

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO PLANNING COMMISSION
March 16, 2017**

A meeting of the Louisville Metro Planning Commission was held on March 16, 2017 at 1:00 p.m. at the Old Jail Building, located at 514 W. Liberty Street, Louisville, Kentucky.

Commission members present:

Vince Jarboe, Chair
Marilyn Lewis, Vice Chair
Rich Carlson
Laura Ferguson
David Tomes – Arrived at approximately 1:05 p.m.
Marshall Gazaway

Commission members absent:

Jeff Brown
Lula Howard
Rob Peterson
Emma Smith

Staff Members present:

Joseph Reverman, Planning Assistant Director
Brian Davis, Planning Manager
Joe Haberman, Planning Manager
Brian Mabry, Planning Supervisor
Paul Whitty, Legal Counsel
Beth Jones, Planner II
Tammy Markert, Engineering Supervisor
Tony Kelly, MSD
Pamela M. Brashear, Management Assistant

The following matters were considered:

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APPROVAL OF MINUTES

JANUARY 31, 2017 PLANNING COMMISSION NIGHT HEARING MEETING MINUTES

On a motion by Commissioner Carlson, seconded by Commissioner Lewis, the following resolution was adopted.

RESOLVED, that the Planning Commission does hereby **APPROVE** the minutes of its meeting conducted on January 31, 2017.

The vote was as follows:

YES: Commissioners Carlson and Jarboe

NOT PRESENT FOR THIS CASE: Commissioners Brown, Howard, Peterson and Smith

ABSTAINING: Commissioners Ferguson, Gazaway and Lewis

MARCH 2, 2017 PLANNING COMMISSION REGULAR MEETING MINUTES

On a motion by Commissioner Carlson, seconded by Commissioner Ferguson, the following resolution was adopted.

RESOLVED, that the Planning Commission does hereby **APPROVE** the minutes of its meeting conducted on March 2, 2016.

The vote was as follows:

YES: Commissioners Carlson, Ferguson, Gazaway, Tomes and Jarboe

NOT PRESENT FOR THIS CASE: Commissioners Brown, Howard, Peterson and Smith

ABSTAINING: Commissioner Lewis

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PUBLIC HEARING

CASE NO. 16ZONE1069

Project Name: 9205 Old Bardstown Road
Location: 9205 Old Bardstown Road
Owner: Blue Grass Holdings, LLC

Applicant: J&B Louisville, LLC

Representative: Frost, Brown and Todd, PLLC

Jurisdiction: Louisville Metro
Council District: 22 – Robin Engel
Staff Case Manager: Beth Jones, AICP, Planner II

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

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

Agency Testimony:

00:06:22 Ms. Jones discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Tanner Nichols, Frost, Brown and Todd, 400 West Market Street, Suite 3200, Louisville, Ky. 40202

Jason Emly, Cutter Construction, 7393 Pete Andres Road, Floyds Knobs, In. 47119

Jennifer Caummisar, 2780 Jefferson Centre Way, Suite 204, Jeffersonville, In. 47130

Summary of testimony of those in favor:

00:17:38 Mr. Nichols gave a power point presentation. The scale and location are appropriate for the area. The use is less intense and this development allows for future development.

00:24:50 Mr. Emly gave some background information on Jacobi Sales (locally owned – 7 locations). They have outgrown this location.

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00:28:54 Ms. Caummisar provided the trip generation results from the previous plan to the current plan – was 555 p.m. trips and is now 17.

The following spoke in opposition to this request:

Dr. Bing Crosby, 9300 Old Bardstown Road, Louisville, Ky. 40291
John McNear, 9202 Old Bardstown Road, Louisville, Ky. 40291

Summary of testimony of those in opposition:

00:33:14 Dr. Crosby stated that he's opposed to rezoning for M-2 because it might set a precedent. Also, the entire project is in front of his property and the type of building and appearance will be different. There will be more traffic.

00:39:40 Mr. McNear stated he opposes the proposal because of safety issues. The tractor trailers will be a problem and there should be no back entrance on it.

00:55:05 Ms. Markert, Transportation Planning, remarked "You can have one entrance. Normally when we're looking for access points, we like it on the lesser volume road, which would be Old Bardstown Rd. It's a Metro through road so it's built to take truck traffic and there certainly is truck traffic out there. There's a lot of development on Old Bardstown Rd. right now." The applicant is providing shoulder improvements with this development.

Rebuttal

00:57:37 Mr. Nichols said the applicant appreciates the concerns of the neighbors because they are also customers. The dumpster will be screened and landscaping will be provided. If the state determines that a traffic light is warranted for new Bardstown Rd. or Thixton Ln., Jacobi will pay a portion.

Deliberation

01:06:38 Commissioner Tomes stated this plan greatly decreases traffic. The M-2 does break the pattern in the area, but the applicant has eliminated many uses from the list. The landscaping will provide as much cover as possible.

01:08:37 Commissioner Carlson stated the use is appropriate because this area of Fern Creek is agricultural and the proposed business will probably thrive. Also, add to binding element number 3 – The binding element cannot be modified except at a Planning Commission hearing.

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01:10:48 Commissioner Ferguson agrees with Commissioners Carlson and Tomes. Also, the applicant has done a good job buffering the storage area.

01:11:30 Commissioner Lewis stated she agrees with fellow commissioners and added, the roadway is built for all truck traffic and the applicant has reduced their hours of operation as well.

01:12:39 Commissioner Gazaway stated the plan is laid out well to adapt to the neighborhood. Eventually, the neighborhood traffic will settle down.

01:13:25 Chairman Jarboe stated the plan follows the Comprehensive Plan.

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

Zoning Change from C-1 to M-2

On a motion by Commissioner Carlson, seconded by Commissioner Lewis, the following resolution was adopted.

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

WHEREAS, The Planning Commission further finds that the proposal conforms to Community Form Guideline 1 and all applicable Policies adopted thereunder; the property lies within the Neighborhood Form District, is consistent with the Neighborhood Form District and therefore no change in the Form District is proposed; the proposal is consistent with Guideline 1.B.3 since the scale of the development is appropriate for the location and nearby neighborhoods; the proposal provides for accessibility and connectivity between adjacent uses and neighborhoods by automobile, pedestrian, bicycles and public transit; and

WHEREAS, The Planning Commission further finds that the proposal conforms to Centers Guideline 2 and all applicable Policies adopted thereunder, including Policies 2, 3, 4, 5, 7, 8 and 15 and 16; the development will be located at an intersection off Bardstown Road, a major arterial, which meets the requirements that at least one of the intersecting streets be classified as collector level or above; the new business will reduce commuting times and transportation-related air pollution by allowing residents to shop closer to home, which is one of the overriding objectives

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of the Cornerstone 2020 Comprehensive Plan; the new business will be bordered on the east by Bardstown Road and on the west by Old Bardstown Road and provide easy access to nearby neighborhoods that are not currently served; non-residential and mixed uses should be developed in designated activity centers; the development plan submitted with this application leaves the existing C-1 portion of the property open for development with cross access; Note 13 of the development plan reads upon development of the adjacent properties, a unified access and circulation system shall be developed and provide for vehicular movement through adjacent sites as determined by Public Works and a cross access agreement shall be recorded prior to construction approval for the adjacent property; and

WHEREAS, The Planning Commission further finds that the proposal conforms to Compatibility Guideline 3 and all applicable Policies adopted thereunder, including Policies 1, 2, 6, 7, 8, 9, 21, 22, 23, 24 and 28; the proposal is of a scale and site design compatible with nearby existing development and with the pattern of development in the Neighborhood Form District; the type of building materials will be appropriate for the character of the neighborhood, and any adverse impact on adjacent residential uses, including traffic, parking, signs and lighting, will be mitigated through binding elements that have been proposed and agreed to by the developer; appropriate transitioning from residential to non-residential uses will be provided through the use of natural vegetative buffers and landscaping, landscape buffer yards, the 30-foot parkway buffer along Bardstown Road, the 80-foot setback along Bardstown Road and the 15-foot "Vehicular Use and Landscape Buffer" located along Old Bardstown Road; the proposed development is designed to provide accessibility to people with disabilities; the parking, loading and delivery areas are adequate for the proposed uses and are designed to minimize any adverse impact on adjacent residential areas, with parking and circulation areas screened and buffered from any adjacent streets; all signage will be compatible with the Neighborhood Form District and will comply with the requirements of Chapter 8, Part 3, of the Land Development Code; and

WHEREAS, The Planning Commission further finds that the proposal conforms to Open Space Guideline 4 and all applicable Policies adopted thereunder; the proposed new business and specifically the northern portion of the development provides greenspace between the new business and the rental equipment storage lot; the greenspace maintains the existing natural features of the location; and

WHEREAS, The Planning Commission further finds that the proposal conforms to Natural Areas and Scenic and Historic Resources Guideline 5 and all applicable Policies adopted thereunder, including Policies 1, 3, and 6; the site is located between a major arterial (Bardstown Road), as well as a collector road (Old Bardstown Road) and given the other characteristics of the site, the proposal respects the natural features of the site by avoiding substantial changes to the topography of the site; note 20 of the

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development plan provides that a Kentucky Historic Properties survey form shall be submitted to historic preservation staff prior to demolishing of existing structures; and

WHEREAS, The Planning Commission further finds that the proposal conforms to Economic Growth and Stability Guideline 6 and all applicable Policies adopted thereunder; the development will address the need for retail services provided by the new business for the already existing and growing population within this area, thereby reducing travel to shopping and work and locating services and facilities near these growing neighborhoods; the development will also assure the community's continued growth and the competitiveness of the marketplace in this area; and

WHEREAS, The Planning Commission further finds that the proposal conforms to Circulation Guideline 7 and all applicable Policies adopted thereunder; the proposed development provides for future internal circulation, as well as connections to major thoroughfares and adjacent road networks; the proposal will include adequate sidewalks, bicycle racks and pedestrian access; note 13 of the development plan reads upon development of the adjacent properties, a unified access and circulation system shall be developed and provide for vehicular movement through adjacent sites as determined by Public Works and a cross access agreement shall be recorded prior to construction approval for the adjacent property; and

WHEREAS, The Planning Commission further finds that the proposal conforms to Transportation Facility Guideline 8 and all applicable Policies adopted thereunder including Policies 2, 5, 10 and 11; primary access to the site is from Bardstown Road and Old Bardstown Road and will not route traffic through areas of lower intensity; these primary access points will have adequate site distance; the internal circulation pattern for drives within the development ensures the functioning hierarchy of streets and appropriate linkage between Bardstown Road and Old Bardstown Road; and

WHEREAS, The Planning Commission further finds that the proposal conforms to Bicycle, Pedestrian and Transit Guideline 9 and all applicable Policies adopted thereunder; the proposal will provide for a 5-foot multi-use path along Old Bardstown Road, as well as a 15-foot "Vehicular Use and Landscape Buffer" located along Old Bardstown Road; bike parking will be provided on the property; and

WHEREAS, The Planning Commission further finds that the proposal conforms to Flooding and Stormwater Guideline 10 and all applicable Policies adopted thereunder, including Policies 1, 2, 3, 4, 7, 10 and 11; because we anticipate approval of the Metropolitan Sewer District and otherwise the proposal complies with all applicable policies set forth in Guideline 10; in the event peak post-development surface water runoff exceeds predevelopment levels, the site will be

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subject to the payment of facilities management fees pursuant to Metropolitan Sewer District requirements; and

WHEREAS, The Planning Commission further finds that the proposal conforms to Air Quality Guideline 12 and all applicable Policies adopted thereunder, including Policies 1, 2, 6 and 8; the proposed development will not create, but rather capture, traffic from the already significant existing and growing residential population in this area; the Guideline further encourages development to occur in and around residential populations to reduce vehicle miles traveled, especially along clogged arterials and in clogged intersections, such as Bardstown Road at the Gene Snyder Freeway; and

WHEREAS, The Planning Commission further finds that the proposal conforms to Landscape Character Guideline 13 and all applicable Policies adopted thereunder; the development plan is compliant with the tree canopy requirements of the Land Development Code and landscaping features will be provided on site; best management practices during construction activities will be employed; construction fencing will be erected prior to any construction or grading activities preventing compaction of root systems of trees to be preserved and the protective fencing will remain in place throughout construction; and

WHEREAS, The Planning Commission further finds that the proposal conforms to Infrastructure Guideline 14 and all applicable Policies adopted thereunder; all utilities are available or will be available to the site, including adequate water, electric and sewer service; adequate water supply of portable water for domestic purposes is available through Louisville Water Company facilities; these facilities will also serve the safety needs of the development for adequate water for firefighting purposes; sufficient sewage treatment will be provided to the development and all other necessary utility facilities are available; and

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

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

WHEREAS, The Planning Commission further finds that all necessary utilities, including gas, electric, water, telephone, cable and telecommunications, are either

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presently exist on-site or will be constructed and essential public services, including sidewalks, presently exist to serve the site as shown on the development plan; and

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

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND**, to Metro Council, **APPROVAL** of Case No. 16ZONE1069, a change in zoning from C-1 Commercial to M-2 Industrial based on testimony heard today, staff report and accept the applicant's proposed finding of facts as justification.

The vote was as follows:

YES: Commissioners Carlson, Ferguson, Gazaway, Lewis, Tomes and Jarboe
NOT PRESENT AND NOT VOTING: Commissioners Brown, Howard, Peterson and Smith

Revised Detailed District Development Plan

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

WHEREAS, The only existing site condition of these is karst. The applicant has provided documentation of a karst study which shows no indication of sinkholes on the property; and

WHEREAS, The site provides adequate connectivity to existing multi-modal transportation facilities. The circulation plan allows for connectivity to future development on the remainder of the tract; and

WHEREAS, The proposed development includes no open space requirements; and

WHEREAS, MSD has reviewed the development plan and issued preliminary approval; and

WHEREAS, the Louisville Metro Planning Commission finds, the development plan directs traffic away from the nearest residential development toward the center of the parcel. All screening and buffering requirements are being met; and

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

WAIVER 1: To waive the required 5 ft. wide sidewalk along the Bardstown Road property line (LDC 6.2.6.B.2)

WHEREAS, No sidewalks exist along this portion of Bardstown Road and the surrounding area is developed with agricultural and large-lot single family residential uses; and

WHEREAS, The development plan includes pedestrian access via installation of the required sidewalk along Old Bardstown Road, which is a two-lane roadway with a lower level of use and thus safer for non-vehicular uses; and

WHEREAS, the Louisville Metro Planning Commission finds, required sidewalks along the Old Bardstown Road property line will be installed; and

WHEREAS, the Louisville Metro Planning Commission further finds an existing drainage ditch along the Bardstown Road frontage would interfere with the installation of a sidewalk; and

WHEREAS, the waiver will not adversely affect adjacent properties since no sidewalks exist along this side of Bardstown Road in this area and sidewalks will be provided along the parallel Old Bardstown Road; and

WHEREAS, the waiver will not violate the Comprehensive Plan in that the development will still provide a north-south pedestrian way along the property on the Old Bardstown Road frontage which is a much safer pedestrian environment being adjacent to a two-lane road rather than along the higher speed multi-lane Bardstown Road. The development will provide a 5-foot along the Old Bardstown Road frontage to off-set the waiver of the sidewalk on Bardstown Road which will encourage alternative modes of transportation by being wide enough for both pedestrians and bicyclists; and

WHEREAS, the extent of the waiver is the minimum to afford relief as the development is located between two existing roads which would require double the amount of sidewalks that most developments are required to provide. The Bardstown Road sidewalk would be impractical as it would be located between the pavement of the road and a roadside drainage ditch; and

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WHEREAS, the development will provide a 5-foot wide north-south pedestrian path on the Old Bardstown Road side of the development. The Old Bardstown Road frontage is a quieter, safer location for pedestrian and bicycle traffic.

WAIVER 2: To permit a utility easement to overlap a VUA LBA by more than 50% (LDC 10.2.4.B)

WHEREAS, Screening and planting requirements will be met. The only potential negative affect is to the property owner, who would be required to restore the screening and planting should it be affected by needed utility access; and

WHEREAS, the waiver only affects an overlap of easements; and

WHEREAS, the Louisville Metro Planning Commission finds, the applicant is requesting a waiver only for the area directly affected by the utility easement overlap; and

WHEREAS, the Louisville Metro Planning Commission further finds the location of the site between a Major Arterial and a Primary Collector limits the space on the east and west side of the development that can be used for buffering purposes; and

WHEREAS, The waiver will not adversely affect adjacent properties since the required screening and plantings will be provided. The Old Bardstown Road frontage has at least a minimum 5-feet outside of the LWC easement where plantings can be placed; and

WHEREAS, The waiver will not violate the Comprehensive plan in that the development is still providing the required width of the buffers and the required screening the buffers just overlap existing or proposed easements that are required along the roads; and

WHEREAS, The extent of the waiver is the minimum to afford relief as the development is located between two existing roads that limit the amount of space that can be used for the buffering; and

WHEREAS, The development will provide a high quality of building design, internal landscape areas and is providing the required buffer widths, screening and planting required by the code.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** Case No. 16ZONE1069, Waiver 2, to permit a utility easement to overlap a vehicular use area landscape buffer area by more than 50%, Waiver 1, to waive the required 5 foot wide sidewalk along the new Bardstown Road property line; also, the Revised

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Detailed District Development Plan to include the binding elements listed in the staff report, making an amendment to binding element 3 to read as follows: The subject site may not be developed for any manufacture, processing, treatment or storage use, nor as a truck or transfer terminal, freight and motor freight and motor freight stations use, that is permitted by M-2 Industrial zoning. Notwithstanding the limitations above, this binding element shall not prohibit the repair, storage and light assembly of tractors, mower, loaders, utility vehicles, shredders, excavators, trenchers, backhoes or other equipment and implements for agriculture, construction or lawn and garden uses. This binding element shall not be modified, except after a full Planning Commission public hearing based on the staff report, the applicant's proposed justification and testimony heard today, **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 Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the LDC. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. Prior to development (includes clearing and grading) of each site or phase of this project, the applicant, developer, or property owner shall obtain approval of a detailed district development plan in accordance with LDC 11.6. Each plan shall be in adequate detail and subject to additional binding elements.
3. The subject site may not be developed for any manufacture, processing, treatment or storage use, nor as a truck or transfer terminal, freight and motor freight and motor freight stations use, that is permitted by M-2 Industrial zoning. Notwithstanding the limitations above, this binding element shall not prohibit the repair, storage and light assembly of tractors, mower, loaders, utility vehicles, shredders, excavators, trenchers, backhoes or other equipment and implements for agriculture, construction or lawn and garden uses. This binding element shall not be modified, except after a full Planning Commission public hearing.
4. Signs shall be in accordance with LDC Chapter 8 or as presented at the public hearing.
5. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.

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6. 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.
7. Prior to any site disturbance permit being issued and prior to any clearing, grading or issuance of a site disturbance permit, a site inspection shall be conducted by PDS staff to ensure proper placement of required tree protection fencing in accordance with the approved Tree Preservation Plan.
8. Before any permit is requested, including but not limited to permits for building, parking lot, change of use, site disturbance, alteration or demolition:
 - a. The development plan must receive full construction approval from Louisville Forward, Louisville Metro Public Works and the Metropolitan Sewer District,
 - b. Encroachment permits must be obtained from the Kentucky Transportation Cabinet, and
 - c. The property owner/developer must obtain approval of a detailed plan for screening/buffering/landscaping as described in LDC Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
9. 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.
10. 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.
11. The property owner shall provide a cross over access easement if the property to the south is ever developed for a nonresidential use. A copy of the signed

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easement agreement shall be provided to Planning Commission staff upon request.

12. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the March 16, 2017 Planning Commission meeting.
13. No overnight idling of trucks shall be permitted on-site.
14. At the time a building permit is requested, the applicant shall submit a certification statement to the permit issuing agency, from an engineer, or other qualified professional stating that the lighting of the proposed development is in compliance with LDC 4.1.3 and shall be maintained thereafter. No building permits shall be issued unless such certification statement is submitted.
15. The business at the development shall restrict the hours of operation from 6 AM to 9 PM.
16. If it is determined by KYTC that a traffic signal at the intersection of Thixton Lane and Bardstown Road is warranted in the future, the developer of this site for docket number 16ZONE1069 shall contribute up to \$7,500 of the total cost toward the installation of the traffic signal.
17. At such time as sidewalks are constructed along the portion of Old Bardstown Road adjacent to this property, a clearly defined, safe pedestrian access will be provided by the owner of the property from the public sidewalk through off-street parking to building entrances.
18. Developer shall be responsible for any required utility relocations, final surface overlay, signage, and striping associated with required road improvements to Bardstown Road and Old Bardstown Road.

The vote was as follows:

YES: Commissioners Carlson, Ferguson, Gazaway, Lewis, Tomes and Jarboe
NOT PRESENT AND NOT VOTING: Commissioners Brown, Howard, Peterson and Smith

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CASE NO. 16ZONE1070

Project Name: Menards
Location: 4700 Cooper Chapel Road
Owner: Multiple Owners

Applicant: Mernards, Inc.

Representative: Bardenwerper, Talbott & Roberts, PLLC

Jurisdiction: Louisville Metro
Council District: 23 – James Peden
Staff Case Manager: Beth Jones, AICP, Planner II

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

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

Agency Testimony:

01:23:41 Ms. Jones discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Bill Bardenwerper, Bardenwerper, Talbott and Roberts, PLLC, 1000 North Hurstbourne Parkway, 2nd floor, Louisville, Ky. 40223
Kathy Linares, Mindel, Scott and Associates, 5151 Jefferson Boulevard, Louisville, Ky. 40219
Diane Zimmerman, 12803 High Meadows Pike, Prospect, Ky. 40059
Rodney Wekkin, Menard, Inc., 5101 Menard Drive, Ean Claire, Wi. 54703

Summary of testimony of those in favor:

01:34:16 Mr. Bardenwerper gave a power point presentation. Maple Spring Dr. is the road most used by neighbors. With an increase in traffic and not being safe to turn left, it would probably be best to use Cooper Chapel Rd. (signalized).

01:51:31 Ms. Linares continued the power point presentation.

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Ms. Linares discussed the screening which will comply with the regulations. There will also be fencing (14 feet tall).

01:56:06 Mr. Bardenwerper stated the applicant is changing the zoning for tracts they don't own (at applicant's cost).

01:59:42 Ms. Zimmerman prepared the Traffic Impact Study for this proposal and summarized the main points. "The only detail that Bill didn't include in the slides is the number of trips generated by this development's 302 a.m. peak hour trips and 473 p.m. peak hour trips for an urban area."

02:05:57 Commissioner Carlson asked, "If the Kentucky Transportation Cabinet was to approve a traffic signal at Preston and Maple Spring, would Menards be willing to fund it?" Mr. Bardenwerper stated it's not warranted. The fire department may be able to get a signal there, but the applicant would not be willing to pay for it.

02:11:48 Mr. Wekkin remarked, "What's unique to the Menard's home improvement concept verses some of the others in town is the outdoor storage and lumber yard. All of our plan materials and landscape lots will be south of the store within the enclosed fenced area behind and adjacent to the store."

Deliberation

02:13:03 The commissioners are in agreement that the plan is in order.

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

Change in form district from Neighborhood to Suburban Marketplace Corridor

On a motion by Commissioner Lewis, seconded by Commissioner Gazaway, the following resolution was adopted.

WHEREAS, the applicant is requesting a change in form district to Suburban Marketplace Corridor. Suburban Marketplace Corridors are generally located along major roadways with well-defined beginning and ending points and established depths along the length of the corridor. The pattern of development is distinguished by a mixture of medium to high intensity uses. Accommodations for transit users, bicyclists and pedestrians are encouraged in an effort to attract a variety of users as

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well as to minimize automobile dependency and traffic congestion. Connectivity to nearby uses should be encouraged. Developers should be encouraged to design new commercial development in compact groups of buildings which use the same curb cut, share parking, have a common freestanding sign identifying the uses and have a common buffering or streetscape plan with respect to any abutting uses of lower density or intensity; and

WHEREAS, this form may include medium to high-density residential uses that are designed to be compatible with both the non-residential uses along the corridor and the lower density residential uses in adjacent form districts. Medium-density residential uses may serve as a transition area from lower to higher density residential uses and should be encouraged in this form; and

WHEREAS, the Louisville Metro Planning Commission finds, proposed new commercial uses are encouraged to locate within the boundaries of existing corridors. Reuse of locations within existing corridors is preferred over expansion of a corridor. Proposals to expand defined corridors represent significant policy decisions. When considering proposals that result in an extension of Suburban Marketplace Corridors, particular emphasis should be placed on (a) use or reuse of land within existing corridors; (b) potential for disruption of established residential neighborhoods; and (c) compliance with the site and community design standards of the Land Development Code; and

WHEREAS, the Louisville Metro Planning Commission further finds the change in form district requested by the applicant is an expansion of an existing Suburban Marketplace Corridor. It is located at the intersection of a Major Arterial and a Primary Collector and provides access to both. Accommodation for multi-modal access is included and an internal circulation system will minimize curb cuts. It provides the required buffers to adjacent residential uses with the exception of the requested waiver of the accessory building scale requirement.

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND**, to Metro Council, **APPROVAL** of Case No. 16ZONE1070, a change in form district from Neighborhood to Suburban Marketplace Corridor based on the staff report and testimony heard today.

The vote was as follows:

YES: Commissioners Carlson, Ferguson, Gazaway, Lewis, Tomes and Jarboe
NOT PRESENT AND NOT VOTING: Commissioners Brown, Howard, Peterson and Smith

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Zoning Change from R-4 to C-2

On a motion by Commissioner Lewis, seconded by Commissioner Gazaway, the following resolution was adopted.

WHEREAS, the applicant is requesting a change in form district to Suburban Marketplace Corridor. Suburban Marketplace Corridors are generally located along major roadways with well-defined beginning and ending points and established depths along the length of the corridor. The pattern of development is distinguished by a mixture of medium to high intensity uses. Accommodations for transit users, bicyclists and pedestrians are encouraged in an effort to attract a variety of users as well as to minimize automobile dependency and traffic congestion. Connectivity to nearby uses should be encouraged. Developers should be encouraged to design new commercial development in compact groups of buildings which use the same curb cut, share parking, have a common freestanding sign identifying the uses and have a common buffering or streetscape plan with respect to any abutting uses of lower density or intensity; and

WHEREAS, this form may include medium to high-density residential uses that are designed to be compatible with both the non-residential uses along the corridor and the lower density residential uses in adjacent form districts. Medium-density residential uses may serve as a transition area from lower to higher density residential uses and should be encouraged in this form; and

WHEREAS, the Louisville Metro Planning Commission finds, proposed new commercial uses are encouraged to locate within the boundaries of existing corridors. Reuse of locations within existing corridors is preferred over expansion of a corridor. Proposals to expand defined corridors represent significant policy decisions. When considering proposals that result in an extension of Suburban Marketplace Corridors, particular emphasis should be placed on (a) use or reuse of land within existing corridors; (b) potential for disruption of established residential neighborhoods; and (c) compliance with the site and community design standards of the Land Development Code; and

WHEREAS, the Louisville Metro Planning Commission further finds the change in form district requested by the applicant is an expansion of an existing Suburban Marketplace Corridor. It is located at the intersection of a Major Arterial and a Primary Collector and provides access to both. Accommodation for multi-modal access is included and an internal circulation system will minimize curb cuts. It provides the required buffers to adjacent residential uses with the exception of the requested waiver of the accessory building scale requirement; and

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WHEREAS, this proposal is for a change in zoning from R-4 to C-2 and a Form District Change from Suburban Neighborhood to Suburban Marketplace for construction of a Menards-anchored center that will initially include a 203,000 sf of Menards store; other portions of the retail center will remain undetermined until retailers are chosen that are complimentary to the Menards store; and

WHEREAS, the subject property is located in the highly accessible and convenient southeast corner of the intersection of Preston Highway and Cooper Chapel Road, which intersection is approximately three-tenths of a mile south of the Gene Snyder Freeway; direct access to the proposed Menards-anchored center will be from three points, two from Cooper Chapel Road and the one from Maple Spring Drive; there is an existing traffic signal at Cooper Chapel Road and Preston Highway; dual points of access along Cooper Chapel Road and one at Preston Highway will ensure an efficient and controlled flow of traffic into and through the proposed center; and the remainder of the subject property, while part of this development plan, will be reserved as “outlots” for future development; and

WHEREAS, the subject property is adjoined on the north side by commercially zoned properties, and a significant primary collector road (Cooper Chapel Road) separates them; there will be significant landscaping along this site’s Cooper Chapel Road frontage; the residential properties to the east and south are the most affected by the proposed retail center, but they are significantly screened on the east and partial south side and also separated on the south side by Maple Spring Drive; the applicant has met with the area residents to try to address concerns about the visual and noise impacts of the proposed Menards-anchored center, most of which had to do with the truck loading area behind the Menards store; the applicant’s DDDP proposes fencing around that area and landscaping outside the fenced-in area; and with regard to access, the applicant will provide sidewalks where required for better connectivity and accommodation of alternative modes of transportation; and

WHEREAS, the central location of the proposed Menards-anchored center will serve to improve the choice of retail shopping opportunities in the southern Jefferson County and Hillview of Bullitt County areas; its location at a major crossroads within good proximity to the Gene Snyder Freeway, enhanced fence and landscape screening, and good connectivity to nearby neighborhoods, will combine to ensure that area residents receive an attractive, compatible and highly convenient retail center; and

GUIDELINE 1 – COMMUNITY FORM

WHEREAS, the application complies with this Guideline because the subject property is currently located in the Neighborhood Form District, but this proposal includes a request for change to the Suburban Marketplace Form District which is correct given this

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center's location at the intersection of two major roadways and across from another major shopping center featuring a Lowes and a movie theater complex; the property is in a position where its boundaries and that of the proposed form district change are easily discernable and well-defined; the proposed Menards-anchored center will support and improve the mixture of land use activities at this crossroads with easy transit access, shared parking and access with existing and new sidewalk connectivity to neighborhoods that will encourage and support pedestrian, transit and bicycle modes of transportation; and while Menards itself provides a large variety of products and services, there are certain retail businesses that also prefer to locate near Menards to supplement certain goods and services not fully offered by it; and

WHEREAS, the applicant has met with interested area residents to discuss their concerns; although the applicant may not have convinced Maple Springs Drive residents, it believes that the proposed improved access from Preston Highway to Maple Spring Drive will enhance these residents' safe access to and from Preston Highway where they regularly travel; and by proposing enhanced screening and landscaping of development contiguous to residential neighborhoods, Menards will manage to fully mitigate potential negative impacts; and reduced parking areas also keep activities away from the adjoining residential properties and closer to the existing and major highways and intersection; and

WHEREAS, the proposed Menards-anchored center will benefit the area with a better variety of lower priced goods and services, and assure fewer and shorter trips for area residents; and

GUIDELINE 2 - CENTERS

WHEREAS, the application complies with the applicable Intents and Policies 1, 2, 3, 4, 5, 7, 10, 11, 12, 13, 14 and 15 of this Guideline because the proposed Menards-anchored center promotes an efficient use of land and investment in existing infrastructure and lowers utility costs by reducing the need for extensions by virtue of its location at a major highway interchange where significant roadway and other public utility infrastructure already exists; by locating along a very busy retail corridor and across from another large retail center, Menards serves to reduce commuting time and transportation-related air pollution providing opportunities for easy access to a diversity of goods and services that are designed to be assets to the community, encouraging vitality and a sense of place both in neighborhoods and the larger community; and

WHEREAS, the Menards-anchored center will greatly improve the mixture of regional and neighborhood-serving businesses and land use in this highly accessible location to improve the diversity and vitality of this activity center; and the proposed Menards-

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anchored center helps define the other existing high intensity land uses at this major intersection as a more cohesive and identifiable activity center; and

WHEREAS, the Menards-anchored center will promote shorter commute times for those accessing it, thereby reducing transportation-related air pollution that might be generated if required to travel farther distances; and utilities are available along the Preston Highway and Cooper Chapel Road, which the applicant will connect to, thus reducing public costs for infrastructure; and

WHEREAS, the proposed Menards-anchored center, located as it is at the intersection of Preston Highway and Cooper Chapel Road is less than a half-mile south of the Gene Snyder Freeway and constitutes part of a large activity center hosting other established retailers, apartments and (across Preston Highway) workplace uses; large residential neighborhoods are located further east along Cooper Chapel Road; and areas south along Preston Highway contain more than sufficient population to support the proposed addition to this activity center; and

WHEREAS, the proposed Menards-anchored center rounds out the southern side of this large activity center in a significant-sized, but compact in-fill location that will also add retail inventory and choices in the new retail space within the center, combining to serve a wide variety of residents' day-to-day needs and ensure fewer trips as customers may stop at this large activity center to accomplish multiple tasks rather than traveling farther distances to do so; and Menards will provide strong internal sidewalks and sidewalk connections for shoppers and for neighborhoods to the east; and

WHEREAS, parking areas are reduced at this Menard-anchored center by virtue of the parking waiver request; and connectivity, access and use of existing infrastructure are assured on the accompanying DDDP; parking areas are located along the Preston Highway frontage of the proposed Menards buildings and well away from nearby residential properties to the south and east in order to screen customer activities from those property owners; and the parking design, multiple described entrance/exit access points, internal customer traffic circulation, and truck unloading areas in the rear ensure efficient, safe and controlled traffic flow into and through the Menards-anchored center; and

GUIDELINE 3 - COMPATIBILITY

WHEREAS, the application complies with the applicable Intents and Policies 1, 2, 4, 5, 6, 7, 8, 9, 20, 21, 22, 23, 24 and 28 of this Guideline because the Menards-anchored center grows the mix of retail choices at this existing large activity center in a way that assures compatibility each use with each other, not adding a sensitive land use to an

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area where accepted nuisance standards might be violated or where visual quality might be diminished; and

WHEREAS, the scale, design and pattern of existing development across Cooper Chapel Road (e.g. Lowes and the theater complex) basically mean that Menards' choice of exterior building materials, together with its planned screening and buffering transitions between uses and neighborhoods within an organized center are appropriate; the subject property is located, as described above, and the main Menards building is a one-story structure, placed to keep parking and most customer activities away from adjoining residential properties; enhanced screening and landscaping is another good start at addressing compatibility; but that is further addressed through the mitigation of odor, air quality, traffic, noise, lighting, and visual impacts of new development because the proposed Menards store features a building with parking oriented away from/screened from adjoining residential properties; noise is further mitigated by the screening of truck loading areas; Menards has agreed to special screening and landscaping enhancements that will also limit the impacts of noise, odors, and visual impacts on adjoining properties; as noted above, Menards also proposes entrance/exit access points which are either along already improved roadways (Cooper Chapel Road) or at points where access will be greatly improved over the present Preston Highway at Maple Spring Drive; the proposed layout is efficient in that it allows, as noted, several ways to access the property, thus reducing congestion and delay in entering or leaving the center; lighting will be directed down and away from adjoining properties; as described above, the central location and the wide product variety expected at the proposed Menards store and its ancillary retail and/or restaurant shops will reduce commuting time for area residents seeking to accomplish multiple tasks in one visit, thereby minimizing air quality issues related to longer vehicle trips or traffic delays that might be incurred if customers traveled to services farther way and in various different locations; and odor is further mitigated by virtue of a contract for regular garbage removal; and

GUIDELINE 4 – OPEN SPACE

WHEREAS, the application complies with the applicable Intents and Policies 1, 2, 5 and 7 of this Guideline because the proposed Menards-anchored center includes a large open area in the southeast corner of the site adjoining five residential properties where existing trees and new landscaping will be provided; along Preston Highway, Cooper Chapel Road, Maple Spring Drive and other property perimeters, landscaping will be provided where trees are not preserved; and the overall internal landscape plan for this Menards-anchored center will ensure a positive aesthetic appearance for the property overall; and

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GUIDELINE 6 – ECONOMIC GROWTH AND SUSTAINABILITY

WHEREAS, the application complies with the applicable Intents and Policies 1, 2 and 6 of this Guideline because the proposed Menards- anchored center will utilize available, highly accessible and convenient land that is in an in-fill location at the major intersection of Preston Highway and Cooper Chapel Road less than a half-mile from Gene Snyder Freeway; adding a Menards store, plus a variety of other retail, restaurant and other services to the surrounding neighborhoods at this important intersection area will allow nearby workers, arterial highway travelers and area residents to make one stop for several purposes and to reduce commuting time to services located farther away; and nearby workplaces and neighborhoods will find that an appropriate, attractive and healthy collection of area serving land uses at this intersection and Snyder Freeway location will support and preserve a sense of retail place, support the community's tax base and capture a major retailer in this, not an adjoining, county; and

GUIDELINES 7, 8, 9 AND 12 – CIRCULATION, TRANSPORTATION FACILITY DESIGN, ALTERNATIVE MODES OF TRANSPORTATION AND AIR QUALITY

WHEREAS, the application complies with the applicable Intents and Policies 1, 2, 3, 4, 6, 9, 10, 11, 13, 14, 15, 16 and 18 of Guideline 7, Policies 5, 8, 9, 10 and 11 of Guideline 8, and Policies 1, 2, 3 and 4 of Guideline 9, and Policies 1, 2, 3, 4, 6, 7, 8 and 9 of Guideline 12 because its overall design assures a safe and proper functioning street network that does not exceed the carrying-capacity of Preston Highway and Cooper Chapel Road; it promotes efficient internal and external circulation of all new development and to ensures transportation facilities that are safe, efficient with attention to air quality and which minimize impacts upon the community; and it accommodates alternative modes of transportation and the needs of the elderly or handicapped; and

WHEREAS, the proposed center will be located less than a half-mile from the Snyder Freeway off Preston Highway and Cooper Chapel Road that have been adequately improved with sufficient traffic-carrying capacity and with multiple points of ingress and egress to and from this center; the TIS prepared by CDM Smith Engineers anticipates that these roads and points of access are capable of handling the traffic generated by the proposed Menards and other retailers; center left turn lanes, right-turn deceleration lanes and entrance improvements will keep traffic flowing safely and efficiently to and through the proposed center; crossover access between the Menards store and proposed outlots will assure shared access between retail uses; the proximity of the subject property to area neighborhoods ensures that commuting time will be minimal, further reducing traffic-related air quality impacts; sidewalks are provided along Cooper Chapel Road to the neighborhood to the east to encourage and accommodate accessibility by all modes of transportation including pedestrian and bicycle; transit

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service is available in the area; handicap parking spaces and safety crosswalks have been provided in accordance with the requirements of the new Land Development Code; most importantly as to compliance with these Guidelines, the DDDP received the preliminary stamp of approval from Metro Public Works and Transportation Planning prior to docketing for public review, thus assuring compliance with all traffic safety and transportation infrastructure requirements; and

GUIDELINES 10 AND 11 – STORMWATER AND WATER QUALITY

WHEREAS, the application complies with the applicable Intents and Policies 3, 6, 7, 10 and 11 of Guideline 10 and Policies 3, 6, 7 and 9 of Guideline 11 because stormwater is addressed by virtue of Menards' commitment and requirement to comply with all MSD regulations regarding same, in this case through payment of a regional facility fee to MSD in lieu of on-site detention; and soil erosion and sediment will be controlled during construction; and

WHEREAS, MSD also now enforces water quality planning which will be incorporated into the construction plans; and

GUIDELINE 13 – LANDSCAPE CHARACTER

WHEREAS, the application complies with the applicable Intents and Policies 1, 2, 3, 4, 5 and 6 of this Guideline because the Land Development Code includes minimum tree canopy requirements that will be met; and

WHEREAS, the concept landscape plan for the center was designed to mitigate concerns of adjoining property owners by providing significant setbacks, enhanced fence screening and enhanced landscaping to screen noise and other activities from nearby residential properties; and

GUIDELINE 14 INFRASTRUCTURE

WHEREAS, the application complies with the applicable Intents and applicable Policies 3, 4, 6 and 7 of this Guideline because the carrying-capacity of local streets is demonstrated by the TIS to be adequate for proposed development, with effective connections between land uses; and because the proposed new development will share in costs of public infrastructure; and

WHEREAS, the proposed Menards-anchored center has access off of Preston Highway and Cooper Chapel Road which are already designed to carry traffic safely to and from this proposed development; to the extent that those roads require improvement at the accesses to Maple Spring Drive and off Cooper Chapel Road, those improvements will

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be made by Menards; and utility and water services are available at the site, and Menards will connect to these existing services; and

WHEREAS, for all the reasons explained at LD&T and the Planning Commission public hearing and also in the public hearing exhibit books on the approved detailed district development plan, this application also complies with all other applicable Guidelines and Policies of the Cornerstone 2020 Comprehensive Plan.

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND**, to Metro Council, **APPROVAL** of Case No. 16ZONE1070, a change in zoning from R-4 Residential to C-2 Commercial based on the staff report and testimony heard today.

The vote was as follows:

YES: Commissioners Carlson, Ferguson, Gazaway, Lewis, Tomes and Jarboe
NOT PRESENT AND NOT VOTING: Commissioners Brown, Howard, Peterson and Smith

Detailed District Development Plan

On a motion by Commissioner Lewis, seconded by Commissioner Gazaway, the following resolution was adopted.

WHEREAS, According to LOJIC data, existing site conditions are limited to potential steep slopes and karst. MSD has reviewed the development plan and issued preliminary approval, and the applicant has provided documentation of a karst study which shows no indication of sinkholes on the property; and

WHEREAS, The site provides adequate but not excessive connectivity to existing roadways. All tracts will be served through a multi-modal internal circulation plan; and

WHEREAS, The LDC does not require open space on the site; and

WHEREAS, MSD has reviewed the development plan and issued preliminary approval; and

WHEREAS, the Louisville Metro Planning Commission finds, the site has compatible development to the north. Residential uses to the west connect to a frontage road along Preston Highway. Residential uses around the remainder of the property perimeter are buffered as per LDC requirements; and

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WHEREAS, the Louisville Metro Planning Commission further finds Aside from the requested waivers, the development plan conforms to the requirements of the Comprehensive Plan and the Land Development Code.

Waiver1: to reduce the minimum parking requirement (LDC 9.1.3/Table 9.1.2.C)

WHEREAS, The site will not be directly accessible from most areas of residential development surrounding it which will not enable or encourage off-site parking that could adversely impact adjacent residences. The number of spaces planned is based on surveys of other Menards locations of similar size located in similar communities. The study currently underway will provide details from the Jeffersonville, Indiana location. Results will be reviewed by PDS and Public Works prior to the Planning Commission meeting; and

WHEREAS, The development plan meets Cornerstone 2020 guidelines; and

WHEREAS, the Louisville Metro Planning Commission finds, the proposed parking is expected to fall within the parameters of Menards needs, based on the results of the parking study data; and

WHEREAS, the Louisville Metro Planning Commission further finds the study results are expected to justify the applicant's request. Smaller parking lots are less likely to contribute to heat island issues and will result in less impervious surface.

WHEREAS, the waiver will not adversely affect adjacent property owners because a parking study has been submitted in consultation with the Planning Director plus Metro Public Works and Transportation Planning Agencies; and

WHEREAS, the methodology has been approved by the Planning Director plus Metro Public Works and Transportation Planning; and

WHEREAS, the methodology has involved a store transaction analysis at sites located in Bloomington and Jeffersonville, Indiana, Owensboro, Kentucky and Columbus, Ohio; and

WHEREAS, the methodology involving these four sites occurred over periods of 24 hours over 364 days; and

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WHEREAS, this resulted in the examination of 34,944 different numbers, comparing each site to the other to determine peak transaction hours; and

WHEREAS, the peak transaction hours are virtually identical from site to site and day to day, being 11:00 am to 3:00 pm; and

WHEREAS, an applicant representative then counted parked cars at the Jeffersonville store location at the hours of 11:00 am and 12:00, 1:00, 2:00 and 3:00 pm on Thursday, March 9 and Saturday March 11; and

WHEREAS, the results of the combined transaction analysis at four sites and parking counts at one of these four sites determined that parking provided on the DDDP accompanying this application is adequate to meet peak parking demand; and

WHEREAS, the waiver will not otherwise violate the Comprehensive Plan for all the reasons set forth in the Detailed Statement of Compliance with all applicable Guidelines and Policies of the Cornerstone 2020 Comprehensive Plan filed with the original rezoning application.

Wavier 2: to permit the accessory structure to exceed the scale of adjacent residential structures (LDC 5.5.5.A.1.)

WHEREAS, Although the building is located near adjoining residential property lines, it is about 200 feet away from all but one of the homes. Additional buffering and fencing will be installed at the property line of the nearest residential structure, which is located about 300 feet to the north. Landscaping and buffering will also be installed at all points along the adjacent property line; and

WHEREAS, The design of this site and the applicant's additional buffering will mitigate any negative impacts of the proposed development; and

WHEREAS, the Louisville Metro Planning Commission finds, the applicant is requesting the waiver only in the area of the structure; and

WHEREAS, the Louisville Metro Planning Commission further finds the applicant is meeting or exceeding landscaping and buffering requirements to mitigate potential negative effects.

WHEREAS, the waiver will not adversely affect adjacent property owners because the accessory storage building is located a significant distance from the nearest residential structures, and it is screened with fencing and landscaping; and

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WHEREAS, the waiver will not violate the Comprehensive Plan for all the reasons set forth in the Detailed Statement of Compliance with all applicable Guidelines and Policies of the Cornerstone 2020 Comprehensive Plan filed with the original rezoning application; and

WHEREAS, the extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because the DDDP otherwise complies with the LDC in all respects, and the screening and buffering that is proposed exceeds LDC requirements; and

WHEREAS, strict application of the provisions of the regulation would deprive the applicant of a reasonable use of the land or would create an unnecessary hardship on the applicant because the Menards store doesn't work without this standard storage building, which allows the main building to be slightly smaller than otherwise needed to accommodate all of the merchandise.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** Case No. 16ZONE1070, the Detailed District Development Plan, Waiver 1, to reduce the minimum parking requirement (LDC 9.1.3/Table 9.1.2C), Waiver 2, to permit the accessory structure to exceed the scale of adjacent residential structures (LDC 5.5.5.A.1) along with the following binding element: Before the last two occur of the Menard Store Certificate of Occupancy or bond release on the Cooper Chapel Rd. improvements, the Chapel Rd. driveway connection to the house identified on the GDDDP as tract 2 shall be removed, based on the staff report, testimony heard today and the applicant's finding of facts, **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 Land Development Code (LDC) and agreed-upon binding elements unless amended pursuant to the LDC. Any changes/additions/alterations to any binding element(s) shall be submitted to the Planning Commission or its designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. No outdoor advertising signs, small freestanding signs, pennants, balloons or banners shall be permitted on the site.
3. Before any permit is requested, including but not limited to permits for building, parking lot, change of use, site disturbance, alteration or demolition:

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- a. The development plan must receive full construction approval from Develop Louisville, Louisville Metro Public Works and the Metropolitan Sewer District,
 - b. Encroachment permits must be obtained from the Kentucky Transportation Cabinet, and
 - c. The property owner/developer must obtain approval of a detailed plan for screening/buffering/landscaping as described in LDC 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 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.
5. Prior to receiving a certificate of occupancy, the following road improvements shall be constructed:
- a. A right turn lane from Preston Hwy to Maple Springs Drive,
 - b. A right turn lane from Cooper Chapel Road to the main site entrance (across from Preston Crossings Blvd), and
 - c. A left turn lane from Cooper Chapel Road to the main site entrance (across from Preston Crossings Blvd).
- All striping, signal head and signal modification costs are to be the responsibility of the developer.
6. The applicant, developer or property owner shall provide copies of these binding elements to all tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of their content. The binding elements shall run with the land, and the owner and the occupant of the property shall at all times be responsible for compliance with them. At all times during development of the site, the applicant and developer, their heirs, successors and assignees, contractors, subcontractors and all other parties engaged in development of the site shall be responsible for compliance with these binding elements.
7. Before the last two occur of the Menard Store Certificate of Occupancy or bond release on the Cooper Chapel Rd. improvements, the Chapel Rd. driveway connection to the house identified on the GDDDP as tract 2 shall be removed.

The vote was as follows:

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YES: Commissioners Carlson, Ferguson, Gazaway, Lewis, Tomes and Jarboe

NOT PRESENT AND NOT VOTING: Commissioners Brown, Howard, Peterson and Smith

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STANDING COMMITTEE REPORTS

Land Development and Transportation Committee
No report given.

Site Inspection Committee
No report given.

Planning Committee
No report given.

Development Review Committee
No report given.

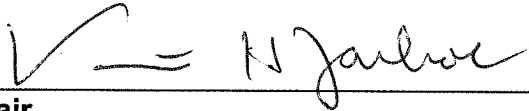
Policy and Procedures Committee
No report given.

CHAIRPERSON/DIRECTOR'S REPORT


No report given.

ADJOURNMENT

The meeting adjourned at approximately 3:21 p.m.



Chair



Planning Director