re-faced; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 4: Open Space**. Open space is not required and no natural features are present on site; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 5: Natural Areas and Scenic and Historic Resources**. There are no known affected natural, scenic or historically significant resources; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 6: Economic Growth and Sustainability**. The site is located along major arterial road; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 7: Circulation**. Roadway improvements are not warranted with this proposal. An existing entrance into the site is being reduced in width by more than 30 feet to a standard 24' entrance, and the second entrance nearest Hudson Lane is being closed, both resulting in safer vehicular conditions. Sidewalks exist along the property frontage and are being improved upon and extended with a new stub from the sidewalk to parking lot, providing direct pedestrian access onto site and access to transit corridor. Right-of-way is fairly consistent along this stretch of Bardstown Road and provides adequate space for roadway, sidewalk, and buffering area. Adequate parking is provided. The existing entrance closest to Hudson Lane is being closed. The entrance to be utilized is being reduced in width by more than 30 feet to a standard 24' entrance; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 8: Transportation Facility Design**. An existing entrance into the site is being utilized. Parking is located directly adjacent to building minimizing pedestrian and vehicular conflict. Outdoor sales area is located on the perimeter of the lot providing clear views of vehicular traffic and safe conditions; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 9: Bicycle, Pedestrian and Transit**. Sidewalks exist along the property frontage and are being improved upon/extended with a new stub from the sidewalk to parking lot, providing direct pedestrian access onto site and access to transit corridor; and

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WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 10: Flooding and Stormwater**. There will be no increase in impervious area, and existing infrastructure will be utilized; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 11: Water Quality**. The development will not adversely affect water quality or erosion; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 12: Air Quality**. APCD finds no negative impact on air quality for this development; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 13: Landscape Character**. There is no existing tree canopy to protect. Trees will be added along the Bardstown Road frontage; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 14: Infrastructure**. This development is utilizing existing infrastructure; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 15: Community Facilities**. This development is utilizing existing infrastructure and community facilities; 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; 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 C-1 to C-2 on property described in the attached legal description, be **APPROVED**.

The vote was as follows:

YES: Commissioners Brown, Turner, Blake, Kirchdorfer, Tomes, Jarboe, Peterson, and Howard.

NO: No one.

NOT PRESENT: Commissioners White and Lewis.

ABSTAINING: No one.

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Detailed District Development Plan and Binding Elements

01:34:31 On a motion by Commissioner Brown, seconded by Commissioner Peterson, the following resolution was adopted:

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 Detailed District Development Plan, **SUBJECT** to the following binding elements:

Binding Elements

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Development Code, Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Development Code and 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.
2. The development shall not exceed 450 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. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested:
 - a. The development plan must receive full construction approval from Louisville Metro Department of Codes and Regulations Construction Permits and Transportation Planning Review and the Metropolitan Sewer District.
 - b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
 - c. The property owner/developer must obtain approval of a detailed plan for screening

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(buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.

5. If a certificate of occupancy is not issued within two years of the date of approval of the plan or rezoning, whichever is later, the property shall not be used in any manner unless a revised district development plan is approved or an extension is granted by the Planning Commission.
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 or permitted on the site**).
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.

The vote was as follows:

YES: Commissioners Brown, Turner, Blake, Kirchdorfer, Tomes, Jarboe, Peterson, and Howard.

NO: No one.

NOT PRESENT: Commissioners White and Lewis.

ABSTAINING: No one.

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Public Hearing

Case No. 16ZONE1003

Request: Change in zoning from R-4 to C-2 on 1.5 acres and a District Development Plan

Project Name: Blue Iguana Car Wash

Location: 9500 Dixie Highway

Owner: GESJ Inc.
P.O. Box 789
Winchester, KY 40392

Applicant: Blue Iguana Car Wash
Mike Matthews, Representative
1640 East Sunshine Street
Springfield, MO 65804

Representatives: Nick Pregliasco
Bardenwerper, Talbott & Roberts PLLC
1000 N. Hurstbourne Parkway 2nd Floor
Louisville, KY 40223

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

Jurisdiction: Louisville Metro

Council District: 14 – Cindi Fowler

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.)

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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:

01:35:55 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:

Nick Pregliasco, Bardenwerper, Talbott & Roberts PLLC, 1000 N. Hurstbourne Parkway 2nd Floor, Louisville, KY 40223

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

Greg Byler, 1640 East Sunshine Street, Springfield, MO 65804

Summary of testimony of those in favor of the proposal:

01:42:13 Nick Pregliasco, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.)

01:49:27 In response to a question from Commissioner Kirchdorfer, Mr. Pregliasco said the hours of operation would be 7:00 a.m. to 9:00 p.m. There will be no access to the site after hours.

01:50:26 In response to a question from Commissioner Kirchdorfer, Greg Byler (the applicant) answered questions regarding the location of the vacuums and turbines, and also general noise issues.

01:53:19 Commissioner Blake requested a binding element stating that the hours of operation shall be 7:00 a.m. to 9:00 p.m. In response to another question, Mr. Pregliasco said that the business would be open 7 days a week.

The following spoke in opposition to the proposal:

No one spoke.

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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:

01:55:12 Commissioners' deliberation. Commissioner Howard noted that binding element #10 should read, “The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the **April 21, 2016** Planning Commission meeting.” [correct date] Commissioners Kirchdorfer and Blake stated that they wanted to add a binding element stating the hours of operation.

Zoning

01:59:14 On a motion by Commissioner Jarboe, seconded by Commissioner Turner, the following resolution was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the intents of **Guideline 1 – Community Form / Suburban Marketplace.** The proposed car wash complies with the intent of Guideline 1 because the property is located in the Suburban Marketplace Corridor, will be reutilizing an already developed site with almost the same use currently, will have access directly to Dixie Highway and Speedway Avenue to the south, will address its potential impacts on the residential area to the west and northwest, will otherwise present a reinvestment in this established Suburban Marketplace Corridor; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 2 – Centers** and specifically with Policies 2, 3, 4, 5, 12, 13, 14, and 15 because the proposed development will be a new automatic car wash building in largely the same location as the current existing car wash; this compact style development is what is called for by Guideline 2. The proposed development also will adequately screen the area where single-family homes adjoin the western and northwestern portion of the subject property; the blowers to dry cars is located at the front of the property which is the furthest point from the residential properties and closest to the busy Dixie Highway. The proposed application will provide an access easement to the property to the North to provide shared access in the event that property is redeveloped is served by all

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necessary utilities; the new operation will have hours of operation limitation and reduce the current disruption from a 24 hour self-service car wash; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 3 – Compatibility**, specifically with Policies 1, 2, 4, 5, 6, 7, 8, 9, 12, 21, 22, 23 and 24 thereof because Dixie Highway is a well- established Suburban Marketplace Corridor with many car washes, including the currently existing car wash on the site, and other large and varied commercial uses; new commercial developments along Dixie Highway as a consequence of the new Development Code and Comprehensive Plan guidance are transforming the area, and the proposed car wash building will be an attractive addition to the area; in addition, the proposed car wash is designed to minimize any noise disruptions, along with good screening and buffering; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guidelines 4 and 5 – Open Space and Natural Areas in Scenic and Historic Resources** because it will preserve the rear of the current subject site including significant green space area which will be maintained by the applicant; and Guideline 5 does not apply to the subject property because there is neither an historic nor natural resource; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 6 – Economic Growth and Sustainability** . The proposed car wash complies with the intent of Guideline 6 and specifically with Policies 3, 5, and 6 thereof because the proposed car wash involves a reuse of an existing 24-hour self-service car wash along Dixie Highway that is in disrepair; the subject property is located within the Suburban Marketplace Corridor and is adjoining to the north and south by other commercial uses; only a small portion of the developed area is being rezoned and the remainder is already properly zoned C-2; this redevelopment of an existing site within the Suburban Marketplace Corridor is exactly what Guideline 6 calls for; and

WHEREAS, the Commission further finds that the proposed car wash complies with **Guideline 7 – Circulation** and specifically with Policies 1, 2, 6, 9, 10 and 13 thereof. The proposed car wash will not require the extension of any streets or utilities and will utilize the currently existing curb cuts on Dixie Highway and Speedway Avenue; an access easement to the property to the North will be provided for use in the event that property is ever redeveloped; the proposed development will dedicate right-of-way as required by Louisville Metro Public Works and will otherwise comply with the Land Development Code concerning internal access and circulation; and

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WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 8 – Transportation Facility Design**. No new roads will part of this application, Guideline 8 is not applicable; and

WHEREAS, the Commission further finds that the proposal complies with the intent of **Guideline 9 – Bicycle, Pedestrian and Transit** and specifically with Policies 1 and 2 thereof, because, although few people visit automobile car washes on foot or by bicycle, the proposed development will provide sidewalks, as required by the Land Development Code to accommodate pedestrians and cyclists who may visit the site or pass by the site along Dixie Highway; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 10 – Flooding and Stormwater**. The proposal complies with the intent of this Guideline and specifically with Policies 7, 10 and 11 thereof, because the overall impervious surface on the site will decrease from its current condition; the development plan will manage stormwater in such a way as to prevent adverse impacts on surrounding properties from stormwater runoff; the applicant has taken drainage into account in designing the drainage system on the subject property and must obtain approval from the Metropolitan Sewer District prior to construction; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 11 – Water Quality** because the proposed car wash is not adjacent to any streams and will be putting its drainage into the public system, this Guideline does not apply; and

WHEREAS, the Commission further finds that the proposed car wash complies with the intent of **Guideline 12 – Air Quality** and specifically with Policies 1, 5, 6 and 8 thereof, because it is located at an existing car wash location and will be predominantly the same use; the proposed car wash use is not a destination use, but one customers stop in on their way to or from other locations which is why being located on a busy road is important; the proposed development will also utilize the current existing curb cuts thus not increasing idling traffic from a new configuration; and

WHEREAS, the Commission further finds that the proposal complies with the intents of **Guideline 13 – Landscape Character** and specifically with Policies 1, 2, 4, 5 and 6 thereof because the applicant will meet or exceed the requirements of the Land Development Code, utilizing native plant species as recommended by the Code and as will be detailed as the application makes it way through the planning process; and

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WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 14 - Infrastructure** and specifically with Policies 2, 3, and 4 thereof because the car wash equipment will use less water than prior equipment models. The property is already a car wash and is already producing similar utility service demands, and will connect to existing sewer, electric, phone, cable, gas and other utility connections; 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; 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-2 on the portion of the property described in the attached legal description be **APPROVED**.

The vote was as follows:

YES: Commissioners Brown, Turner, Blake, Kirchdorfer, Tomes, Jarboe, Peterson, and Howard.

NO: No one.

NOT PRESENT: Commissioners White and Lewis.

ABSTAINING: No one.

Detailed District Development Plan and Binding Elements

02:00:07 On a motion by Commissioner Jarboe, seconded by Commissioner Tomes, the following resolution was adopted:

WHEREAS, the Louisville Metro Planning Commission 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 and the Kentucky Transportation Cabinet have approved the preliminary development plan; and

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WHEREAS, the Commission further finds that there are no open space requirements with the current proposal. Open space is provided within buffers along the perimeter of 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, 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 Detailed District Development Plan, **SUBJECT** to the following binding elements:

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. The development shall not exceed 5,000 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

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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.
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 permitted on the site.
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 commercial property to the north is ever redeveloped. A copy of the signed easement agreement shall be provided to Planning Commission staff upon request.

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10. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the **April 21, 2016** Planning Commission public hearing.
11. No idling of trucks shall take place within 200 feet of single-family residences. No overnight idling of trucks shall be permitted on-site.
12. **The hours of operation for the Blue Iguana Car Wash shall be 7:00 a.m. through 9:00 p.m., Monday through Sunday.** *(added at the April 21, 2016 Planning Commission hearing)*

The vote was as follows:

YES: Commissioners Brown, Turner, Blake, Kirchdorfer, Tomes, Jarboe, Peterson, and Howard.

NO: No one.

NOT PRESENT: Commissioners White and Lewis.

ABSTAINING: No one.

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Request: Change in Form District from Traditional Workplace to Town Center; Change in zoning from M-2 to C-1 on 0.92 acres; Waivers; Variances; and a Detailed District Development plan

Project Name: Pizza Hut

Location: 3803, 3805, and 3809 7th Street Road

Owner: LJCC Trust LLC
Layne Smith, Managing Member
822 South First Street
Louisville, KY 40203

Applicant: Apex Restaurants LLC
Brian Reetz, VP
305 Townepark Circle, Suite 101
Louisville, KY 40243

Representatives: James T. Lobb
Weber & Rose PSC
471 West Main Street Suite 400
Louisville, KY 40202

Kathy Linares and Kent Gootee
Mindel Scott & Associates
5151 Jefferson Boulevard
Louisville, KY 40219

Jurisdiction: Louisville Metro

Council District: 3 – Mary Woolridge

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

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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:

02:01:24 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:

James T. Lobb, Weber & Rose PSC, 471 West Main Street Suite 400, Louisville, KY 40202

Kathy Linares and Kent Gootee, Mindel Scott & Associates, 5151 Jefferson Boulevard, Louisville, KY 40219

Summary of testimony of those in favor of the proposal:

02:09:21 James Lobb, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.) He also handed out large copies of the Detailed District Development Plan to the Commissioners.

02:18:55 Kent Gootee, an applicant's representative, offered to answer questions about how the utilities affected the site.

02:19:38 In response to a question from Commissioner Blake, Ms. Williams and Mr. Lobb discussed alternatives for the signage. Kathy Linares talked about LDC regulations for signage in this area, and how it relates to what the applicant is proposing.

02:23:45 In response to a question from Commissioner Howard, Mr. Gootee discussed the utility easements and how they affected the design and signage requests.

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02:26:34 Commissioner Blake suggested that the Commission move to the next case, and continue this case to the end of this hearing so that the applicants can write a justification statement for the sign.

02:28:05 On a motion by Commissioner Tomes, seconded by Commissioner Peterson, the following resolution was adopted:

RESOLVED, the Commission agrees to table this case until the end of today's public hearing, at which time the applicant will present a written justification statement for the signage request.

The vote was as follows:

YES: Commissioners Brown, Turner, Blake, Kirchdorfer, Tomes, Jarboe, Peterson, and Howard.

NO: No one.

NOT PRESENT: Commissioners White and Lewis.

ABSTAINING: No one.

THE COMMISSION HEARD CASE NO. 15ZONE1048, THEN RETURNED TO THIS CASE.

***NOTE: Commissioners Kirchdorfer and Brown left the meeting at 3:45 p.m. and did not hear or vote on the remainder of this case.**

03:15:20 The Commission reconvened this case. Kathy Linares read the revised justification statement for signage into the record, as follows:

The requested sign waiver is appropriate since the sign regulations allow a freestanding sign as long as the building on the lot is located 15-feet or more away from the front property line. In this instance, the sign is proposed in front of the southwest building on the site, which is located 15 feet from the property line. Additionally, if the site was subdivided with each building on its own lot as proposed, the sign would be allowed.

For these reasons it will not adversely affect the adjacent property owner, will not violate Cornerstone 2020, is the minimum necessary to comply with the regulations, and the strict application of the regulation would deprive the

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applicant of a reasonable use of the property and create an unnecessary hardship.

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:

03:18:41 Commissioners' deliberation.

Zoning and Form District

03:27:36 On a motion by Commissioner Jarboe, seconded by Commissioner Tomes, the following resolution was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the intents of **Guideline 1 – Community Form**. The applicant proposes to rezone approximately .55 acres of the site, i.e. the northeastern 2 of the three lots comprising the site, from M-2 to C-1. The applicant will then construct two buildings, one a single story restaurant facility and one a single story retail building. This downzoning would render the entire Site zoned C-1, which is the same as the lot immediately to the south (more accurately, the southwest) of the Site. As the Pre-Application Staff Report ("Pre-App Report"), dated January 8, states, "The subject sites are located along the 7th Street Road corridor leading south to Dixie Highway. The parcels are at the edge of the Traditional Workplace and the Town Center form districts. The railroad line is located to the real of the subject to the east. The surrounding area is a mix of industrial and commercial zoning." The Pre-App Report, at page 5 of 13, shows that the land to the immediate north of the Site is vacant and zoned M-2, while lands continuing on to the north of that are generally zoned M-2; that the land to the immediate south of the Site and on the same side of 7th Street Road is zoned C-1, while lands continuing on to the south and on the same side of 7th Street Road are generally zoned C-1; and that lands across 7th Street Road from the Site, both

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to the north and south, are zoned C-2. That land to the immediate south of the Site contains an office building. Finally, the land to the immediate east of the Site, which by orientation would be the back of the development, contains a railroad right of way easement and rail line. In response to the Pre-App Report Cornerstone 2020 checklist, items 2 and 3, at Pre-App Report page 7 of 13, the applicant states that the fronts of the proposed buildings are being reconfigured so that they parallel the setback line; that front entrances are being added; and that a bike rack is being added to provide for additional parking; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 2 – Centers**. The Site is bordered to the north by M-2 zoned properties (Traditional Workplace), to the south by C-1 zoned properties (Town Center), to the east by a rail line, and to the west by C-2 properties (Town Center). The properties to the north, south, and west of the Site border a major arterial roadway (7th Street Road). Further to the north, on the other side of 7th Street Road and sandwiched in between the C-2 and M-2 properties, is an R-6 subdivision, a natural constituency for both the restaurant and retail space planned by the applicant. In response to the Pre-App Report Cornerstone 2020 checklist, items 9 and 13, at Pre- App Report page 8 of 13, the applicant states that, though the proposed buildings are single story rather than multiple story, mixed use, single story buildings are consistent with the use in the area, while multiple story, mixed use buildings would likely require more parking that could be provided for on the site. As stated above, the applicant is adding a bike rack to accommodate bike parking; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 3 – Compatibility**. The rezoning of the properties within the site to C-1, and the construction of a retail building and a restaurant on the Site, renders the Site compatible with the uses of the surrounding M-2, C-1 and C-2 properties for those reasons cited above. In response to the Pre-App Report Cornerstone 2020 checklist, items 14, 17, 20-22, and 26, at pages 9-10 of 13, the applicant states that the Detailed District Development Plan, General Notes, #9, provides that "Building Architecture to comply with Chapter 5.6 of the LDC". That building architecture is still being determined. The additional traffic impacts on nearby communities from the restaurant and retail building should be minimal. The applicant expects that the retail building will be utilized primarily by persons who come in, park, and stay for the bulk of the workday, with 3rd party visitations sporadic at best. The restaurant will have sit down facilities, but it is primarily a drive through and carry out facility, and the drive through lane will serve to regulate the flow and frequency. of customers leaving the lot. Based on historic use at other applicant sites, the applicant also believes that the bulk of the traffic from the restaurant will come later in the day and evening, when traffic is less

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congested. The size and intensity of the Site use is similar to, and not more intensive or dense than, existing improvements in the immediate area, including the buildings immediately adjacent to, or across the road from, the Site. The fronts of the proposed buildings are being reconfigured so that they parallel the setback line, and front entrances are being added. Signage will be located as shown on the Detailed District Development Plan attached to the Final Application, as that DDDP may be modified subsequently with approval of Planning and Design. The Detailed District Development Plan, General Notes, #5, provides that "Identification sign shall be submitted to and approved by the planning staff prior to construction plan approval and shall meet the requirements of Chapter 8 of the LDC". Further, the Detailed District Development Plan, Public Works and KTC Note, #1, provides that "No landscaping and commercial signs shall be permitted in state and metro works R/W."; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 4 – Open Space**. Open space is not required for this use, and the Site is not located in an area where there are natural features evident; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 5 – Natural Areas and Scenic and Historic Resources**. There is nothing of cultural or historic value on the Site, and the proposed use will not affect the soils on the Site; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 6 – Economic Growth and Sustainability**. Access to the rezoned Site will be via a major arterial roadway (7th Street Road). The Site is not located downtown, and the use is not industrial in nature; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 7 – Circulation**. Roadway, bikeway and walkway facilities serving the property already exist (see Pre-App Report, Cornerstone 2020 checklist, item #38). The Site sits adjacent to a major arterial, such that no further improvements to the facilities are needed. The applicant has agreed to provide further setback from 7th Street Road to allow for the future widening of that road. The applicant will connect walkways from the two buildings to these existing facilities, and will install a bike rack to better serve bike parking. In response to the Pre-App Report Cornerstone 2020 checklist, items 37, 38, and 40, at page 11 of 13, the applicant states that, as stated in the Detailed District Development Plan, Public Works and KTC Notes, #3, 4, 6, and 10, the applicant will insure that all roadway and entrance intersections meet the landing requirements imposed by public works, that all utilities be located in a single trench unless otherwise required by Metro Works, that all utilities be relocated at the applicant's expense,

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and that the applicant agrees to enter into an agreement for cross access to the property to its immediate south-whenever the owner of that southern property will provide equivalent cross access-all as a way of providing better off road circulation between the properties. The applicant is providing a bike rack to accommodate bike parking. As stated in the Detailed District Development Plan, Public Works and KTC Note #9, the applicant is requesting a waiver on the 7th street right of way setback requirement so that the setback required of this property is the same as the setback required of adjacent, already developed properties; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 8 – Transportation Facility Design**. No new roads are proposed or needed. Access will be by the existing public roads. However, the applicant agrees to enter into an agreement for cross access to the property to its immediate south-whenever the owner of that southern property will provide equivalent cross access-all as a way of providing better off road circulation between the properties; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 9 – Bicycle, Pedestrian and Transit** because the applicant is providing a bike rack to accommodate bike parking; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 10 – Flooding and Stormwater**. The applicant believes that its proposed use should have no material adverse effect on the existing drainage systems for the Site and not increase the existing stormwater runoff. In response to the Pre-App Report Cornerstone 2020 checklist, item 47, at page 12 of 13, the applicant states that the applicant's revised Detailed District Development Plan has incorporated and addressed MSD's comments; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 12 – Air Quality**. The applicant believes that its proposed use should have no material adverse effect on the existing air quality for the Site. APCD has preliminarily approved the applicant's proposal; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 13 – Landscape Character**. Staff has determined that applicant's proposed rezoning proposal "does not have any existing natural features and is not located in an area where natural corridors are evident."; and

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WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 14 – Infrastructure** because the site has available utilities, adequate sewage treatment and disposal service, and adequate water; 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; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the requested change in form district from Traditional Workplace to Town Center and change in zoning from M-2 to C-1 on property located in the attached legal description be **APPROVED**.

The vote was as follows:

YES: Commissioners Turner, Tomes, Jarboe, Blake, and Peterson.

NO: No one.

NOT PRESENT: Commissioners White, Lewis, Brown, and Kirchdorfer.

ABSTAINING: Commissioner Howard.

- **Variance #1 – Variance from 5.1.8.B to permit less than 60% of the site frontage to be occupied by structures.**
- **Variance #2 – Variance from 5.2.4.C.3.F to permit parking to encroach into the 5' rear yard as indicated on the development plan.**
- **Waiver #1 – Waiver from 10.2.4.B to permit 100% encroachment of an easement into a required LBA along 7th Street Road**
- **Waiver #2 - Waiver from 10.2.13 to permit Type C trees to be used in ILAs instead of the required Type A/B trees.**

03:29:22 On a motion by Commissioner Jarboe, seconded by Commissioner Turner, the following resolution was adopted:

(Variance #1) **WHEREAS**, the Louisville Metro Planning Commission finds that the requested variance will not adversely affect public health safety or welfare since the buildings proposed are within the appropriate setback and have entrances and windows that face the public right of way; and

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WHEREAS, the Commission further finds that the requested variance will not alter the essential character of the general vicinity since there is a mix of building types in the area which have different orientations; and

WHEREAS, the Commission further finds that the requested variance will not cause a hazard or nuisance to the public since pedestrians are served by the sidewalk and by having the building closer to the roadway where the conflicts with vehicles are lessened; and

WHEREAS, the Commission further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations since the two structures are within the setback and are oriented toward both the road and interior; 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 site is providing both structures and parking for those uses the building orientation is altered; 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 two structures of the proposed size and differing uses would not fit on the site; 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

(Variance #2) **WHEREAS**, the Commission further finds that the requested variance will not adversely affect the public health, safety or welfare since the encroachment is adjacent to a non-residential use and since the encroachment is adjacent a railroad; and

WHEREAS, the Commission further finds that the requested variance will not alter the essential character of the general vicinity since the encroachment is adjacent to a non-residential use which is a railroad; and

WHEREAS, the Commission further finds that the requested variance will not cause a hazard or nuisance to the public since the encroachment is adjacent to a non-residential use and since the encroachment is adjacent a railroad; and

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WHEREAS, the Commission further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations since the proposed parking lot provides the minimum required parking module width; 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 because this property is adjacent to a railroad; and

WHEREAS, the Commission further finds that the strict application of the provision would deprive the applicant of reasonable use of the land since the adjacent property is a railroad rather than a use that would need additional buffering and setbacks; 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 waiver will not adversely affect adjacent property owners since planting materials will still be provided in the areas where there is encroachment; 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 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,

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and to filter air borne and water borne pollutants. The planting materials will still be provided to ensure compatibility; 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 planting requirements will still be met within the buffer; and

WHEREAS, the Commission further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant because the plantings requirements can still be met within the buffers; and

(Waiver #2) **WHEREAS**, the Commission further finds that the waiver will not adversely affect adjacent property owners since trees will still be planted in the parking lots and parking lot is interior to the site; and

WHEREAS, the Commission further finds that the waiver will not violate specific guidelines of Cornerstone 2020. Guideline 3, policy 9 of Cornerstone 2020 calls for the protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigate when appropriate. Guideline 3, policies 21 and 22 calls for appropriate transitions between uses that are substantially different in scale and intensity or density, and to mitigate the impact caused when incompatible developments occur adjacent to one another through the use of landscaped buffer yards, vegetative berms and setback requirements to address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances. Guideline 3, policy 24 states that parking, loading and delivery areas located adjacent to residential areas should be designed to minimize the impacts from noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered. Guideline 13, policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. Guideline 13, Policy 6 calls for screening and buffering to mitigate adjacent incompatible uses. The intent of landscape buffer areas is to create suitable transitions where varying forms of development adjoin, to minimize the negative impacts resulting from adjoining incompatible land uses, to decrease storm water runoff volumes and velocities associated with impervious surfaces, and to filter air borne and water borne pollutants. The intent is still being met with smaller trees. Smaller trees are necessary due to overhead utilities; and

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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 it will be an unnecessary expense to bury the power lines; and

WHEREAS, the Commission further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant since it will be an unnecessary expense to bury the power lines; 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 5.1.8.B to permit less than 60% of the site frontage to be occupied by structures; a Variance from 5.2.4.C.3.F to permit parking to encroach into the 5' rear yard as indicated on the development plan; and Waiver from 10.2.4.B to permit 100% encroachment of an easement into a required LBA along 7th Street Road; and a Waiver from 10.2.13 to permit Type C trees to be used in ILAs instead of the required Type A/B trees.

The vote was as follows:

YES: Commissioners Turner, Tomes, Jarboe, Blake, and Peterson.

NO: No one.

NOT PRESENT: Commissioners White, Lewis, Brown, and Kirchdorfer.

ABSTAINING: Commissioner Howard.

Waiver #3 – Waiver from 8.3.3.B.6 to permit a freestanding business sign on lot frontage where the proposed building is less than 15' from the street.

03:30:39 On a motion by Commissioner Jarboe, seconded by Commissioner Tomes, the following resolution was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the requested sign waiver is appropriate since the sign regulations allow a freestanding sign as long as the building on the lot is located 15-feet or more away from the front property line. In this instance, the sign is proposed in front of the southwest building on the site, which is located 15 feet from the property line. Additionally,

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if the site was subdivided with each building on its own lot as proposed, the sign would be allowed; and

WHEREAS, the Commission further finds that, for these reasons it will not adversely affect the adjacent property owner, will not violate Cornerstone 2020, is the minimum necessary to comply with the regulations, and the strict application of the regulation would deprive the applicant of a reasonable use of the property and create an unnecessary hardship; and

WHEREAS, the Commission further finds that, based on the evidence and testimony presented and the applicant's justification statement that was read into the record by the applicant and presented to the Commission for review 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 Waiver from 8.3.3.B.6 to permit a freestanding business sign on lot frontage where the proposed building is less than 15' from the street.

The vote was as follows:

YES: Commissioners Turner, Tomes, Jarboe, Blake, and Peterson.

NO: No one.

NOT PRESENT: Commissioners White, Lewis, Brown, and Kirchdorfer.

ABSTAINING: Commissioner Howard.

Detailed District Development Plan and Binding Elements

03:32:09 On a motion by Commissioner Jarboe, seconded by Commissioner Tomes, the following resolution was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that there does not appear to be any environmental constraints or historic resources on the subject site. Tree canopy requirements of the Land Development Code will be provided on the subject site; and

WHEREAS, 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

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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

WHEREAS, the Commission further finds that, based on the evidence and 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 **APPROVE** the requested Detailed District Development Plan, **SUBJECT** to the following binding elements:

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. The development shall not exceed 14,000 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.

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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 minor plat or legal instrument shall be recorded consolidating the property into one lot. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of the approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
6. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
7. 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 south is ever re- developed. A copy of the signed

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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 April 21, 2016 Planning Commission meeting.
11. No idling of trucks between the rear of the shopping center and adjacent single-family residences. No overnight idling of trucks shall be permitted on-site.
12. 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 Turner, Tomes, Jarboe, Blake, and Peterson.

NO: No one.

NOT PRESENT: Commissioners White, Lewis, Brown, and Kirchdorfer.

ABSTAINING: Commissioner Howard.

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***NOTE: Commissioners Kirchdorfer and Brown left the meeting at 3:45 p.m. and did not hear or vote on this case.**

Request: CONTINUED FROM THE APRIL 7, 2016 PUBLIC HEARING – Change in zoning from R-6 to C-2 with Land Development Code Variance and Waivers; and a Revised Detailed District Development Plan.

Project Name: Zanzabar

Location: 2100 & 2104 South Preston Street

Owner/Applicant: Anthony Wettig
Zanzabar LLC
Anthony Wettig
2100 South Preston Street
Louisville, KY 40217

Representative: Schroll Land Surveying
Bill Schroll, Representative
5450 Southview Drive
Louisville, KY 40214

Jurisdiction: Louisville Metro

Council District: 15 – Marianne Butler

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.)

An audio/visual recording of the Land Development and Transportation Committee meeting related to this case is available on the Planning &

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Design Services website, or you may contact the Customer Service staff to view the recording or to obtain a copy.

Agency Testimony:

02:30:00 Julia Williams presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.)

02:39:06 Commissioner Howard asked how the square footage was calculated. Ms. Williams referred that question to the applicant's representatives.

02:39:49 In response to a question from Commissioner Turner, Ms. Williams pointed out the location of the proposed shared parking agreement.

The following spoke in favor of the proposal:

Anthony Wettig, 213 Brown Avenue, Louisville, KY 40207

Jon Wettig, 1141 Logan Street, Louisville, KY 40204

Bill Schroll, Schroll Land Surveying, 5450 Southview Drive, Louisville, KY 40214

Ted Bressoud, 230 South Hite Avenue, Louisville, KY 40206

Ellen Nord, 1203 Falcon Drive, Louisville, KY 40213

Summary of testimony of those in favor of the proposal:

02:40:07 Ted Bressoud, architect for the project, presented the applicant's case and answered Commissioner Howard's question about the square footage calculations using the site plan. He added that this project began because the applicant wanted to meet ADA requirements, particularly for the bathrooms.

02:43:34 Ellen Nord, one of the previous owners of the business, briefly described the history of the business and spoke in favor of the current owners and their proposal.

02:46:55 Antz Wettig, one of the current owners, said that the expansion to create accessible bathrooms and soundproof the current building should enhance the neighborhood.

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The following spoke in opposition to the proposal:

Gail Linville, 526 Atwood Street, Louisville, KY 40217

Summary of testimony of those in opposition to the proposal:

02:48:39 Gail Linville, President of the St. Joseph Area Neighborhood Association, handed out photos to the Commissioners. She said opposition is mostly because of parking issues. She asked that binding elements #11 and #12 of the **current** binding elements will be carrier over, **not removed**. They read as follows:

11. The owner shall obtain approval from the Board of Zoning Adjustment to place a condition on the parking lot across the street stating that the lighting location shall be designated on the plan and directed downward and away from adjoining residential property.

12. No live music shall be permitted in the outdoor eating area and no music shall be audible after midnight (12: 00 a.m.) in the outdoor eating area.

02:56:30 Ms. Williams said the applicants are agreeable to keeping binding element #12.

02:56:59 In response to a question from Commissioners Tomes and Jarboe, Mr. Wettig said there are about 18 Zanzibar employees, but about 15 of them walk to work because they live in the neighborhood. He further discussed the parking agreement with Swiss Hall.

03:00:36 Commissioner Jarboe and Ms. Williams discussed binding element #11 and why it cannot be kept. She said conditions are no longer placed on property/s that are not part of the proposal.

03:03:00 In response to a question from Commissioner Turner, Mr. Wettig listed the hours of operation.

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

No one spoke.

Deliberation:

03:04:31 Commissioners’ deliberation.

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Zoning

03:11:18 On a motion by Commissioner Jarboe, seconded by Commissioner Peterson, the following resolution was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the intents of **Guideline 1: Community Form** because the proposal will utilize an existing structure on the site to incorporate a mix of neighborhood serving services such as the existing restaurant. The existing buildings and their setbacks will be maintained along Preston and Lynn Street. The proposed addition will be located along the rear of the building and follow the existing massing. The proposal maintains the existing grid pattern; will maintain all existing on-street parking spaces and the existing sidewalks along the property frontage; and the only building addition is to the rear of the site and along an alley; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 2: Centers** because it will not create a new center but it will include an expansion of the commercial use at the corner intersection. The development is compact and results in an efficient land use pattern and cost-effective infrastructure investment; and minimal parking facilities are provided to the rear of 2104 Preston Street from the alley and they will be shared for both addresses. Existing utilities will be utilized for the proposal, and all types of transportation are being provided for on the site; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 3: Compatibility** because the building design is consistent with the area. The proposal is not a non-residential expansion into a residential area; the area is mixed-use. APCD has no issues with the proposal, Transportation Planning has not indicated an issue with traffic, and lighting will meet LDC requirements. The proposal is located along a transit corridor and near the activity centers at Preston Street and Eastern Parkway. The landscape buffer waivers are due to mainly an existing condition; screening will be provided where possible and plantings will mostly be provided. Setbacks and building heights are compatible with the nearby developments as the addition is located to the rear of the site and along an alley. No parking garage is proposed, and signs will meet LDC requirements; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 4: Open Space**. Open space not required for proposal, and no natural features exist on the site; and

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WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 5: Natural Areas and Scenic and Historic Resources**. No natural features exist on the site, and the proposal will maintain the adaptive reuse of the existing structure; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 6: Economic Growth and Sustainability** because the site is located along a minor arterial with good access to both the expressway and an intersecting major arterial; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 7: Circulation** because roadway improvements are not necessary; all types of transportation are being provided for on the site; the existing transportation facilities will be maintained with the proposal; and additional ROW is not required. The proposal meets the minimum parking requirements for the proposed uses as listed in the Land Development Code; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 8: Transportation Facility Design** because access to the site is gained from a minor arterial and a rear alley with no access from areas of lower intensity, and the existing street grid is maintained with the proposal; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 9: Bicycle, Pedestrian and Transit** because all types of transportation are being provided for on the site; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 10: Flooding and Stormwater** because MSD has no issues with the proposal; and

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

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 13: Landscape Character** because no natural corridors exist along the site; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 14: Infrastructure** because the proposal is located in an area served by existing utilities or planned for utilities; the proposal has access to an

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adequate supply of potable water and water for fire- fighting purposes; and the health department has no issues with the proposal; and

WHEREAS, the Commission further finds that, based on the evidence and testimony presented, the applicant's justification, and the staff report 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 C-2 on property located in the attached legal description be **APPROVED**.

The vote was as follows:

YES: Commissioners Turner, Blake, Tomes, Jarboe, Peterson, and Howard.

NO: No one.

NOT PRESENT: Commissioners White, Lewis, Brown, and Kirchdorfer,

ABSTAINING: No one.

- **Variance from Chapter 5.2.3.D.3.C of the Land Development Code to allow a reduction of the required rear yard from 5' to 3' for the proposed addition**
- **Waiver #1 - Landscape Waiver from Chapter 10.2.4 of the Land Development Code to allow existing structures, parking and dumpster to encroach into the required 15' LBA**
- **Waiver #2 - Landscape Waiver from Chapter 10.2.4 of the Land Development Code to reduce the required perimeter plantings from 5 trees to 4 trees**
- **Revised Detailed District Development Plan and binding elements**

03:13:04 On a motion by Commissioner Jarboe, seconded by Commissioner Peterson, 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 adjacent to an alley; and

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WHEREAS, the Commission further finds that the requested variance will not alter the essential character of the general vicinity since the encroachment is part of a non-residential use with a parking lot in the rear that is accessed from the alley and since the building faces the primary street and has a similar appearance from the primary street as nearby properties; and

WHEREAS, the Commission further finds that the requested variance will not cause a hazard or nuisance to the public since the encroachment is part of a non-residential use and since the encroachment is adjacent to an alley; and

WHEREAS, the Commission further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations since the proposed building addition is adjacent to an alley; and

WHEREAS, the Commission further finds that the property is expanding an existing building along an alley. Therefore, the requested variance arises from special circumstances which do not generally apply to land in the same zone; and

WHEREAS, the Commission further finds that the strict application of the provision would deprive the applicant of reasonable use of the land since the expansion and encroachment is along an alley; 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

(Waivers #1 AND #2) **WHEREAS**, the Commission further finds that the waivers will not adversely affect adjacent property owners since most of the encroachments are due to mainly an existing condition. Screening will be provided where possible and plantings will be provided where possible; and

WHEREAS, the Commission further finds that the waivers will not violate specific guidelines of Cornerstone 2020. Guideline 3, policy 9 of Cornerstone 2020 calls for the protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigate when appropriate. Guideline 3, policies 21 and 22 calls for appropriate transitions between uses that are substantially different in scale and intensity or density, and to mitigate the impact caused when incompatible developments occur adjacent to one another through the use of landscaped buffer yards, vegetative berms and setback requirements to address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells,

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dust and dirt, litter, junk, outdoor storage, and visual nuisances. Guideline 3, policy 24 states that parking, loading and delivery areas located adjacent to residential areas should be designed to minimize the impacts from noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered. Guideline 13, policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. Guideline 13, Policy 6 calls for screening and buffering to mitigate adjacent incompatible uses. The intent of landscape buffer areas is to create suitable transitions where varying forms of development adjoin, to minimize the negative impacts resulting from adjoining incompatible land uses, to decrease storm water runoff volumes and velocities associated with impervious surfaces, and to filter air borne and water borne pollutants. The comprehensive plan is satisfied since most of the encroachments are due to mainly an existing condition. Screening will be provided where possible and plantings will be provided where possible; and

WHEREAS, the Commission further finds that the extent of the waivers of the regulation is the minimum necessary to afford relief to the applicant since most of the encroachments are due to mainly an existing condition. Screening will be provided where possible and plantings will be provided where possible; and

WHEREAS, the Commission further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant since most of the encroachments are due to mainly an existing condition. Screening will be provided where possible and plantings will be provided where possible; and

(RDDDP and Binding Elements) **WHEREAS**, the Commission further finds that there do not appear to be any environmental constraints on the subject site. The proposal includes the adaptive re-use of a building. Tree canopy requirements of the Land Development Code will be provided on the subject site; and

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

WHEREAS, the Commission further finds that 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

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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; 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; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Variance from Chapter 5.2.3.D.3.C of the Land Development Code to allow a reduction of the required rear yard from 5' to 3' for the proposed addition; a Landscape Waiver from Chapter 10.2.4 of the Land Development Code to allow existing structures, parking and dumpster to encroach into the required 15' LBA; a Landscape Waiver from Chapter 10.2.4 of the Land Development Code to reduce the required perimeter plantings from 5 trees to 4 trees, and a Revised Detailed District Development Plan, SUBJECT to the following binding elements:

1. The development shall be in accordance with the approved site development plan, all 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 5,536 square feet of gross floor area with a 929 square foot outdoor patio.
3. 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 the Louisville Metro Develop Louisville Department of Construction Permits and Transportation Planning Review and the Metropolitan Sewer District.

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- 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.
4. A certificate of occupancy must be received from the appropriate code enforcement office prior to occupancy of the structure or land for the proposed use, and all binding elements must be implemented prior to requesting issuance of the certificate.
5. A legal instrument providing for the long-term use of the (off-site parking spaces or joint-use parking spaces), as shown on the approved general district development plan and in accordance with (Section 9.1.5 Off-Site Parking or Section 9.1.6 Joint Use Parking), shall be submitted and approved by the Planning Commission legal counsel and recorded in the County Clerk's office. 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. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
7. No live music shall be permitted in the outdoor eating area and no music shall be audible after midnight (12:00 a.m.) in the outdoor eating area.

The vote was as follows:

YES: Commissioners Turner, Blake, Tomes, Jarboe, Peterson, and Howard.

NO: No one.

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**NOT PRESENT: Commissioners White, Lewis, Brown, and Kirchdorfer,
ABSTAINING: No one.**

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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 5:00 p.m.



Chairman



Division Director

