

**Planning Commission Minutes
February 6, 2014**

Public Hearing

Case No. 13ZONE1013

Project Name: Honest-1 Autocare

Location: 2801 North Hurstbourne Parkway

Owner/Applicant: S & L Ventures, LLC
c/o Dale Schaffer
4016 Spring Mill Place
Louisville, KY 40245

Representative: William Bardenwerper
Bardenwerper, Talbott & Roberts, PLLC
1000 North Hurstbourne Parkway Suite 200
Louisville, KY 40223

Architect/Engineer: Steve Scott
Mindel, Scott & Associates
5151 Jefferson Boulevard
Louisville, KY 40219

Jurisdiction: Louisville Metro

Council District: 17 – Glen Stuckel

Case Manager: **Joseph Reverman, AICP, Planning
Supervisor**

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.)

Request:

Change in zoning from R-4 Single-Family Residential to C-2 Commercial; a Detailed District Development Plan; a Variance; and a Land Development Code Waiver.

**Planning Commission Minutes
February 6, 2014**

Public Hearing

Case No. 13ZONE1013

Agency Testimony:

Joseph Reverman presented the case and showed a Power Point presentation, which included maps and photos of the site and surrounding areas (see staff report and exhibits on file.) The site is currently vacant.

Mr. Reverman noted that, since the Land Development & Transportation Committee meeting, the applicant has provided access easements to the property to the north (existing commercial development) and to the property to the east (church), eliminating the waiver request.

He discussed the site plan, particularly a connection to Spring Bark Drive (to the east of the site.) The right-of-way was requested to allow a future connection to Spring Bark over to North Hurstbourne. This site was the subject of a rezoning case which was heard last year at a night hearing (The Paddock at Sawyer Park), a proposed multi-family development. That proposal connected Spring Bark Drive between two single-family subdivisions. At that time, the applicant agreed to install a gate so that the apartment community could not access Spring Bark Drive, but it did allow cross-access through Spring Bark Drive.

The following spoke in favor of this request:

William Bardenwerper, Bardenwerper, Talbott & Roberts, PLLC, 1000 North Hurstbourne Parkway Suite 200, Louisville, KY 40223

Todd Lanning and Steve Scott, Mindel, Scott & Associates, 5151 Jefferson Boulevard, Louisville, KY 40219

Summary of testimony of those in favor:

William Bardenwerper, the applicant's representative, showed a Power Point presentation, which included aerial photos and other maps and photos of the site and the surrounding areas. He gave a brief history of the site and the property, particularly the previously-proposed apartment development (The Paddock at Sawyer Park) which was not built. He discussed the Spring Bark Drive connection in more detail (see applicant's presentation, on file.) He said that, at LD&T, concerns were raised about connecting to the Hagan site (or at least providing for that connection); and making a stub street into the Watkins United Methodist Church property. He said that, with this plan, a connection has been provided to the east. He showed photos of the adjoining Hagan property and explained that there really isn't a place to connect there. There is one possible connection, but it is a one-way road.

**Planning Commission Minutes
February 6, 2014**

Public Hearing

Case No. 13ZONE1013

He discussed the request to exceed the maximum 80-foot setback (see applicant's justification, on file.)

The following spoke in opposition to this request:

No one spoke.

The following spoke neither for nor against this request:

Kristen Hedden, 12949 Shelbyville Road, Louisville, KY 40243

Summary of testimony of those neither for nor against:

Kristen Hedden, with Hagan properties, said that the location of the connection into their site as shown on the plan is a one-way street. She said that is not a cross-connection because traffic can only move one way. She asked if a binding element could be added to this plan stating that, if in the future something happens with the adjoining property, a connection could be added at that time, instead of right now.

Mr. Bardenwerper showed the connection on the site plan and an aerial photo. He said a binding element regarding building a future connection would be acceptable.

Commissioner Brown asked if there was already a binding element on the site requiring that cross-connection to be made when an adjoining site is developed. Ms. Hidden said there is, but the binding element states that it has to be "cross-connection"; currently, traffic leaving the applicant's site cannot make a left onto the Hagan property, but only a right turn into a one-way alley behind the store. This is an alley intended for delivery truck access; it was never intended to be a drive-through for regular vehicular traffic. Commissioner Proffitt asked if the drive-aisle into the side parking area is two-way. Ms. Hedden said it is, but the applicant is only showing access via the one-way lane. There was additional discussion about the traffic patterns through the parking area/s.

In response to a question from Commissioner Blake, Mr. Reverman and Mr. Bardenwerper said there is a standard binding element regarding cross-access already on the site, although it is not currently in the staff report. Mr. Bardenwerper said the applicant would agree to this standard binding element, which states that, in the event that the adjacent property is redeveloped, a cross-connection will be provided.

Mr. Bardenwerper showed elevations of the proposed building. He said that, at LD&T, the applicant was asked if they would accept a binding element limiting

Planning Commission Minutes
February 6, 2014

Public Hearing

Case No. 13ZONE1013

some uses on this property. Mr. Bardenwerper said they will, and the binding element is listed behind Tab 7 in the applicant's booklet (on file). It reads as follows:

"C-2 uses of the property shall be limited to C-1 uses plus automotive repair except as may otherwise be approved by a committee of the Planning Commission taking into account the impact mitigation Guidelines and Policies of the Cornerstone 2020 Comprehensive Plan."

Commissioner Jarboe said that he did not understand how we can have a road that goes from new development into a parking lot. Mr. Bardenwerper discussed connectivity and possible future development, particularly as regards the church property.

Commissioner Brown said he felt the access/connection to the Hagan property should be made now. Ms. Hedden said she was one of the engineers who designed the Hagan development and that the access Commissioner Brown was referring to was designed to be wide enough for one vehicle only. That is why it is one-way traffic only. The drive aisle is 18-foot wide. Commissioner Proffitt said the access could be made two-way on the subject site, and kept one way on the Hagan property. Ms. Hedden said that still would not be a cross-access.

In response to a question from Commissioner Jarboe, Ms. Hedden said the one-way road turns right into employee parking.

In response to a question from Commissioner Blake, Mr. Reverman said he did not have exact measurements for the driveway behind the building on the Hagan property. He explained that, when the Hagan site was approved with its building closest to the subject site, there was a binding element added requiring cross-connectivity but there was nothing planned on the site that provided a good place for that connection. Commissioners Kirchdorfer and Brown briefly discussed the issue.

In response to a question from Commissioner Blake, Ms. Hedden pointed out the locations of a dumpster, an ILA, and the first parking stall on the Hagan site.

In response to a question from Commissioner Turner, Mr. Bardenwerper pointed out the location of a sidewalk and said that is in the public ROW.

Commissioner Kirchdorfer asked Mr. Bardenwerper if there is an elevation change between the subject site and the Hagan property. Mr. Bardenwerper said there is a four-foot elevation difference. Steve Scott, from Mindel Scott and

**Planning Commission Minutes
February 6, 2014**

Public Hearing

Case No. 13ZONE1013

Associates, discussed drainage. There is an existing detention basin on the park property; the intention is to take all the drainage from the subject site and channel it to that basin. MSD has reviewed this plan.

Discussion:

Commissioner Turner said he had heard this case at LD&T and felt that most concerns had been addressed. He would like to see the cross-access issue worked out. Commissioner Kirchdorfer also feels that the cross-access needs to be there and would like to see it on the plan. Commissioner Proffitt said he felt the property use is appropriate and is satisfied with the proposed binding element and the variance and waiver requests. Commissioner Brown said he would like to see the cross-connection made now; having a public road stub to the east would be ideal, but this is a small site and having an access easement would also be satisfactory for future extensions. He said he is also in support of the requested variance and waiver. Commissioner Jarboe agreed; but asked, at the time Hagan built its development, wasn't it supposed to have a place for a cross-access to be built? Commissioner Brown explained that mostly Metro Public Works waits until the adjacent site is going to be developed and then activates that requirement. Commissioner Tomes said he thinks the rezoning is appropriate. Commissioner Blake also spoke in support of the proposal.

Mr. Reverman read a proposed binding element into the record, as follows:

"A connection to the north shall be provided at such time as made possible by redevelopment, or some other means, on the adjacent property." (Note: This binding element was revised by Commissioner Brown during the motion to approve the Detailed District Development Plan. See binding element #9.)

Commissioner Tomes said these accesses should have been done at the time of the original plan. All of the Commissioners, Mr. Reverman, and Jonathan Baker (legal counsel for the Planning Commission) discussed the cross access and how to resolve this issue. Mr. Reverman said that there may not be a viable connection at this time from the Hagan site and suggested leaving the installation of a cross-access to the discretion of Metro Public Works.

An audio recording of the Planning Commission hearing related to this case is available in the Planning & Design Services offices. Please contact the Customer Service staff to obtain a copy. The recording of this hearing will be found on the CD of the February 6, 2014 public hearing proceedings.

**Planning Commission Minutes
February 6, 2014**

Public Hearing

Case No. 13ZONE1013

Zoning and Form District

On a motion by Commissioner Proffitt, the following resolution was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the intents of Guideline 1 – Community Form. The Suburban Neighborhood Form still applies to the subject property best because the site adjoins other property located in the Suburban Neighborhood Form, and, this proposed small retail and auto care center rounds out this already existing activity center, which is neighborhood oriented; and

WHEREAS, the Commission further finds that the subject property lies adjacent to the south side of the Suburban Marketplace Corridor Form District that contains the Walgreens, a car wash and other restaurant and retail uses at the southeast corner of the intersection of Westport Road and N. Hurstbourne Parkway; because the Watkins United Methodist Church lies directly east of the subject property and extends from Westport Road to the southern boundary of the subject property to the south, that property is a natural boundary for delineating and limiting the width of the proposed corridor addition as it extends east from N. Hurstbourne Parkway, including the subject property as the final portion of that corridor; the State Park to the south provides a boundary along Hurstbourne Lane to the south; and the position of the subject property, as it is surrounded by a mixture of land use intensities (including the wide variety of uses mentioned above), and the potential for shared access with the existing commercial centers, make the proposed retail and auto care center an efficient and appropriate addition to the existing Suburban Neighborhood at this time; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 2 – Centers. The Intents and Policies of this Guideline are, among other things, "to promote efficient use of land and investment in existing infrastructure, to lower utility costs by reducing the need for extensions, to reduce commuting time and transportation-related air pollution, to provide an opportunity for neighborhood centers and marketplaces that include a diversity of goods and services and that are designed to be assets to the community, [and] to encourage vitality and a sense of place in neighborhoods and the community"; and

WHEREAS, the Commission further finds that the proposed retail and auto care center complies with the Intents of Guideline 2 because, as noted above, the center will improve the mix of land uses and diversity of services available at this

**Planning Commission Minutes
February 6, 2014**

Public Hearing

Case No. 13ZONE1013

highly desirable and convenient Suburban location proposed to change to a Marketplace form from a Neighborhood form; the retail and auto care center will promote shorter commute times for local residents, thereby reducing transportation-related air pollution that might be generated if required to travel a farther distance; and utilities are available along N. Hurstbourne Parkway, and the applicant will connect from this location, thus reducing public costs for infrastructure; and

WHEREAS, the Commission further finds that the proposed retail and auto care center complies with Policies 1, 2, and 3 of Guideline 2 because, as noted above, the subject property is located just south of the intersection of Hurstbourne Parkway and Westport Road and constitutes, at this location, the last commercial piece of the existing activity center currently hosting the many other varieties of commercial land uses described above; large residential neighborhoods exist off of Westport Road and Hurstbourne Parkway and for quite a distance beyond them in most directions, resulting in more than sufficient population to support the proposed retail and auto care center; and

WHEREAS, the Commission further finds that Policies 4, 5, 7, 8, 9-12 and 16 of Guideline 2 encourage a more compact development pattern with a mixture of land uses to ensure efficient traffic flow, fewer trips, sense of place and focal point, and the support of alternative modes of travel and multiple services which meet the day-to-day needs of nearby residents; the proposed retail and auto care center complies with these Policies of Guideline 2 because the subject property rounds out the southern end of this activity center, in a compact re-use location that will also serve as a transition between more intense land uses to the north and less intense civic uses to the south and west, and the even less intense residential areas beyond them; the central location and improved variety of services that the proposed retail and auto care center will support at this location will serve residents' day-to-day needs and ensure fewer trips as customers may stop at the center to accomplish multiple tasks rather than traveling farther distances to do so; and the applicant will provide sidewalk connections to and along N. Hurstbourne Parkway for better connectivity and to accommodate alternative modes of transportation; and

WHEREAS, the Commission further finds that Policies 13, 14, and 15 of Guideline 2 encourage the appropriate location of parking areas, connectivity, shared parking, access and use of existing infrastructure for purposes of roadways and utilities; the proposed retail and auto care center complies with these Policies of this Guideline because the parking areas are located in front of the proposed buildings and away from adjoining non-commercial properties to

Planning Commission Minutes
February 6, 2014

Public Hearing

Case No. 13ZONE1013

the east and south, thereby screening on-site activities from those properties and utilities are available by connection at this location; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 3 – Compatibility. The Intents and Policies of this Guideline are, among other things, "to allow a mixture of land uses and densities near each other as long as they are designed to be compatible with each other, to prohibit the location of sensitive land uses in areas where accepted standards . . . are violated or visual quality is significantly diminished (unless adequate abatement measures are provided), [and] to preserve the character of existing neighborhoods"; and

WHEREAS, the Commission further finds that Policies 1, 2, 4, and 20 of Guideline 3 seek to ensure that new development is compatible with the scale, design and pattern of existing development and applicants consider building materials, traffic, parking, and appropriate transitions between uses and neighborhoods that are organized around a center that may contain neighborhood-serving shops, schools, churches, and other uses at important intersections; the subject property lies at the major intersection of Westport Road and N. Hurstbourne Parkway where a significant neighborhood-serving 4-corner activity center already exists, consisting of retail shops, a Kroger grocery, a pharmacy, fast food restaurants, gas stations, offices, car wash, churches and school; the proposed retail and auto care center complies with the Intents and with Policies 1, 2, 4 and 20 of Guideline 3 because, as stated above, the proposed buildings will be small and one-story in scale, will feature building materials and a design style that will match the existing upscale commercial land uses nearby in order to enhance the better aspects of the larger community; buildings will be oriented toward N. Hurstbourne Parkway, with parking in front and well away from adjoining properties; the subject property will provide a transition between the more intense commercial land uses at the intersection proper and the civic land uses of school, church and park adjacent to the west, east and south of the subject property and the residential neighborhoods surrounding the activity center itself; and these land uses create a convenient and appropriate neighborhood hub and sense of place at this major intersection; and

WHEREAS, the Commission further finds that Policies 5, 6, 7, 8, and 9 of Guideline 3 seek to encourage mitigation of odor, air quality, traffic, noise, lighting, and visual impacts of new development; the proposed retail and auto care center, as described above, is oriented toward the activity center and away from adjoining properties to the east and south, and places parking so as to screening those activities from non-commercial uses; lighting will be directed

**Planning Commission Minutes
February 6, 2014**

Public Hearing

Case No. 13ZONE1013

down and away from adjoining properties and will meet Land Development Code requirements; the location of the proposed retail and auto care center along N. Hurstbourne Parkway, to Westport Road and the Gene Snyder Freeway, reduces commuting time for those accessing the retail and auto care center, thereby minimizing air quality issues related to longer vehicle trips or traffic delays that might be incurred if the center were located at a less convenient location; the impact of noise and retail and auto care center activities is reduced by virtue of the fact that activity is oriented toward the activity center, and all parking and entrance/exit activities will be along N. Hurstbourne Parkway, thus reducing noise and activity impact on other adjoining property owners; odor is mitigated by virtue of a contract for regular garbage removal; visually, the retail and auto care center building from N. Hurstbourne Parkway will be attractive, and the center has been set back in compliance with Parkway regulations; and the landscape buffer areas along the east and south property lines have been preserved and will be landscaped according to Code for good screening and transition; and

WHEREAS, the Commission further finds that Policy 12 of Guideline 3 seeks to ensure that new development is accessible to people with disabilities and the elderly; the proposed retail and auto care center will consist of two single-story buildings that will accommodate those who have difficulties with mobility; and the parking areas are directly in front of the buildings, thereby reducing the amount of distance to travel from a parking spot to the front door, and there are handicap parking spaces provided; and

WHEREAS, the Commission further finds that, in compliance with Policies 21, 22, 23, and 28 of Guideline 3 that require appropriate transitions, buffering and setbacks from adjoining land uses, this site will feature setbacks from N. Hurstbourne Parkway and the State Park; buildings have been oriented toward the activity center in order to minimize impact of parking and entrance/exit activities of customers on the adjoining property owners to the east and south; and this layout has been designed to ensure that the proposed retail and auto care center will blend with the surrounding properties and so that it creates no nuisance factors for this community; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guidelines 4 and 5 – Open Space and Natural Areas. The Intents and Policies of these Guidelines 4 and 5 are to ensure well-designed open space that meets community needs and to protect natural, scenic and historic resources; and

WHEREAS, the Commission further finds that the proposed retail and auto care center complies with the Intents of these Guidelines 4 and 5 inasmuch as the subject property consists of one narrow, in-fill parcel set among other various

**Planning Commission Minutes
February 6, 2014**

Public Hearing

Case No. 13ZONE1013

intensity land uses at the intersection of Westport Road and N. Hurstbourne Parkway next door to a large State Park; and the landscape plan for this center will ensure a positive aesthetic appearance for the property overall; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 6 – Economic Growth and Sustainability. The Intents and Policies of Guideline 6 seek to “ensure the availability of necessary usable land to facilitate commercial, industrial and residential development, [and] to reduce public and private costs for land development...”; and

WHEREAS, the Commission further finds that the proposed retail and auto care center will re-utilize available, highly accessible and convenient land that is in an in-fill location along the N. Hurstbourne Parkway corridor, near its intersection with Westport Road; and providing services to the nearby neighborhoods at this important intersection will allow residents to reduce commuting time to services located farther away; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guidelines 7, 8, 9, and 12 – Circulation, Transportation Facility Design, Alternative Modes of Transportation, and Air Quality. The Intents and Policies of these Guidelines 7, 8, 9 and 12 are to provide for safe and proper functioning of the street network that does not exceed carrying-capacity of streets, to promote efficient internal and external circulation of all new development, and to ensure transportation facilities that are safe, efficient with attention to air quality and which minimize impacts upon the community and that accommodate alternative modes of transportation and the needs of the elderly or handicapped; and

WHEREAS, the Commission further finds that the proximity of the subject property to area neighborhoods via Westport Road and Hurstbourne Parkway ensures that commuting time will be minimal, further reducing traffic related air quality impacts; sidewalks are provided along N. Hurstbourne Parkway to ensure accessibility by all modes of transportation including pedestrian, bicycle, and transit riders; transit service is available in the area; handicap parking spaces and safety crosswalks have been provided in accordance with the requirements of the Land Development Code; and the development plan received the preliminary stamp of approval from Metro Transportation Planning, thus demonstrating conformance with all standards governing access, site distances, internal circulation, and parking; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guidelines 10 and 11 – Stormwater and Water Quality. The Intents and Policies

**Planning Commission Minutes
February 6, 2014**

Public Hearing

Case No. 13ZONE1013

of these Guidelines 10 and 11 are to effectively manage stormwater and to prevent the degradation of water quality due to soil erosion; and

WHEREAS, the Commission further finds that the proposed retail and auto care center complies with the Intents and Policies of these Guidelines and with the requirements of MSD and the Land Development Code because there shall be no increase in drainage runoff to the N. Hurstbourne Parkway right-of-way and all drainage facilities shall conform to MSD requirements; no portion of the site is within the 100-year floodplain, and the overall plan received MSD's preliminary stamp of approval prior to docketing; and sanitary sewer service will be provided by connection; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 13 – Landscape Character. The Intents and Policies of this Guideline 13 are to protect and enhance landscape character by protecting woodlands and ensuring appropriate landscape design for different types of land uses; the Land Development Code includes minimum tree canopy requirements that will be met; and

WHEREAS, the Commission further finds that the proposed retail and auto care center complies with the Intents and Policies of this Guideline 13 because the landscape plan for the retail and auto care center was designed to include landscaping where required and along the Parkway setback for N. Hurstbourne Parkway; additional landscaping will be implemented via islands in the parking areas in accordance with the Land Development Code; these natural landscaping accents will be attractive and will also serve to reduce impacts of activities on adjoining properties; and the overall appearance of the retail and auto care center will reflect the character of the area and will ensure a positive aesthetic appearance for the center; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 14 – Infrastructure. The Intent and Policies of Guideline 14 seek to ensure that the carrying-capacity of the land is adequate for proposed development, with effective connections between land use patterns, and that those who proposed new development share in costs of public infrastructure; and

WHEREAS, utility and water services are available at the site, and the applicant will connect to these existing services; and

WHEREAS, the Commission further finds that, based on the evidence and testimony presented and the applicant's justification and findings of fact that all of

**Planning Commission Minutes
February 6, 2014**

Public Hearing

Case No. 13ZONE1013

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 legislative council of Louisville Metro Government that the change in zoning from R-4 Single Family Residential to C-2 Commercial on property located at 2801 North Hurstbourne Parkway, as described in the attached legal description, be **APPROVED**.

The vote was as follows:

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

NO: No one.

NOT PRESENT: Commissioners Hughes, White, and Peterson.

ABSTAINING: No one.

Variance of table 5.3.2 of the Land Development Code to allow the proposed buildings to exceed the maximum 80 ft setback along N Hurstbourne Pkwy as shown on the development plan.

On a motion by Commissioner Proffitt, the following resolution was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the requested variance will not adversely affect public health safety or welfare since the proposal provides the required 30 ft parkway buffer along N Hurstbourne Pkwy, which is compatible with current and future development in the area, while providing for safe access to the site for motorists and pedestrians; and

WHEREAS, the Commission further finds that the requested variance will not alter the essential character of the general vicinity since the proposal provides the required 30 ft parkway buffer along N Hurstbourne Pkwy, which is compatible with current and future development in the area; and

WHEREAS, the Commission further finds that the requested variance will not cause a hazard or nuisance to the public since the proposal provides the required 30 ft parkway buffer along N Hurstbourne Pkwy, which is compatible with current and future development in the area, while providing for safe access to the site for motorists and pedestrians; and

**Planning Commission Minutes
February 6, 2014**

Public Hearing

Case No. 13ZONE1013

WHEREAS, the Commission further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations since the proposal provides the required 30 ft parkway buffer along N Hurstbourne Pkwy, which is compatible with current and future development in the area, while providing for safe access to the site for motorists and pedestrians; 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 located on a designated parkway with a required 30 ft buffer and setback; 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 the site is located on a designated parkway with a required 30 ft buffer and setback, making compliance with the maximum setback requirement difficult; 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

WHEREAS, the Commission further finds that, based on the evidence and testimony presented, the staff report, and the applicant's justification and findings of fact 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 of Variance of table 5.3.2 of the Land Development Code to allow the proposed buildings to exceed the maximum 80 ft setback along N Hurstbourne Pkwy as shown on the development plan.

The vote was as follows:

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

NO: No one.

NOT PRESENT: Commissioners Hughes, White, and Peterson.

ABSTAINING: No one.

Detailed District Development Plan

Planning Commission Minutes
February 6, 2014

Public Hearing

Case No. 13ZONE1013

On a motion by Commissioner Proffitt, the following resolution was adopted:

WHEREAS, the Commission further finds that, based on the evidence and testimony presented and the applicant's justification and findings of fact 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 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 (and to the City of Lyndon, St. Matthews, Hurstbourne, or Middletown) for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
3. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
4. Before any permit (including but not limited to building, parking lot, change of use and site disturbance) is requested:
 - a. The development plan must receive full construction approval from Louisville Metro Department of Inspections, Permits and Licenses, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.

**Planning Commission Minutes
February 6, 2014**

Public Hearing

Case No. 13ZONE1013

5. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
6. The applicant, 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. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the February 6, 2014 Planning Commission meeting.
8. C-2 uses of the property shall be limited to C-1 uses plus automotive repair except as may otherwise be approved by a committee of the Planning Commission taking into account the impact mitigation Guidelines and Policies of the Cornerstone 2020 Comprehensive Plan.
Applicant's binding element added at 02/06/14 Planning Commission meeting
9. Vehicular and pedestrian connection to the adjacent property to the north shall be provided as a condition of the construction approval on the subject site at the location as shown on the development plan. If connection is not practical due to the site constraints and/or grade or topography, as determined by Metro Transportation Planning, future connections shall be made upon redevelopment of the abutting property to the north.
Binding element revised by Commissioner Brown at 02/06/14 Planning Commission meeting

The vote was as follows:

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

**Planning Commission Minutes
February 6, 2014**

Public Hearing

Case No. 13ZONE1013

NO: No one.

NOT PRESENT: Commissioners Hughes, White, and Peterson.

ABSTAINING: No one.