

**MINUTES OF THE MEETING  
OF THE  
LOUISVILLE METRO PLANNING COMMISSION MEETING  
April 18, 2019**

A meeting of the Louisville Metro Planning Commission was held on Thursday, April 18, 2019 at 1:00 p.m. at the Old Jail Building, located at 514 W. Liberty Street, Louisville, KY 40202.

**Commissioners present:**

Rich Carlson (Acting Chair)  
Lula Howard  
Robert Peterson  
Ruth Daniels  
Jeff Brown  
David Tomes

**Commissioners absent:**

Vince Jarboe, Chair  
Marilyn Lewis, Vice Chair  
Donald Robinson  
Emma Smith

**Staff members present:**

Emily Liu, Director, Planning & Design Services  
Joe Reverman, Assistant Director, Planning & Design Services  
Julia Williams, Planning Supervisor  
Joel Dock, Planner II  
Dante St. Germain, Planner II  
Lacey Gabbard, Planner I  
Jay Lockett, Planner I  
Paul Whitty, Legal Counsel  
Beth Stuber, Transportation Planning  
Tony Kelly, MSD  
Chris Cestaro, Management Assistant

The following matters were considered:

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**APPROVAL OF MINUTES**

**Approval of the Minutes for the April 4, 2019 Planning Commission public hearing**

00:08:04 On a motion by Commissioner Brown, seconded by Commissioner Daniels, the following resolution was adopted:

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** the minutes of the meeting conducted on April 4, 2019.

**The vote was as follows:**

**YES: Commissioners Tomes, Peterson, Daniels, Brown, and Carlson.**

**ABSTAINING: Commissioner Howard.**

**NOT PRESENT: Commissioners Jarboe, Lewis, Robinson, and Smith.**

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**CONSENT AGENDA**

**CASE NO. 18STREETS1005**

Request: Closure of Public Right-of-Way  
Project Name: Smilin' Irishman alley closure  
Location: Between York Street and Cawthon Street west of South 7<sup>th</sup> Street  
Owner: Louisville Metro  
Applicant: 809 SoBro, LLC  
Representative: Evans Griffin, Inc.  
Jurisdiction: Louisville Metro  
Council District: 6 – David James

**Case Manager: Jay Lockett, AICP, Planner I**

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

00:09:08 Jay Lockett briefly provided an overview of the case. There is 100% consent from affected property owners.

**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.**

00:10:24 On a motion by Commissioner Howard, seconded by Commissioner Brown, the following resolution was adopted:

**RESOLVED**, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the requested closure of the public right-of-way as described in the attached legal description be **APPROVED**.

**The vote was as follows:**

**YES: Commissioners Tomes, Peterson, Daniels, Brown, Howard, and Carlson.**  
**NOT PRESENT: Commissioners Jarboe, Lewis, Robinson, and Smith.**

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**BUSINESS SESSION**

**10-06-05**

Request: Subdivision Bond Forfeiture  
Project Name: Cedar Creek Gardens  
Location: On the west side of Cedar Creek Road approximately 1,900 feet north of Gentry Lane  
Owner: Jaha Cox Properties, LLC  
Applicant: N/A  
Representative: N/A  
Jurisdiction: Louisville Metro  
Council District: 22 – Robin Engel

**Case Manager: Joe Reverman, AICP, Assistant Director Planning & Design Services**

**Agency Testimony:**

00:11:14 Joe Reverman, Assistant Director of Planning & Design Services, introduced the case.

00:12:08 Paul Whitty, legal counsel for the Planning Commission and the County Attorney's Office, presented the full request (see recording for detailed presentation.)

**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.**

00:13:24 On a motion by Commissioner Howard, seconded by Commissioner Tomes, the following resolution was adopted:

**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE** the requested bond forfeiture and authorize MSD to collect the entire bond proceeds from the surety.

**The vote was as follows:**

**YES: Commissioners Tomes, Peterson, Daniels, Brown, Howard, and Carlson.**  
**NOT PRESENT: Commissioners Jarboe, Lewis, Robinson, and Smith.**

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**PUBLIC HEARING**

**Off-Site Improvements Research**

Request: Resolution requesting Planning Staff to research Off-Site Improvements for Subdivisions – Chapters 5, 6, and 7.  
Project Name: Off-site Improvements for Subdivisions  
Jurisdiction: Louisville Metro

**Case Manager: Christopher French, AICP**

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. (The staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

**NOTE:**

00:15:50 Acting-Chair Commissioner Carlson said that Emily Liu, Director of Planning and Design Services, had asked that this case be removed from the docket and will be heard at a later date. No action was taken on it at this time.

**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.**

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**PUBLIC HEARING**

**CASE NO. 19WAIVER1007**

Request: CONTINUED FROM THE 03/21/19 PLANNING  
COMMISSION – Waiver of street name length  
Project Name: 7505 Bardstown Road Street Name  
Location: 7595 Bardstown Road  
Owner: Frank Csapo, Southpointe Partners LLC  
Applicant: John Campbell – Heritage Engineering  
Representative: Jon Baker – Wyatt Tarrant & Combs LLP  
Jurisdiction: Louisville Metro  
Council District: 22 – Robin Engel

**Case Manager: Lacey Gabbard, AICP, Planner I**

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. (The staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

**Agency Testimony:**

00:16:06 :Lacey Gabbard presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.)

00:17:38 Beth Allen, representing Louisville Metro EMS, explained the agency's opposition to the street name (see recording and also letter of explanation, on file.)

00:18:13 In response to a question from Commissioner Carlson, Ms. Allen said that EMS had met with the applicant's attorney (Jon Baker) to discuss options for other street names. She discussed alternative name options that had been presented to the applicant.

**The following spoke in support of this request:**

Jon Baker, Wyatt Tarrant & Combs, 500 West Jefferson Street, Louisville, KY 40202

**Summary of testimony of those in support:**

00:20:09 Jon Baker, the applicant's representative, presented the applicant's case. He said the street name "Southpointe Boulevard" had already been approved three separate times (via rezoning, and two development plans.) He said these are private

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streets, not public streets, and therefore the LDC street name requirements do not apply. See recording for detailed presentation.

00:25:08 In response to a question from Commissioner Brown, Mr. Baker said the name being requested today is "Southpointe Commons Boulevard". He explained why that name was chosen, and the differences between public and private street names. Commissioner Brown and Mr. Baker discussed sections of the Land Development Code that deal with this subject.

00:28:23 Commissioner Carlson asked what the process is for naming streets, and at what point does MetroSafe/EMS get involved in approving the names. Mr. Baker said the Code does not address that question. Joseph Reverman, Assistant Director of Planning & Design Services, said the Code does address it as far as how street names should be changed, and does address the naming of streets on development plans. He reviewed the history of the "Southpoint Drive" and "Southpointe Commons" development and street names.

00:30:59 Mr. Baker discussed how the Code deals with how to initiate street name assignments.

**Discussion:**

00:33:31 In response to a question from Commissioner Howard, Mr. Reverman and Commissioner Carlson discussed how suffixes ("Drive", "Lane", "Street", "Boulevard" etc.) are suffixes, differentiating streets from each other.

00:37:12 Ms. Allen described how emergency responders handle calls, and how unique street names are necessary to avoid confusion and direct a responder to where they need to go.

00:39:33 Paul Whitty, legal counsel for the Planning Commission, asked Ms. Allen if EMS's opposition was based on Section 6.3.5A, which refers to conformance with the Manual of Uniform Traffic Control Devices. Ms. Allen said not specifically on the Manual, but EMS has had conversations with Metro Public Works regarding their concerns with the history of how this regulation was put in place. Her understanding is that this regulation was put into the 2003 Land Development Code because the increased street name lengths were causing street signs to get longer and larger, which causes problems loading and attaching signs to poles. Longer and heavier signs can cause a public safety issue if they fall off or blow off during inclement weather.

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00:41:28 Commissioner Howard asked if there are any national regulations regarding street sign size and number of letters. Ms. Allen said she believes there are federal guidelines for interstates, and that Emergency Services is responsible for local street name regulations.

00:45:06 Kelly Jones, Deputy Director of Louisville Metro Emergency Services, said it is the responsibility of the governmental bodies of Louisville Metro to look into changing regulations regarding street names if they want to, not Emergency Services. Emergency Services was asked to weigh in, and they did. He quoted Section 11.8.1 Appendix 11A of the Land Development Code.

00:48:01 Commissioner Carlson asked Mr. Jones about the importance of street signs to the Police Department during a pursuit. Mr. Jones said they are very important, and elaborated.

**Rebuttal:**

00:50:24 Mr. Baker emphasized the importance of this project to the Fern Creek area and the importance of making speedier progress on the project. He said the details put forth by the applicant are in compliance with the Land Development Code. He said there is no evidence that two extra letters will cause a hazard, and explained why this street name will not cause confusion.

00:52:34 Commissioner Brown and Mr. Baker discussed the MUCTD (the Federal guidelines that apply to any public roadway that is open and available to the public.) Commissioner Brown said the Manual does discuss "driver comprehension", which does need to be taken into consideration when designing a street name sign. Mr. Baker said the MUCTD also states that "advance signage" can be used prior to the intersection.

**Deliberation:**

00:54:10 Commissioners' deliberation.

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



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**Waiver of Land Development Code section 6.3.5.I to allow a private street name length to exceed the allowed number of characters (16) by 2**

01:10:56 On a motion by Commissioner Brown, seconded by Commissioner Daniels, the following resolution was adopted:

**RESOLVED**, the Louisville Metro Planning Commission does hereby determine that this change in street name is not eligible for a waiver as this is a safety and welfare requirement within the Land Development Code and therefore ineligible under Section 11.8.1.

The vote was as follows:

**YES: Commissioners Peterson, Daniels, Brown, and Carlson.**

**NO: Commissioners Tomes, Howard,**

**NOT PRESENT: Commissioners Jarboe, Lewis, Robinson, and Smith.**

01:12:01 After this vote was taken, Mr. Baker asked the Planning Commission to instruct staff to deny Case No. 18MINORPLAT1136, a record plat that has "Southpointe Boulevard" on it. Emily Liu (Director of Planning & Design Services), Mr. Reverman, Mr. Baker, and the Commissioners discussed this at length (see recording for detailed discussion.)

01:17:54 On a motion by Commissioner Brown, seconded by Commissioner Howard, the following resolution was adopted:

**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE** the minor plat for Case No. 18MINORPLAT1136 **ON CONDITION** that the street name be revised to meet the Land Development Code requirements and approval from Emergency Services, and that the street name is a valid name that is available within that street index file.

The vote was as follows:

**YES: Commissioners Tomes, Peterson, Daniels, Brown, Howard, and Carlson.**

**NOT PRESENT: Commissioners Jarboe, Lewis, Robinson, and Smith.**

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**CASE NO. 18ZONE1055**

**NOTE: Commissioner Brown left the meeting temporarily and did not hear or vote on this case.**

Request: Change in zoning from OR-3 to C-2, revised general/detailed plan, sign variance, and landscape waiver  
Project Name: Bluestone Diversified Investments, LLC  
Location: 13811 Wickham Green Way; 13820 Old Henry Road; 2600 James Thornton Way; and 2401 Terra Crossing Boulevard  
Owner: Multiple Owners  
Applicant: Bluestone Diversified Investments, LLC  
Representative: Dinsmore & Shohl, LLP  
Jurisdiction: Louisville Metro  
Council District: 19 – Anthony Piagentini

**Case Manager: Joel Dock, 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. (The staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

**Agency Testimony:**

01:19:28 :Joel Dock presented the case and showed a Power Point presentation. Mr. Dock discussed abandoning binding elements and COA that are currently on the site. If the requests are approved, he said the Commission should adopt only those binding elements specifically related to the development (see staff report and recording for detailed presentation.)

**The following spoke in support of this request:**

Cliff Ashburner, Dinsmore & Shohl LLC, 101 South 5<sup>th</sup> Street Suite 2500, Louisville, KY 40202

Kevin Young, Land Design & Development, 503 Washburn Avenue, Louisville, KY 40222

Diane Zimmerman, 12803 High Meadows Pike, Louisville, KY 40059

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**Summary of testimony of those in support:**

01:26:40 Cliff Ashburner, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.)

01:31:52 Diane Zimmerman, traffic engineer, discussed the traffic impact study she prepared for this site. She noted that the only approved location for a future traffic signal would be at Terra Crossing Boulevard (see recording).

01:36:46 Mr. Ashburner said the applicant has talked with Transportation Planning and with Commissioner Brown in his role as Assistant Director of Metro Public Works about the signalization of Terra Crossing. He discussed the buildout of the nearby St. Joseph's property and how that will affect the State signalization process and traffic improvements for the Terra Crossing / Old Henry Road areas. He also discussed the site plan and some related binding elements.

01:40:10 In response to a question from Commissioner Carlson, Mr. Ashburner said the applicant would be willing to consider "way-finding" signs for this development that could direct drivers and pedestrians.

01:41:05 In response to a question from Commissioner Daniels, Mr. Ashburner said the applicant will provide sidewalks / pedestrian access.

01:41:45 In response to a question from Commissioner Howard, Mr. Ashburner discussed details about the sign (design and square footage.) In response to a question from Commissioner Peterson, Mr. Ashburner said the sign will say "Thornton's Business Campus."

**The following spoke in opposition to this request:**

No one spoke.

**Deliberation:**

01:43:36 Commissioners' deliberation. Delete proposed binding element #9.

**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.**

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**Zoning**

01:47:23 On a motion by Commissioner Howard, seconded by Commissioner Peterson, the following resolution, based on the Standard of Review and Staff Analysis, the Cornerstone 2020 staff checklist, the applicant's justification statement, and evidence and testimony heard today, was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the intents of Guideline 1: Community Form because the proposal integrates into the pattern of development, which features buildings set back from the street in a landscaped setting; significant landscaping is provided between the edge of pavement and the property line of the development site. The subject site provides a minimum landscape buffer of 30' along the designated Parkway; the proposal integrates into a planned development that features a mixture of related uses, and that may contain either a single major use or a cluster of uses. The proposed district allows for a greater integration of uses by increasing the ability to provide commercial and office development along the corridor; the proposed plan provides neighborhood services (restaurant, bank, and retail) in combination with regional services (Hotel); and the proposal incorporates connected roads, encourages access to public transportation, and provides for pedestrians as public and private ways will be provided to connect each site with the development to each other and to adjacent centers; the subject property is located in the Suburban Workplace Form District, which the Comprehensive Plan states is a form "characterized by predominately industrial and office uses where the buildings are set back from the street in a landscaped setting. Suburban workplaces often contain a single large-scale use or a cluster of uses within a master planned development." Here, the proposal is consistent with the form district and pattern of development in the area, which features buildings set back from the street in a landscaped setting. The proposal includes significant landscaping between the edge of pavement and the property line of the proposed development site. The proposed development is also consistent with the proposed C-2 zoning district and the intent and policies of Guideline 1 as it will provide a greater integration of uses by increasing commercial and office development along the Old Henry Road corridor; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 2, Centers because the subject property is located within an existing activity center along Old Henry Road. The proposal includes neighborhood and regional serving uses (restaurants, retail, and a hotel.) The proposed uses will provide supportive services to employees and nearby residents in the area. The

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proposed hotel will be conveniently located near the entrance to I-265 and provide for short-term stays for applicant's clients or temporary workers, as well as those visiting other businesses in the area; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 3: Compatibility because the building design will be compliant with Chapter 5 of the Land Development Code; the proposal does not constitute a non-residential expansion into an existing residential area as the site is currently zoned for mixed-use and surrounded by the same; the proposal mitigates any potential odor or emissions associated with the development as proposed users are limited intensity and the district does not allow for industrial users; traffic impacts will be minimized as the site is located along a major arterial roadway with highway access; lighting will be compliant with LDC 4.1.3; the proposal is a high intensity use and is located along an arterial roadway within close proximity to an interstate and within an activity center of mixed commercial, office, and industrial uses; the proposal provides appropriate transitions between uses that are substantially different in scale and intensity or density of development as the developer will provide a 3' screen in the areas of encroachment adjacent to VUA, trees will be provided in all ILA that converges within the LBA, and trees will be planted between the proposed building on Tract 2 and James Thornton Way. All required plantings will be provided. Transitions to adjacent development have been provided; the proposal mitigates the impacts caused when incompatible developments unavoidably occur adjacent to one another. The development is compatible with adjacent uses; setbacks, lot dimensions and building heights are compatible with those of nearby developments that meet form district standards. All relief from buffers has been adequately justified in the standard of review; parking area locations are consistent with the pattern of development in the area and do not infringe of residential areas. Landscaping along the parkway has been provided as required by Chapter 10 of the LDC. the proposal includes screening and buffering of parking and circulation areas adjacent to the street, and uses design features or landscaping to fill gaps created by surface parking lots as the developer will provide a 3' screen in the areas of encroachment adjacent to VUA, trees will be provided in all ILA that converges within the LBA, and trees will be planted between the proposed building on Tract 2 and James Thornton Way. All required plantings will be provided. Transitions to adjacent development have been provided; no parking structures have been proposed; and signage will be complaint with Chapter 8 and all applicable binding elements; the proposal is not a non-residential expansion into an existing residential area as the subject site is currently zoned for mixed-use development, and is surrounded by other mixed-use zones. The proposal will not have adverse traffic, parking, noise, or visual impacts on the surrounding lower intensity uses due to the subject property's location in an existing activity center and the proximity of transportation facilities. The applicant will work with Louisville Metro Public Works to determine the traffic impact of the proposed uses as it

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compares to the previously approved office uses. The subject property is located within an existing activity center along a minor arterial (Old Henry Road), with easy access to I-265. The proposed parking area locations are consistent with the pattern of development in the area, and the applicant proposes to provide significant landscaping between the edge of Old Henry Road and the proposed parking area; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 4: Open Space because the proposal provides open space that helps meet the needs of the community as outdoor amenity areas (dining) have been indicated on the proposed plan; open space design is consistent with the pattern of development in the Neighborhood Form District; and the site does not appear to contain natural features as it is void of tree coverage and contains no streams; the proposal complies with the intent and applicable policies of **Guideline 4, Open Space, and Guideline 5, Natural Areas and Scenic and Historic Resources** because the applicant proposes commercial uses that do not require open space, but each use will include some outdoor features (seating or pool area) to serve customers and visitors to the site. No natural or historic resources are located on the site; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 5: Natural Areas and Scenic and Historic Resources because the site does not appear to contain natural features as it is void of tree coverage and contains no streams; the proposal does not contain any features of historic significance. Buffers along the Parkway to preserve views will be provided. Building materials will be in compliance with the form district standards; and the development site does not appear to contain wet or highly permeable soils, or contain significant portions of erodible soils. No steep slopes are present; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 6: Economic Growth and Sustainability because the retail components of the plan provide supportive services to employees and nearby residents within and surrounding the form district. The hotel component is conveniently located near an interstate and provides for the short-term stay of clients or temporary workers; the site is not downtown; the proposed development is not an industrial development, but rather provides supportive services as evidenced by the staff analysis of Guideline 6, Policy 1.; the proposal is located within an existing activity center along a minor arterial roadway within proximity to the interstate and due to the location of this use with respect to transportation facilities, it will no impact lower intensity uses; and the proposed development is not an industrial development, but rather provides supportive services as evidenced by the staff analysis of Guideline 6, Policy 1.; the proposal is to develop a currently undeveloped tract of land into a mixed-use development with regional and

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neighborhood-serving commercial uses. The proposed hotels, restaurants, and retail uses are a natural fit for the existing activity center along Old Henry Road; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 7: Circulation because the proposal will contribute its proportional share of the cost of roadway improvements and other services and public facilities made necessary by the development through physical improvements to these facilities, contribution of money, or other means; the proposal promotes mass transit, bicycle and pedestrian use and provides amenities to support these modes of transportation as public and private ways will be provided to connect each site within the development to each other and to adjacent centers; the proposal's transportation facilities are compatible with and support access to surrounding land uses, and contribute to the appropriate development of adjacent lands. The proposal's existing roadway network is relatively undisturbed by development, with the exception of internal connections; no additional right-of-way is being requested; the proposal includes adequate parking spaces to support the use; and the proposal provides for joint and cross access through the development and to connect to adjacent development sites; the proposal complies with the intent and applicable policies of **Guideline 7, Circulation, and Guideline 8, Transportation Facility Design, and Guideline 9, Bicycle, Pedestrian and Transit** because the proposal includes adequate parking to support the proposed uses, and the development will connect directly to minor arterial Old Henry Road via the existing connector James Thornton Way. Old Henry Road provides easy access to the nearby 1-265. The proposal provides for internal pedestrian connection to the existing development to the west and via connector Wickham Green Way on the north end of the site. Access to future development to the north is provided via connectors Wickham Green Way and James Thornton Way. The proposal also includes sidewalks for pedestrian access to Old Henry Road, to the adjacent development to the west, and within the development. Bike parking will be provided at convenient locations; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 8: Transportation Facility Design because no stub roadways are needed to facilitate this or adjacent development; access to the development site is from areas of similar intensity from an arterial roadway with interstate access; the development provides for an appropriate functional hierarchy of streets and appropriate linkages between activity areas in and adjacent to the development site; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 9: Bicycle, Pedestrian and Transit because The proposal provides, where appropriate, for the movement of pedestrians, bicyclists and transit users around and through the development, provides bicycle and pedestrian connections to adjacent developments and to transit stops, and is appropriately located for its density and

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intensity. Pedestrian connectivity to public ways and adjacent site has been provided, bike parking is being made available, and the development site is well connected internally and to external development; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 10: Flooding and Stormwater because the proposal's drainage plans have been approved by MSD; the proposal should have very little impact, if any, on the surrounding waterways, complying with the intent and applicable policies of Guideline 10, Flooding and Stormwater, and Guideline 11, Water Quality; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 12: Air Quality because the proposal has been reviewed by APCD and found to not have a negative impact on air quality; and the proposal should not have adverse impacts on traffic or air quality due to its location near the existing activity center on Old Henry Road; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 14: Infrastructure because the proposal is located in an area served by existing utilities or planned for utilities; and the proposal will have access to an adequate supply of potable water and water for fire-fighting purposes; and the proposal has adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams; now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the proposed Change-in-Zoning from OR-3, Office-Residential to C-2, Commercial on property described in the attached legal description be **APPROVED**.

**The vote was as follows:**

**YES: Commissioners Tomes, Peterson, Daniels, Howard, and Carlson.**  
**NOT PRESENT: Commissioners Jarboe, Lewis, Robinson, and Smith.**

**Variance**

01:48:38 On a motion by Commissioner Howard, seconded by Commissioner Peterson, the following resolution, based on the Standard of Review and Staff Analysis,



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the applicant's justification statement, and evidence and testimony heard today, was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that the requested variance will not adversely affect the public health, safety or welfare as the sign does not appear to create any limitation on sight lines for pedestrians or motorists; and

**WHEREAS**, the Commission further finds that the requested variance will not alter the essential character of the general vicinity as the sign is constructed of compatible material consistent with the area and the sign is attractively landscaped; and

**WHEREAS**, the Commission further finds that the requested variance will not cause a hazard or nuisance to the public as the sign does not appear to create any limitation on sight lines for pedestrians or motorists; and

**WHEREAS**, the Commission further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the sign will serve to identify the larger development site in an attractive manner that does not impede the sight of motorists or 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 as the sign was constructed upon agreement with the State transportation department and is now being placed with a development site; and

**WHEREAS**, the Commission further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as the sign would need to be removed as a result of denial of the request; and

**WHEREAS**, the Commission further finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as the sign was initially constructed upon an agreement with the State; and

**WHEREAS**, the Commission further finds that the variance will not alter the essential character of the general vicinity as the sign structure exists today, and the proposed freestanding master plan project identification sign is consistent with the property's proposed C-2 zoning and the size of the proposed multi-use development. The proposed freestanding master plan project identification sign is also appropriate for the property's location along a major arterial road with numerous other large-scale commercial and automobile-oriented uses in the vicinity; and

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**WHEREAS**, the Commission further finds that the variance will not cause a hazard or nuisance to the public. The proposed freestanding master plan project identification sign will comply with all other signage requirements in the Land Development Code, will be located a safe distance from Old Henry Road, and will permit the public to clearly identify the proposed development. The size of the proposed master plan project identification sign is appropriate for the size of the proposed development; and

**WHEREAS**, the Commission further finds that the variance will not allow an unreasonable circumvention of the requirements of the zoning regulations. The variance will allow the applicant to repurpose an existing sign into the proposed master plan project identification sign in a way that is consistent with the size of the proposed development; and

**WHEREAS**, the Commission further finds that the variance arises from special circumstances that do not generally apply to land in the vicinity of the project. The variance is the result of the method that is used for measuring monument style signs. The lettering on the sign is below the allowed area but because the sign includes all of the area that is not part of the base, this variance is needed; and

**WHEREAS**, the Commission further finds that the strict application of the regulations would create an unnecessary hardship because it would force the applicant to remove the existing sign, instead of repurposing it into a master plan project identification sign; and

**WHEREAS**, the Commission further finds that the circumstances are not the result of actions taken by the applicant subsequent to the adoption of the zoning ordinance as the applicant is attempting to bring the sign into compliance by repurposing it into a master plan project identification sign; now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Variance from Land Development Code (LDC), section 8.3.3B.10.a.i to allow for a sign area variance of 60 sq. ft. from 150 sq. ft. to 210 sq. ft.

**The vote was as follows:**

**YES: Commissioners Tomes, Peterson, Daniels, Howard, and Carlson.**  
**NOT PRESENT: Commissioners Jarboe, Lewis, Robinson, and Smith.**

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**Waiver**

01:49:35 On a motion by Commissioner Howard, seconded by Commissioner Peterson, the following resolution, based on the Standard of Review and Staff Analysis, the applicant's justification statement, and evidence and testimony heard today, was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that the waiver will not adversely affect adjacent property owners as the development is a single unified development containing common landscaping, drives, and parking; the landscape buffer areas at issue are adjacent to two private access easements, James Thornton Way and Wickham Green Way, that sit entirely within the applicant's proposed development. There are no adjacent properties that will be affected by the waiver. The waiver will permit the applicant to maximize available off-street parking, vehicle maneuvering area, and interior landscape area within the proposed development, while retaining a 5' pedestrian side walk along both James Thornton Way and Wickham Green Way; and

**WHEREAS**, the Commission further finds that Guideline 3, Policy 9 of Cornerstone 2020 calls for protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigation when appropriate. Guideline 3, Policies 21 and 22 call for appropriate transitions between uses that are substantially different in scale and intensity or density, and mitigation of the impact caused when incompatible developments occur adjacent to one another through the use of landscaped buffer yards, vegetative berms and setback requirements to address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances. Guideline 3, Policy 24 states that parking, loading and delivery areas located adjacent to residential areas should be designed to minimize impacts from noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered. Guideline 13, Policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. Guideline 13, Policy 6 calls for screening and buffering to mitigate adjacent incompatible uses. The development is unified and will contain consistent landscaping and design elements. The developer will provide a 3' screen in the areas of encroachment adjacent to VUA, trees will be provided in all ILA that converges within the LBA, and trees will be planted between the proposed building on Tract 2 and James Thornton Way. All required plantings will be provided; The proposed waiver will permit the applicant to make the most efficient and public-serving use of its lots along James Thornton Way and Wickham Green Way. The proposed waiver will permit the applicant to maximize available off-street parking, vehicle maneuvering area, and interior landscape area within the proposed development, while

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retaining a 5' pedestrian side walk along both James Thornton Way and Wickham Green Way; and

**WHEREAS**, the Commission further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the expressway severely restricts pedestrian movement and the full application of the sidewalk requirements would create a disconnected sidewalk from adjacent development; absent the waiver, the applicant would have to either reduce the amount of off-street parking available to the public, reduce the vehicle maneuvering area, or reduce the amount of interior landscape area; and

**WHEREAS**, the Commission further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant as The developer will provide a 3' screen in the areas of encroachment adjacent to VUA, trees will be provided in all ILA that converges within the LBA, and trees will be planted between the proposed building on Tract 2 and James Thornton Way. All required plantings will be provided; the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land and would create an unnecessary hardship on the applicant as it would require the applicant to either reduce the amount of off-street parking available to the public, reduce the vehicle maneuvering area, or reduce the amount of interior landscape area. The proposed waiver will permit the applicant to make the most efficient and public-serving use of its property and retain a 5' pedestrian side walk along both James Thornton Way and Wickham Green Way; now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Waiver of LDC, section 10.2.10 to omit the VUA LBA along James Thornton and Wickham Green Way.

**The vote was as follows:**

**YES: Commissioners Tomes, Peterson, Daniels, Howard, and Carlson.**  
**NOT PRESENT: Commissioners Jarboe, Lewis, Robinson, and Smith.**

**Revised General/Detailed District Development Plan**

01:50:31 On a motion by Commissioner Howard, seconded by Commissioner Peterson, the following resolution, based on the Standard of Review and Staff Analysis, and evidence and testimony heard today, was adopted:

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**WHEREAS**, the Louisville Metro Planning Commission finds that the proposed development provides required tree canopy and does not appear to be located in an area containing significant natural resources. Buffers required along the parkway will be provided; and

**WHEREAS**, the Commission further finds that provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community are provided as public and private ways will be provided to connect each site within the development to each other and to adjacent centers; and

**WHEREAS**, the Commission further finds that the proposal provides open space that helps meet the needs of the proposed development and community as amenity areas have been provided in the form of outdoor dining spaces; and

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

**WHEREAS**, the Commission further finds that the proposed development is compatible with the existing and projected future development of the area as the proposal provides appropriate transitions between uses. The developer will provide a 3' screen in the areas of encroachment adjacent to VUA, trees will be provided in all ILA that converges within the LBA, and trees will be planted between the proposed building on Tract 2 and James Thornton Way. All required plantings will be provided.. Setbacks, lot dimensions and building heights are compatible with those of nearby developments that meet form district standards. All relief from buffers has been adequately justified in the standard of review; and

**WHEREAS**, the Commission further finds that the proposed development plan conforms to the Comprehensive Plan as demonstrated in the Staff Analysis for Change in Zoning contained in the Staff Report; now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Revised General/Detailed District Development Plan, subject to the abandonment of the existing binding elements of Case Numbers 9-99-98 and 13DEVPLAN1012; abandonment of Conditional Use Permit issued under Case No. 13CUP1002, and **SUBJECT** to the following binding elements:

**Existing General Plan Binding Elements (9-99-98) – to be deleted**

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1. ~~The development shall be in accordance with the approved district development plan and agreed upon binding elements unless amended pursuant to the Zoning District Regulations. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission for review and approval; any changes/additions/alterations not so referred shall not be valid.~~
  
2. ~~Prior to development of each site or phase of this project, the applicant, developer, or property owner shall obtain approval of a detailed district development plan from the Planning Commission. Each plan shall be in adequate detail and subject to additional binding elements. The additional binding elements may relate, but not be limited, to the following items:~~
  - a. ~~screening, buffering, landscaping, tree preservation~~
  - b. ~~density, floor area, size and height of buildings~~
  - c. ~~points of access and site layout with respect to on-site circulation~~
  - d. ~~land uses~~
  - e. ~~signage~~
  - f. ~~loading berths~~
  - g. ~~parking~~
  - h. ~~sidewalks~~
  - i. ~~site design elements relating to alternative transportation modes~~
  - j. ~~outdoor lighting~~
  - k. ~~minor subdivision plat approval~~
  - l. ~~air pollution~~
  - m. ~~the timing of construction to coincide with the availability of flood protection measures, municipal sewer and water service, and adequate fire protection~~
  - n. ~~dumpsters~~
  
3. ~~The development shall not exceed 977,360 office, 157,725 commercial square feet of gross floor area (including 97,500 neighborhood retail), 184 Hotel rooms, and 139 Condominiums.~~
  
4. ~~No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.~~
  
5. ~~Outdoor lighting shall be directed down and away from surrounding residential properties.~~

~~Lighting fixtures shall have a 90-degree cutoff and height of the light standard shall be set so that no light source is visible off-site.~~
  
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~~

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~~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. Before any permit (including but not limited to building, parking lot, change of use or alteration permit) is requested:
  - ~~a. The development plan for each site or phase of this project must receive full construction approval from the Jefferson county Department of Public Works and Transportation (400 Fiscal Court Building) and the Metropolitan Sewer District (700 West Liberty).~~
  - ~~b. Encroachment permits for each site or phase of this project must be obtained from the Kentucky Department of Transportation, Bureau of Highways.~~
  - ~~c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Article 12 and in conformance with the Parkway Policy prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.~~
  - ~~d. A minor subdivision plat creating the lots within a phase in accordance with the approved district development plan shall be recorded prior to issuance of building permits unless public roadways will be created within the phase to be platted, then a major plat shall be required to create the roadway.~~~~
- ~~8. If a building permit is not issued within one year of the date of approval of the plan or rezoning, whichever is later, the property shall not be used in any manner unless a revised district development plan is approved or an extension is granted by the Planning Commission.~~
- ~~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~~

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~~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 assigns, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.~~

- ~~11. The photographs submitted at the January 8, 2001 Planning Commission meeting are representative of the quality of architecture that will be maintained in Old Henry Crossings and may be used by LD&T to review detailed development plans that will be submitted at a later date for quality design. Development on lots 4, 5, 6, 7, 8-9, 10, 14 and 15 shall conform to the same high standard of design and construction as depicted at the hearing for the offices and technical center. Such determination shall be made by the Planning Commission or appropriate committee thereof. In many cases, this will require deviation from the "industry standard design" for such facilities as, but not limited to, fuel stations and eating establishments.~~
- ~~12. To facilitate the extension of the four lanes of Old Henry Road to Crestwood, the Developer shall dedicate the right-of-way and any construction easements needed to construct the Old Henry Road improvement currently being designed by the Kentucky Transportation Cabinet. This design requires an equal amount of right-of-way on the east side of Old Henry Road across from lot 3 as it takes from the west side for the length of the frontage with the exception of the curve at Bush Farm Road (which may require more due to a possible shifting of the Old Henry Road center line; if it shifts, that additional right-of-way should be traded for right-of-way on the opposite side of Old Henry Road).~~
- ~~13. Loading docks shall be prohibited on Lot 11.~~
- ~~14. Two trees shall be planted in each parking lot island.~~
- ~~15. For each tree of 4-inch caliper or larger that is removed along Old Henry Trail during the required road widening, a new two-inch caliper tree shall be planted a safe distance from the roadway as near as reasonable to the removed tree's location or as requested by the Planning Commission staff landscape architect.~~



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~~16. The applicant agrees to withdraw the C-1 zoning request for Lot 2 (Garden Center) and not to resubmit this request for a five year period from the date of approval of this zoning change.~~

**Existing Binding Elements (13DEVPLAN1012) – to be deleted**

- ~~1. The development shall be in accordance with the approved district development plan and binding elements unless amended pursuant to the Land Development Code. Modifications to the binding element(s) shall be submitted to the Planning Commission or its designee for review and approval; any modifications not so referred shall not be valid.~~
- ~~2. The square footage of the development shall not exceed 120,500 square feet for the office to the west and 22,814 square feet for the assisted living facility to the east.~~
- ~~3. Signs shall be in accordance with Chapter 8 of the LDC.~~
- ~~4. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.~~
- ~~5. Construction fencing shall be erected when off site trees or tree canopy exist 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.~~
- ~~6. Prior to issuance of a permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit):
  - ~~a. The development plan must receive full construction approval from Louisville Metro Department of Codes and Regulations Construction Permits and Transportation Planning Review and the Metropolitan sewer District.~~
  - ~~b. The property owner/developer shall obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.~~
  - ~~c. A minor subdivision plat shall be recorded creating the lot lines as~~~~

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~~shown on the development plan. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.~~

- ~~d. The appropriate conditional use permit shall be obtained from the Board of Zoning Adjustment to allow the medical office use as shown on the approved district development plan.~~
- ~~7. 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.~~
- ~~8. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors, and assignees, contractors subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.~~
- ~~9. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the January 9, 2008 Development Review Committee meeting for the medical office and July 17th, 2013 for the assisted living facility.~~
- ~~10. The address number shall be displayed on a structure prior to requesting a certificate of occupancy for that structure.~~
- ~~11. Prior to construction approval of Lot 1A or within 60 days of request from the Director of Public Works, Bush Farm Road shall be dedicated, if legally feasible in the determination of Metro Works and DPDS. If not legally feasible, then a public access easement labeled as "future Bush Farm Road" shall be created at time of minor plat approving Lot 1 A, which is the subject of this detailed district development plan ("DDDP"). At such time as any portion of the Lot 1 residual is brought forward for DDDP approval, an updated traffic analysis shall be required, and it shall be a condition of such DDDP approval that Bush Farm Road be~~

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~~dedicated, if not previously dedicated, and constructed, if traffic is determined to warrant same. If prior to Farm Road because of any other development in the area, including Claiborne Crossings to the north, the owner of the Lot 1 residual shall permit the dedication to occur, if not previously dedicated, by executing any and all necessary instruments in which event the construction of Bush Farm Road shall be done by the developer of said "other development" which triggers the Bush Farm Road dedication and/or construction.~~

- ~~12. At time of the Lot 1 residual DDDP approval, a general crossover access easement through that property in favor of the property to the north (presently known as Claiborne Crossings) shall be granted.~~
- ~~13. Outdoor lighting shall be directed down and away from surrounding residential properties. Lighting fixtures shall have a 90-degree cutoff and height of the light standard shall be set so that no light source is visible off-site.~~

**Binding Elements (18ZONE1055)**

1. The development shall be in accordance with the approved district development plan and binding elements unless amended pursuant to the Land Development Code. Modifications to the binding element(s) shall be submitted to the Planning Commission or its designee for review and approval; any modifications 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. Prior to issuance of a permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) for each site of phase of development:
  - a. The development plan must receive full construction approval from Louisville Metro Department of Codes and Regulations Construction

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Permits and Transportation Planning Review and the Metropolitan sewer District.

- b. The property owner/developer shall obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
  - c. A minor subdivision plat shall be recorded creating the lot lines as shown on the development plan. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
  - d. A reciprocal access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be created between the adjoining property owners and recorded. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services.
  - e. The façade elevations for each site or phase shall be in accordance with applicable form district standards and shall be submitted to Planning and Design Services staff for review and approval. A copy of each approved rendering shall be on file in the offices of the Planning Commission.
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.

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7. All Loading/unloading areas shall not be visible from adjacent public rights-of-way.
8. A minimum of 2 trees shall be planted in each parking lot island.
- ~~9. For each tree of 4-inch caliper or larger that is removed along Old Henry Road during the required road widening, a new two-inch caliper tree shall be planted a safe distance from the roadway as near as reasonable to the removed tree's location.~~
10. The photographs submitted at the January 8, 2001 Planning Commission meeting under docket 9-99-98 are representative of the quality of architecture that will be maintained in Old Henry Crossings and may be used by the Planning Commission or designee to review development plans. In many cases, this will require deviation from the "industry standard design" for such facilities as, but not limited to, fuel stations and eating establishments.

**The vote was as follows:**

**YES: Commissioners Tomes, Peterson, Daniels, Howard, and Carlson.**  
**NOT PRESENT: Commissioners Jarboe, Lewis, Robinson, and Smith.**

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**\*NOTE: Commissioner Brown returned to the hearing and heard and voted on this and the remainder of the cases.**

Request: Change in zoning from C-2 and OR-2 to EZ-1 and change in form district from Traditional Neighborhood to Traditional Workplace, with associated Development Plan, Variances and Waivers.

Project Name: Midwest Sprinkler Storage Building  
Location: 1375 South Preston Street  
Owner: Midwest Sprinkler Corporation  
Applicant: Midwest Sprinkler Corporation  
Representative: Frost Brown Todd  
Jurisdiction: Louisville Metro  
Council District: 4 – Barbara Sexton Smith

**Case Manager: Dante St. Germain, 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. (The staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

**Agency Testimony:**

01:51:45 Dante St. Germain presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.)

**The following spoke in support of this request:**

Tanner Nichols, Frost Brown Todd, 400 West Market Street Suite 3200, Louisville, KY 40202

Jack Canady, 1420 South Jackson Street, Louisville, KY 40208 (signed in but did not speak)

**Summary of testimony of those in support:**

01:59:42 Tanner Nichols, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.) He said the applicant would agree to put up a privacy fence between two properties,

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and also allow a public mural to be painted along one wall of the building, as discussed during a neighborhood meeting with Shelby Park Neighborhood Association.

**The following spoke in opposition to this request:**

No one spoke.

**Deliberation:**

02:07:34 Commissioners' deliberation.

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

**Change in form district**

02:09:42 On a motion by Commissioner Howard, seconded by Commissioner Peterson, the following resolution based on the Standard of Review and Staff Analysis, the applicant's justification, and the evidence and testimony heard today, was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets **Community Form: Goal 1** because the proposed zoning district change is not an expansion into an existing residential area, as the only abutting property is vacant. The nearest residentially used properties are across Woodbine Street to the north, and those properties are already adjacent to industry to their east; the subject site is located on major transit corridors, and in an existing industrial activity center. Adequate infrastructure exists to support the uses allowed by the proposed zoning district; the applicant proposes to change the form district to Traditional Workplace to comply with form district guidelines; disadvantaged populations are not disproportionately impacted by the proposal; the proposal does not include any potential impacts to air or water; the site has direct access to two minor arterial roads; the proposal includes a privacy fence to the north which will help to mitigate any adverse impacts from noise on the nearest residential residences, which are located across Woodbine Street; no junkyards, landfills, quarries, or similar uses are included in the proposal; the Commission further finds the Proposal conforms to the Community Form Plan Element 4.1. The TW form district applies to older established industrial and employment areas that contain primarily small-to-medium scale industrial and employment uses. The uses in a TW form district are often integrated with or adjacent to residential neighborhoods. The TW form district should be served by public transportation and parking should be

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encouraged mostly off-street and behind buildings. Flexible and creative site design should be encouraged in the redevelopment in a TW form district. The proposed rezoning from OR2/C2 to EZI is appropriate for the site and is in compliance with the intent of the newly proposed TW form district. The Storage Building is of a design appropriate in mass, scale and style to the buildings in the neighborhood. The project is the kind of improvement that is encouraged by Plan 2040 and allows for the expansion of an existing business. It conforms to the intent of the Community Form Plan Element because it promotes the prosperity of the neighborhood. The zoning change and new Storage Building is also adaptive infill development which is a clear objective of the Community Form Plan Element. The new use allows for the expansion of a business that is located near the major transportation corridor or 1-65. The site encourages the expanded industry to be located in a new workplace form district and in an area already served by existing infrastructure. Finally, Goal 5 of the Community Form Plan Element is to integrate art and the specific objective is to have art infused into the build environment. The applicant has met with a member of the neighborhood association and plans to allow appropriate murals to be painted on the wall ls of buildings at the property; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of **Community Form: Goal 2** because the proposed zoning district of EZ-1 is compatible with the proposed zoning district of Traditional Workplace. The proposal would expand an existing activity center in an appropriate location, as there is adequate infrastructure and adequate buffering to the nearest residences; the proposal is for an industrial zoning district; the proposed zoning district would permit a more compact pattern of development, as the subject site is currently unutilized and the applicant proposes to develop it; the proposal would expand an existing industrial zoning district into an unutilized parcel. The proposal would require fewer vehicle trips by permitting the applicant to store finished products on site; the proposal is for an industrial zoning district that would disallow almost all residential uses; the applicant proposes to preserve the two existing buildings on the property, which under the proposed zoning district could be used for commercial purposes in the future; the proposal does not include an underutilized parking lot; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of **Community Form: Goal 3** because no natural features are evident on the site. The required tree canopy will be provided; no wet or highly permeable soils, or severe, steep or unstable slopes are evident on the site; the subject site is not located in the Ohio River Corridor; and the site is not located in a flood-prone area or in an area vulnerable to sinkholes or landslides; and



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**WHEREAS**, the Commission further finds that the proposal meets the intents of **Community Form: Goal 4** because the existing structures on the site are proposed to be preserved; no distinctive cultural features are evident on the site; now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the proposed **Change in form district** from Traditional Neighborhood to Traditional Workplace be **APPROVED**.

**The vote was as follows:**

**YES: Commissioners Tomes, Peterson, Daniels, Brown, Howard, and Carlson.**  
**NOT PRESENT: Commissioners Jarboe, Lewis, Robinson, and Smith.**

**Zoning**

02:10:38 On a motion by Commissioner Howard, seconded by Commissioner Peterson, the following resolution based on the Standard of Review and Staff Analysis, the applicant's justification, and the evidence and testimony heard today, was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets **Community Form: Goal 1** because the proposed zoning district change is not an expansion into an existing residential area, as the only abutting property is vacant. The nearest residentially used properties are across Woodbine Street to the north, and those properties are already adjacent to industry to their east; the subject site is located on major transit corridors, and in an existing industrial activity center. Adequate infrastructure exists to support the uses allowed by the proposed zoning district; the applicant proposes to change the form district to Traditional Workplace to comply with form district guidelines; disadvantaged populations are not disproportionately impacted by the proposal; the proposal does not include any potential impacts to air or water; the site has direct access to two minor arterial roads; the proposal includes a privacy fence to the north which will help to mitigate any adverse impacts from noise on the nearest residential residences, which are located across Woodbine Street; no junkyards, landfills, quarries, or similar uses are included in the proposal; the Commission further finds the Proposal conforms to the Community Form Plan Element 4.1. The TW form district applies to older established industrial and employment areas that contain primarily small-to-medium scale industrial and employment uses. The uses in a TW form district are often integrated with or adjacent to residential neighborhoods. The TW form district should be served by public transportation and parking should be encouraged mostly off-street and behind buildings. Flexible and creative site design should be encouraged in the redevelopment in a TW form district. The proposed rezoning from OR2/C2 to EZI is appropriate for the site and is in compliance with the

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intent of the newly proposed TW form district. The Storage Building is of a design appropriate in mass, scale and style to the buildings in the neighborhood. The project is the kind of improvement that is encouraged by Plan 2040 and allows for the expansion of an existing business. It conforms to the intent of the Community Form Plan Element because it promotes the prosperity of the neighborhood. The zoning change and new Storage Building is also adaptive infill development which is a clear objective of the Community Form Plan Element. The new use allows for the expansion of a business that is located near the major transportation corridor or 1-65. The site encourages the expanded industry to be located in a new workplace form district and in an area already served by existing infrastructure. Finally, Goal 5 of the Community Form Plan Element is to integrate art and the specific objective is to have art infused into the build environment. The applicant has met with a member of the neighborhood association and plans to allow appropriate murals to be painted on the walls of buildings at the property; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of **Community Form: Goal 2** because the proposed zoning district of EZ-1 is compatible with the proposed zoning district of Traditional Workplace. The proposal would expand an existing activity center in an appropriate location, as there is adequate infrastructure and adequate buffering to the nearest residences; the proposal is for an industrial zoning district; the proposed zoning district would permit a more compact pattern of development, as the subject site is currently unutilized and the applicant proposes to develop it; the proposal would expand an existing industrial zoning district into an unutilized parcel. The proposal would require fewer vehicle trips by permitting the applicant to store finished products on site; the proposal is for an industrial zoning district that would disallow almost all residential uses; the applicant proposes to preserve the two existing buildings on the property, which under the proposed zoning district could be used for commercial purposes in the future; the proposal does not include an underutilized parking lot; and

**WHEREAS**, The Planning Commission further finds the Proposal conforms to the **Community Form Plan Element 4.1**. The TW form district applies to older established industrial and employment areas that contain primarily small-to-medium scale industrial and employment uses. The uses in a TW form district are often integrated with or adjacent to residential neighborhoods. The TW form district should be served by public transportation and parking should be encouraged mostly off-street and behind buildings. Flexible and creative site design should be encouraged in the redevelopment in a TW form district. The proposed rezoning from OR2/C2 to EZ1 is appropriate for the site and is in compliance with the intent of the newly proposed TW form district. The Storage Building is of a design appropriate in mass, scale and style to the buildings in the neighborhood. The project is the kind of improvement that is encouraged by Plan 2040 and allows for the expansion of an existing business. It

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conforms to the intent of the Community Form Plan Element because it promotes the prosperity of the neighborhood. The zoning change and new Storage Building is also adaptive infill development which is a clear objective of the Community Form Plan Element. The new use allows for the expansion of a business that is located near the major transportation corridor or 1-65. The site encourages the expanded industry to be located in a new workplace form district and in an area already served by existing infrastructure. Finally, Goal 5 of the Community Form Plan Element is to integrate art and the specific objective is to have art infused into the build environment. The applicant has met with a member of the neighborhood association and plans to allow appropriate murals to be painted on the walls of buildings at the property.

**WHEREAS**, the Commission further finds that the proposal meets the intents of **Community Form: Goal 3** because no natural features are evident on the site. The required tree canopy will be provided; no wet or highly permeable soils, or severe, steep or unstable slopes are evident on the site; the subject site is not located in the Ohio River Corridor; and the site is not located in a flood-prone area or in an area vulnerable to sinkholes or landslides; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of **Community Form: Goal 4** because the existing structures on the site are proposed to be preserved; no distinctive cultural features are evident on the site; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of **Mobility: Goal 1** because the subject site is located in an existing activity center and employment center, and is adjacent to transit; access to the site is achieved directly from two minor arterial streets, and not through an area of significantly lower intensity or density; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of **Mobility: Goal 3** because the subject site is well served by transit, and has sidewalks available. Housing is located a block away; the subject site is located on two minor arterials and transit corridors. There are sidewalks along the streets adjacent to the site. The proposed zoning district would permit the expansion of an existing industrial use; the vicinity of the subject site is walkable, with sidewalks available; Transportation Planning has approved the proposal; and

**WHEREAS**, The Planning Commission further finds the Proposal conforms to the **Mobility Plan Element 4.2**. The plan element of Mobility promotes effective connectivity through the community via a safe and effective transportation system. Goal 3 of the Mobility plan element is to encourage land use and transportation patterns that connect Louisville Metro and support future growth. There are existing sidewalks along the western and southern boundaries of this property. The property is near a

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public transportation route along South Preston. Policy 3 under Goal 3 of the Mobility plan element is to evaluate developments for their ability to promote public transportation and pedestrian use. Policy 4.5 under Goal 3 is to encourage linkage between neighborhoods and employment. Although air quality relating to automobile emissions, noise and traffic flow concerns will not be an issue as no additional traffic will be generated by this proposal. This location for the new development will actually promote air quality and access to public transportation routes. The proximity of the subject property to I-65 and other neighborhood will continue to result in shorter trips for residents, resulting in further reduction of automobile emissions. The existing sidewalks are sufficient to accommodate expected pedestrian movement. Also, as previously indicated, there will be no increase in vehicular traffic and no adverse effect on air quality; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of **Community Facilities: Goal 2** because the subject site is served by utilities and all relevant utilities have approved the proposal; Louisville Water Company has approved the proposal, and MSD has approved the proposal; and

**WHEREAS**, The Planning Commission further finds the Proposal conforms to the **Community Facilities Plan Element 4.3**. Although the proposal does not include any new community facilities, it does comply with Policy 1 of Goal 2 of the Community Facilities plan element. The development is located in an area that is being served by existing utilities. In addition, the Metro Louisville Fire Department will provide fire safety services to the site and the Metro Louisville Police Department will provide police service to the site; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of **Economic Development: Goal 1** because the proposed land use would serve and expand an existing industrial use that is located to the east; the subject site is adjacent to existing industrial to the east and south; the subject site is located at the intersection of two minor arterials; the subject site is not located near the airport or the Ohio River; and the subject site is located on two minor arterial streets and within an existing industrial activity center; and

**WHEREAS**, The Planning Commission further finds the Proposal conforms to the **Economic Development Plan Element 4.4**. The intent of the Economic Development plan element is to provide a framework for a healthy economic climate. The goals, objectives and policies advance Louisville Metro's economic development vision by supporting small and mid-sized businesses and encouraging investment in areas facing disinvestment. Clearly allowing the applicant to expand the business with the Storage Building would further to strategy of promoting small businesses and encouraging investment in a distressed area. Objective (b) of Goal 1 of this plan element is the

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redevelopment of underused commercial or industrial areas. This property is currently being used for limited storage in the existing garages but is otherwise underused. Policy 2 of Goal 1 of this plan element is to encourage industries to locate adjacent to existing industry. This property is located next to applicant's current operations which is currently zoned EZI and in a TW form district. The property to the south of this location is also zoned EZ1 and in a TW form district. Policy 5 of Goal 1 of this plan element is to require industrial development to locate with appropriate transportation connectivity near an arterial street which is the case with this location. Policy 2 of Goal 2 of this plan element encourages opportunities for adaptive re-use and encourages infill development through flexible land use regulations. Policy 3 of Goal 2 of this plan element encourages tree plantings that will be a part of applicant's development. The reinvestment and redevelopment of this property is consistent with and supported by the Plan; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of **Livability: Goal 1** because the subject site is not located in a karst area; the subject site is not located in the regulatory floodplain; the subject site is not located in the regulatory floodplain; and

**WHEREAS**, The Planning Commission further finds the Proposal conforms to the Livability Plan Element 4.5. The intent of the Livability plan element is to provide guidance and direction for the provision and maintenance of resources necessary for the health and well-being of the citizens. Objective (c) and policy 41 of Goal 1 of this plan element is encourage new tree plantings and the restoration of the tree canopy. There are currently no trees on the property, but the applicant intends to fully comply with any new tree canopy requirements. Policy 2 of Goal 2 of this plan element is to streamline the application and permitting process for the appropriate vacant properties. While there is not an absent property owner, this property as currently zoned does not allow for its adaptive reuse and the zoning change would allow for appropriate reuse. Finally, Goal 3 of this plan element promotes equitable access to land use planning to not only those large developers and industry, but also to small business owners looking to expand operations and business opportunities which in turn leads to better neighborhoods and prosperity of the citizens of those neighborhoods; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of **Housing: Goals 1 and 2** because the proposed zoning district would not permit most forms of housing; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of **Housing: Goal 3** because the subject site is currently vacant. No existing residents will be displaced; and the proposed zoning district would not permit most forms of housing; and

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**WHEREAS**, The Planning Commission further finds the Proposal conforms to the Housing Plan Element 4.1 This plan element seeks to enhance housing opportunities to all citizens of Louisville. Specifically Goal 2 of this element is to facilitate the development of connected neighborhoods with an objective to promote infill development and adaptive re-use. This site was previously eight individual lots that have been consolidated to allow for the expansion of an existing business. The zoning change and form district change will allow for the construction of the new Storage Building which will allow for the adaptive re-use of the property. The commerce in this TW form district will expand and benefit the adjacent TN form district. The uses in TW are often integrated with or adjacent to residential neighborhoods and allow for residents of the neighborhood local employment opportunities; and

**WHEREAS**, the Planning Commission further finds the Proposal conforms to all other applicable sections of Plan 2040; now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the proposed **Change in zoning** from C-2 Commercial and OR-2 Office Residential to EZ-1 Enterprise Zone be approved.

**The vote was as follows:**

**YES: Commissioners Tomes, Peterson, Daniels, Brown, Howard, and Carlson.**

**NOT PRESENT: Commissioners Jarboe, Lewis, Robinson, and Smith.**

**Variances**

- **Variance #1 - From Section 5.2.5.C.3.c to allow a structure to encroach into the required rear yard setback.**
- **Variance #2 - From Section 5.5.1.A.2 to allow a structure on a corner lot to exceed the maximum allowable setback of 5' from each street frontage.**

02:11:32 On a motion by Commissioner Howard, seconded by Commissioner Peterson, the following resolution based on the Standard of Review and Staff Analysis, the applicant's justification, and the evidence and testimony heard today, was adopted:

**(Variance #1) WHEREAS**, the Louisville Metro Planning Commission finds that the requested variance will not adversely affect public health, safety or welfare as the applicant is providing a privacy fence between the subject site and the affected property, with the result that buffering is still being provided; and

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**WHEREAS**, the Commission further finds that the proposed storage building is proposed to be situated toward the rear of the site. If granted, the variance will not affect any issue or concern relating to public health, public safety or the general welfare. It is anticipated that the proposal will receive the approval of Transportation Review, which will demonstrate that the location of the building does not adversely affect the public health, safety or welfare; and

**WHEREAS**, the Commission further finds that the requested variance will not alter the essential character of the general vicinity as reduced setbacks are common in Traditional form districts and in the general vicinity; and

**WHEREAS**, the Commission further finds that the proposed building encroaches into the minimum rear yard setback. The proposed storage building is in character with the surrounding industrial uses, while at the same time a much lower impact, both visually and materially. The current site is largely vacant. Any development on the site would be more in character with the general vicinity; and

**WHEREAS**, the Commission further finds that the requested variance will not cause a hazard or nuisance to the public as the reduced setback will affect only one property, which is currently vacant; and

**WHEREAS**, the Commission further finds that the proposed variance will not cause a hazard or nuisance to the public because the location of the building causes no potentially threatening condition, nor does it cause any nuisance related to excess lighting, dust, noise, visual or otherwise; and

**WHEREAS**, the Commission further finds that the requested variance will not allow an unreasonable circumvention of zoning regulations as the reduced setback is necessary to allow the applicant to construct a storage building without demolishing an existing building already on the property; and

**WHEREAS**, the Commission further finds that the proposed variances will not allow an unreasonable circumvention of the requirements of the zoning regulations because the building is proposed to be situated near the rear of the property, allowing for future development on the site. The rear of the proposed storage shed would back up to the rear of the adjacent building. Landscaping will still be provided in more appropriate areas on the site. Thus, the granting of the variance will not allow an unreasonable circumvention of the requirements of the zoning regulations; and

**WHEREAS**, the Commission further finds that the requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone because there is an existing structure on the property which the applicant

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proposes to preserve, requiring the proposed storage building to be set close to the abutting property at the rear; and

**WHEREAS**, the Commission further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant by requiring the applicant to construct the proposed storage building elsewhere on the lot, which is proposed to be reserved for future expansion of the business, reducing the utility of the lot for future expansion; and

**WHEREAS**, the Commission further finds that the strict application of the provisions of the regulation would deprive the Applicant of the reasonable use of its land because it would disallow the use of the property as part of the operations of the adjacent business; and

**WHEREAS**, the Commission further finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as the variance is being requested and no construction has yet taken place; and

**(Variance #2) WHEREAS**, the Commission further finds that the requested variance will not adversely affect public health, safety or welfare as the increased building setback from the adjoining streets is not likely to be noticeable to the public; and

**WHEREAS**, the Commission further finds that the proposed storage building is proposed to be situated toward the rear of the site. If granted, the variance will not affect any issue or concern relating to public health, public safety or the general welfare. It is anticipated that the proposal will receive the approval of Transportation Review, which will demonstrate that the location of the building does not adversely affect the public health, safety or welfare; and

**WHEREAS**, the Commission further finds that the requested variance will not alter the essential character of the general vicinity as the increased setback is unlikely to be noticeable from S Preston Street, since the setback is increased by only 4 feet on that side. The increased setback is also unlikely to be noticeable from S Jackson Street, as the building is oriented so as to be more visible to S Preston; and

**WHEREAS**, the Commission further finds that the proposed building encroaches into the minimum rear yard setback. The proposed storage building is in character with the surrounding industrial uses, while at the same time a much lower impact, both visually and materially. The current site is largely vacant. Any development on the site would be more in character with the general vicinity; and



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**WHEREAS**, the Commission further finds that the requested variance will not cause a hazard or nuisance to the public as an increased setback does not cause a hazard, and the applicant proposes to have a mural painted on the side of the building to mitigate any nuisance; and

**WHEREAS**, the Commission further finds that the proposed variance will not cause a hazard or nuisance to the public because the location of the building causes no causes no potentially threatening condition, nor does it cause any nuisance related to excess lighting, dust, noise, visual or otherwise; and

**WHEREAS**, the Commission further finds that the requested variance will not allow an unreasonable circumvention of zoning regulations as the increased setback from S Preston Street would permit the applicant space in the yard to adequately secure the property, and the increased setback from S Jackson Street would permit the applicant to construct the new structure behind an existing building which is to be preserved; and

**WHEREAS**, the Commission further finds that the proposed variances will not allow an unreasonable circumvention of the requirements of the zoning regulations because the building is proposed to be situated near the rear of the property, allowing for future development on the site. There is an existing building holding the corner in a manner intended by the regulation. Thus, the granting of the variance will not allow an unreasonable circumvention of the requirements of the zoning regulations; and

**WHEREAS**, the Commission further finds that the requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone because there is an existing structure on the property which the applicant proposes to preserve, requiring the proposed storage building to be set close to the abutting property at the rear and preventing it from meeting the required maximum setback along S Jackson Street. The increased setback from S Preston Street allows the applicant space to secure the property; and

**WHEREAS**, the Commission further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant by requiring the applicant to construct the proposed storage building elsewhere on the lot, which is proposed to be reserved for future expansion of the business, reducing the utility of the lot for future expansion; and

**WHEREAS**, the Commission further finds that the strict application of the provisions of the regulation would deprive the Applicant of the reasonable use of its land because it would disallow the use of the property as part of the operations of the adjacent business; and

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**WHEREAS**, the Commission further finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as the variance is being requested and no construction has yet taken place; now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE** the requested **Variations from** Section 5.2.5.C.3.c to allow a structure to encroach into the required rear yard setback, and from Section 5.5.1.A.2 to allow a structure on a corner lot to exceed the maximum allowable setback of 5' from each street frontage.

**The vote was as follows:**

**YES: Commissioners Tomes, Peterson, Daniels, Brown, Howard, and Carlson.**  
**NOT PRESENT: Commissioners Jarboe, Lewis, Robinson, and Smith.**

**Waivers**

- **Waiver #1 - From Section 5.5.5.A.1 to not provide the required screening between an accessory structure and the adjacent public street**
- **Waiver #2 - From Section 10.2.4 to not provide the required landscape buffer and associated plant material on the north property line**

02:12:07 On a motion by Commissioner Howard, seconded by Commissioner Peterson, the following resolution based on the Standard of Review and Staff Analysis, the applicant's justification, and the evidence and testimony heard today, was adopted:

**(Waiver #1) WHEREAS**, the Louisville Metro Planning Commission finds that the waiver will not adversely affect adjacent property owners as the screening is required between the accessory structure and the public street; and

**WHEREAS**, the Commission further finds that the requested waiver will not adversely affect adjacent property owners because the adjacent vacant building was originally built to the extremities of the property line. The proposed storage shed backs up to this vacant existing building with minimal impact to the adjacent parcel and the surrounding area; and

**WHEREAS**, the Commission further finds that the waiver will not violate specific guidelines of Plan 2040 as Plan 2040 Community Form Goal 1 Policy 10 encourages the mitigation of impacts caused when incompatible developments unavoidably occur adjacent to one another, including the mitigation of visual nuisances. This policy is not

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violated because the applicant has proposed to have a mural painted on the side of the structure to mitigate the appearance of the structure; and

**WHEREAS**, the Commission further finds that the requested waiver will not violate the Comprehensive Plan. Plan 2040 Community Form Goal 1 encourages flexible site design and respect for the traditional pattern of development. The surrounding area has traditionally developed with little to no buffer areas between parcels. Goal 5 encourages public art. The proposed storage shed intends to have a mural on the visible portion of the structure; and

**WHEREAS**, the Commission further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as security concerns preclude completely opaque screening of the site from the adjacent road; and

**WHEREAS**, the Commission further finds that the existing adjacent vacant building was originally built to the property lines. The proposed storage shed sits between an existing garage and the existing adjacent building. The location of the storage shed allows for future development of the site while minimizing impacts. Thus, the request constitutes the minimum necessary to afford relief to the Applicant; and

**WHEREAS**, the Commission further finds that the applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived by intending to have a mural painted on the side of the storage building to mitigate its impact and contribute to the visual quality of life of the neighborhood; and

**WHEREAS**, the Commission further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land. Strict application would require the removal of the existing garage or limit future development of the site; and

**(Waiver #2) WHEREAS**, the Commission further finds that the waiver will not adversely affect adjacent property owners as the affected adjacent property is currently vacant, and a screening fence will be provided; and

**WHEREAS**, the Commission further finds that the requested waiver will not adversely affect adjacent property owners because the adjacent vacant building was originally built to the extremities of the property line. The proposed storage shed backs up to this vacant existing building with minimal impact to the adjacent parcel and the surrounding area; and

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**WHEREAS**, the Commission further finds that the waiver will not violate specific guidelines of Plan 2040 as Plan 2040 Community Form Goal 1 Policy 10 encourages the mitigation of impacts caused when incompatible developments unavoidably occur adjacent to one another, including the mitigation of visual nuisances. This policy is not violated because the applicant will provide a privacy fence between the subject property and the affected property to mitigate the impact of the structure; and

**WHEREAS**, the Commission further finds that the requested waiver will not violate the Comprehensive Plan. Plan 2040 Community Form Goal 1 encourages flexible site design and respect for the traditional pattern of development. The surrounding area has traditionally developed with little to no buffer areas between parcels. Goal 5 encourages public art. The proposed storage shed intends to have a mural on the visible portion of the structure; and

**WHEREAS**, the Commission further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the amount of space between the proposed storage building and the adjacent property is too small to allow the required plant material to thrive; and

**WHEREAS**, the Commission further finds that the existing adjacent vacant building was originally built to the property lines. The proposed storage shed sits between an existing garage and the existing adjacent building. The location of the storage shed allows for future development of the site while minimizing impacts. Thus, the request constitutes the minimum necessary to afford relief to the Applicant; and

**WHEREAS**, the Commission further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant by requiring the applicant to install plant material that would not be able to thrive in the amount of space available; and

**WHEREAS**, the Commission further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land. Strict application would require the removal of the existing garage or limit future development of the site; now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE** the requested **Waivers** from Section 5.5.5.A.1 to not provide the required screening between an accessory structure and the adjacent public street, and from Section 10.2.4 to not provide the required landscape buffer and associated plant material on the north property line.

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**The vote was as follows:**

**YES: Commissioners Tomes, Peterson, Daniels, Brown, Howard, and Carlson.**  
**NOT PRESENT: Commissioners Jarboe, Lewis, Robinson, and Smith.**

**Amendment of Restriction**

02:12:42 On a motion by Commissioner Howard, seconded by Commissioner Peterson, the following resolution based on the evidence and testimony heard today, was adopted:

**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Amendment to Restriction that is listed in Section 2.6.1.A.1, which requires a 200' setback from any residential use not zoned EZ-1.

**The vote was as follows:**

**YES: Commissioners Tomes, Peterson, Daniels, Brown, Howard, and Carlson.**  
**NOT PRESENT: Commissioners Jarboe, Lewis, Robinson, and Smith.**

**Detailed District Development Plan with Binding Elements**

02:13:25 On a motion by Commissioner Howard, seconded by Commissioner Peterson, the following resolution based on the Standard of Review and evidence and testimony heard today, was adopted:

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

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

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

**WHEREAS**, the Commissioners further finds that the Metropolitan Sewer District has approved the preliminary development plan and will ensure the provision of adequate

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drainage facilities on the subject site in order to prevent drainage problems from occurring on the subject site or within the community; and

**WHEREAS**, the Commissioners further finds that the overall site design and land uses are compatible with the existing and future development of the area. The proposed site plan expands industrial uses from an adjacent site, and adequately buffers the proposed low-intensity industrial use from the most affected adjoining property, which is currently vacant; and

**WHEREAS**, the Commission further finds that the development plan conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code, with the exception of the requested variances and waivers; now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Detailed District Development Plan, **SUBJECT** to the following binding elements:

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
3. The existing western access point to S Jackson Street shall be closed, and access to the site shall be achieved from S Preston Street and the private alley running from Woodbine Street to S Jackson Street.
4. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.

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5. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested:
  - a. The development plan must receive full construction approval from Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.
  - b. Encroachment permits must be obtained from the Kentucky Transportation Cabinet.
  - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
  - d. A reciprocal access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be created between the owners of the subject property and the property to the immediate east, and recorded. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
  - e. Final elevations/renderings shall be submitted for review and approval by Planning Commission staff. A copy of the approved rendering shall be available in the case file on record in the offices of the Louisville Metro Planning Commission.
6. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
7. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
8. No idling of trucks shall take place within 200 feet of single-family residences. No overnight idling of trucks shall be permitted on-site.
9. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties

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

**The vote was as follows:**

**YES: Commissioners Tomes, Peterson, Daniels, Brown, Howard, and Carlson.**  
**NOT PRESENT: Commissioners Jarboe, Lewis, Robinson, and Smith.**



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**PUBLIC HEARING**

**CASE NO. 18ZONE1008**

Request: Change in zoning from R-4 to C-2 with a Waiver and a Detailed Development Plan with Binding Elements  
Project Name: 10616 Watterson Trail  
Location: 10616 Watterson Trail  
Owner: Kruse Allison Construction, LLC  
Applicant: Kruse Allison Construction, LLC  
Representative: Schroll Land Surveying, LLC  
Jurisdiction: City of Jeffersontown  
Council District: 11 – Kevin Kramer

**Case Manager: Julia Williams, 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. (The staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

**Agency Testimony:**

02:14:20 Julia Williams said the applicant has requested that this case be continued to a date uncertain. They are re-evaluating the site and the zoning they are requesting.

**The following spoke in support of this request:**

No one spoke.

**The following spoke in opposition to this request:**

No one spoke.

**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.**

02:15:11 On a motion by Commissioner Brown, seconded by Commissioner Howard, the following resolution was adopted:

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

**The vote was as follows:**

**YES: Commissioners Tomes, Peterson, Daniels, Brown, Howard, and Carlson.**  
**NOT PRESENT: Commissioners Jarboe, Lewis, Robinson, and Smith.**

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**PUBLIC HEARING**

**CASE NO. 18ZONE1034**

Request: CONTINUED FROM THE 04/04/19 PLANNING  
COMMISSION HEARING – Change in zoning from C-1 and  
OR-3 to C-2; and a District Development Plan with Waivers  
Project Name: Bishop Business Center  
Location: 4310 Bishop Lane  
Owner: Bishop Leasing Co. LLC  
Applicant: Fidelity Realty Group  
Representative: Milestone Design Group  
Jurisdiction: Louisville Metro  
Council District: 10 – Pat Mulvihill

**Case Manager: Julia Williams, 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. (The staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

**Agency Testimony:**

02:15:48 Julia Williams presented the case and showed a Power Point presentation (see recording for detailed presentation.)

**The following spoke in support of this request:**

Mark Madison, Milestone Engineering, 108 Daventry Lane, Louisville, KY 40223

**Summary of testimony of those in support:**

02:22:56 Mark Madison, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.)

02:27:04 Mr. Madison explained why the applicant is requesting that binding element #4C be eliminated, since this is addressed in Notes #18 and #19 on the submitted development plan.

02:27:37 Mr. Madison said the applicant will agree to prohibit bars and lounges on this property with binding elements. In response to a question from Commissioner

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Brown, he also noted that the applicant will bring back renderings/ elevations to be reviewed by staff. There are no tenants for this property yet.

**The following spoke in opposition to this request:**

No one spoke.

**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.**

02:31:18      Commissioners' Deliberation

**Zoning**

02:33:22      On a motion by Commissioner Brown, seconded by Commissioner Peterson, the following resolution, based on the Cornerstone 2020 checklist and evidence and testimony heard today, was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the intents of **Community Form: Goal 1** because the proposal is not a non-residential expansion into a residential area, the proposed high intensity commercial is located in an area with other high intensity zoning, has easy access to the interstate, and is within an activity and employment center where existing infrastructure is in place; the proposal is not for industrial; the proposal does not include hazardous uses. There are no issues with lighting, air, or noise in this commercial area where residential is not evident; APCD had no issues with the proposal; Transportation Planning did not indicate that there would be adverse issues due to the proposal; noise emitting from the site will follow local ordinances; and the proposal is not for industrial; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of **Community Form: Goal 2** because the proposal is located in an existing activity center where adjacent similar zoning is present; the proposal is located in an existing activity center and in the workplace form where there is sufficient population in the area to support the zoning; the proposal is located in an activity center where the infrastructure is existing and the proposal is an efficient zoning that is similar to other zoning in the area; and C-2 allows for a mix of compatible uses to the other C-2 and office zoning in the area; the proposal allows for mixed use; an existing building is being utilized and

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expanded for commercial zoning; and the proposal is not located in an under-utilized parking lot; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of **Community Form: Goal 3** because there are no natural features evident on the site; soils are not an issue with the site; the proposal is not located near the Ohio River Corridor; and the proposal is not located in a flood prone area; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of **Community Form: Goal 4** because the site is not recognized as historic and there are no cultural features evident on the site; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of **Mobility: Goal 1** because the proposal is not located in a Marketplace Corridor but is located in an activity center as well as an employment center. Transit is available along Bishop Lane; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of **Mobility: Goal 3** because the site can be accessed by all form of mobility; the site can be accessed by all form of mobility where the impact on vehicle transportation could be reduced; and no roadway improvements are necessary with this proposal; existing transportation facilities are adequate; and additional roadway improvements are not required; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of **Community Facilities: Goal 2** because existing utilities serve the site; an adequate water supply exists; and the Health Department and MSD have no issues with the proposal; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of **Economic Development: Goal 1** because the proposal will help meet the commercial needs of the Workplace Corridor; the proposal is not for industrial; and the proposal is not located on a site where large volumes of traffic could be generated. The site does have easy access to an expressway; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of **Livability: Goal 1** because the proposal will not affect groundwater; the proposal is not located near a floodplain; and the proposal is not a district that allows for hazardous materials; and

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**WHEREAS**, the Commission further finds that the proposal meets the intents of **Housing: Goal 1** because the proposal allows for housing. The site is located along a transit route; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of **Housing: Goal 2** because the proposal allows for residential but is not located in a residential area nor is it near a residential area; the proposal allows for residential and is located along a transit route and within an activity center; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of **Housing: Goal 3** because the proposal will not displace existing residents, and the proposal allows for residential where innovative methods could be used to support affordable housing; now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the proposed Change in zoning from C-1 and OR-3 to C-2 on property described in the attached legal description be **APPROVED**.

The vote was as follows:

**YES: Commissioners Tomes, Peterson, Daniels, Brown, Howard, and Carlson.**  
**NOT PRESENT: Commissioners Jarboe, Lewis, Robinson, and Smith.**

**Waivers:**

**Waiver #1 - Waiver from Chapter 10.2.4 to not provide the buffer, plantings and screening along the south property line**

**Waiver #2 - Waiver from Chapter 10.2.10 to reduce the 10' VUA LBA to 4.5'.**

02:33:58 On a motion by Commissioner Brown, seconded by Commissioner Peterson, the following resolution, based on the Standard of Review and Staff Analysis, and evidence and testimony heard today, was adopted:

**(Waiver #1) WHEREAS**, the Louisville Metro Planning Commission finds that the waiver will not adversely affect adjacent property owners since the adjacent property is zoned OR-3 and is used non-residentially; and

**WHEREAS**, the Commission further finds that the proposal meets the guidelines of Plan 2040, which calls for protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigation when appropriate. Appropriate transitions between uses that are substantially different in scale and intensity or density,

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and mitigation of the impact caused when incompatible developments occur adjacent to one another through the use of landscaped buffer yards, vegetative berms and setback requirements to address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances. Parking, loading and delivery areas located adjacent to residential areas should be designed to minimize impacts from noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered. Ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. Screening and buffering to mitigate adjacent incompatible uses. The intent of landscape buffer areas is to create suitable transitions where varying forms of development adjoin, to minimize the negative impacts resulting from adjoining incompatible land uses, to decrease storm water runoff volumes and velocities associated with impervious surfaces, and to filter airborne and waterborne pollutants. The proposal is providing cross access and both sites are non- residential; and

**WHEREAS**, the Commission further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since both the site and adjacent site share access and are both non-residentially used; and

**WHEREAS**, the Commission further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant since both the site and adjacent site share access and are both non-residentially used; and

**(Waiver #2) WHEREAS**, the Commission further finds that the waiver will not adversely affect adjacent property owners since the reduction results from an existing condition and all the planting requirements will still be met; and

**WHEREAS**, the Commission further finds that the waiver will not violate guidelines of Plan 2024, which calls for the protection of roadway corridors and public areas from visual intrusions, for mitigation of parking areas so as not to negatively impact nearby residents and pedestrians, and for screening and buffering of parking areas adjacent to streets. The waiver will not violate the protection of parkways through standards for buffers, landscape treatment, lighting and signs. The purpose of vehicle use area landscape buffer areas is to improve the appearance of vehicular use areas and property abutting public rights-of way, the site will meet all the planting requirements; and

**WHEREAS**, the Commission further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since the reduction results from an existing condition and all the planting requirements will still be met; and

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**WHEREAS**, the Commission further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant since the reduction results from an existing condition and all the planting requirements will still be met; now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Waiver from Chapter 10.2.4 to not provide the buffer, plantings and screening along the south property line, and the Waiver from Chapter 10.2.10 to reduce the 10' VUA LBA to 4.5'.

**The vote was as follows:**

**YES: Commissioners Tomes, Peterson, Daniels, Brown, Howard, and Carlson.**  
**NOT PRESENT: Commissioners Jarboe, Lewis, Robinson, and Smith.**

**District Development Plan with Binding Elements and removal of existing binding elements**

02:34:47 On a motion by Commissioner Brown, seconded by Commissioner Peterson, the following resolution, based on the Standard of Review and Staff Analysis, and evidence and testimony heard today, was adopted:

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

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

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

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



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

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

**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Detailed District Development Plan, **SUBJECT** to the following binding elements:

**Existing Binding Elements to be removed**

- ~~1. The Development will be in accordance with the approved district development plan. No further development will occur.~~
- ~~2. The development shall not exceed 5,031 square feet of gross floor area for Phase I.~~
- ~~3. A detailed district development plan for Phase II must be submitted for approval by the Planning Commission. Additional binding elements may be added.~~
- ~~4. Before a certificate of occupancy is issued:
  - ~~a) The development plan must be reapproved by the Jefferson County Department of Public Works and Transportation.~~
  - ~~b) The property owner/developer must obtain approval of a plan for screening (buffering/landscaping). Such plan shall be implemented prior to occupancy and shall be maintained thereafter.~~~~
- ~~5. The only permitted freestanding identification sign shall be located as shown on the approved district development plan. The size of the sign shall not exceed 48 SF in area and 12 feet in height. The directional signs shall not exceed 4 SF in area and 3 feet in height.~~
- ~~6. The entire off-street parking and maneuvering area shall be paved with a hard and durable material; asphalt or concrete.~~
- ~~7. The above binding elements may be amended as provided for in the Zoning District Regulations.~~

**Proposed Binding Elements**

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1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. 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, site disturbance, alteration permit or demolition permit is requested:
  - a. The development plan must receive full construction approval from Construction Review, 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.
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

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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. Final elevations/renderings shall be submitted for review and approval by Planning Commission staff. A copy of the approved renderings shall be available in the case file on record in the offices of the Louisville Metro Planning Commission.
8. No taverns or lounges are permitted on the property without Planning Commission approval.

**The vote was as follows:**

**YES: Commissioners Tomes, Peterson, Daniels, Brown, Howard, and Carlson.**  
**NOT PRESENT: Commissioners Jarboe, Lewis, Robinson, and Smith.**

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**CASE NO. 18ZONE1082**

Request: Change in zoning from OR-3 to C-2 with a CUP for mini-storage, a Variance, Waivers, and a Detailed District Development Plan with binding elements.

Project Name: Dorsey Self Storage  
Location: 1025 Dorsey Lane  
Owner: Charles Insurance Company  
Applicant: Nicklies Real Estate Development  
Representatives: Nicklies Real Estate Development  
Jurisdiction: City of Lyndon  
Council District: 18 – Marilyn Parker

**Case Manager: Julia Williams, 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. (The staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

**Agency Testimony:**

02:37:15 Julia Williams presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.) She made two corrections to the staff report:

- On page 4, under “Standard of Review” (item 4G), staff’s justification should read as follows: “The applicant is proposing an interior-oriented office building-style mini-storage use in a 3-story structure. Relief from the 15-foot building height requirement is being requested.”
- On page 1, under “Case Summary/ Background”, the first sentence should read as follows: “The applicant requests a change-in-zoning from **OR-3**, single-family residential to C-2, Commercial. “

02:47:21 In response to a question from Commissioner Howard, Ms. Williams discussed the setback and buffer area.

02:49:33 Commissioner Howard also asked why this structure did not have a planned retaining wall, like the building that was approved here in 2017. Ms. Williams said this building is designed differently; however, the applicant can answer that in more

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detail. Ms. Williams also handed out copies of a letter of support from an adjacent property owner (Maryhurst).

**The following spoke in support of this request:**

Jim Calvery, 6060 Dutchmans Lane, Louisville, KY 40207

David Nicklies, 6060 Dutchmans Lane, Louisville, KY 40207

**Summary of testimony of those in support:**

02:50:12 Jim Calvery presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.) Mr. Calvery addressed the differences between the approved 2017 building and this building, and why a retaining wall is not needed.

**The following spoke in opposition to this request:**

No one spoke.

02:56:50 Commissioners' deliberation

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

**Zoning**

02:59:03 On a motion by Commissioner Brown, seconded by Commissioner Peterson, the following resolution, based on the Staff Plan 2040 Checklist, the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the intents of **Community Form: Goal 1** because the proposal is not a non-residential expansion into a residential area as the property is currently zoned for both residential and office. The buffers generally meet the LDC requirements; the proposal is located on a transit route and adjacent to an employment center; the proposal is requesting a CUP to allow for an industrial type use, mini-storage, on the site. The site is located in the Neighborhood form where utilities and infrastructure exists. The site is located on a

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transit route; the proposal is not for a hazardous zoning district or land use CUP; APCD did not indicate any issues with the proposal; Transportation Planning did not indicate any adverse impacts on traffic; noise emitting from the site will follow local ordinances; and the proposed industrial CUP will not permit hazardous materials or offensive uses; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of **Community Form: Goal 2** because the proposal is located adjacent to an existing employment center in the Campus Form where infrastructure exists; the proposal has access to the adjacent employment center and from major roadways; the proposal is located adjacent to an employment center and in the vicinity of residential where both populations could support the zoning and CUP; the proposal is located at the corner of Dorsey and Hurstbourne where an employment center is located across both Dorsey and Hurstbourne making the proposal an efficient zoning; the proposal allows for a mix of compatible land uses for the employment center where multi-modal transportation exists; the proposal allows for residential development; C-2 zoning allows for commercial, office, and residential land uses; the proposal is not located in an outlot area; and the proposal is generally meeting all setbacks and buffers to ensure compatibility with adjacent residential; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of **Community Form: Goal 3** because an intermittent stream runs through the portion of the site being preserved; soils are not an issue with the proposal; the proposal is not located in the Ohio River Corridor; and the area where there is a stream is being left preserved; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of **Community Form: Goal 4** because the proposal site has no historical or cultural value; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of **Mobility: Goal 1** because the proposal is for high intensity zoning located adjacent to an employment center and is served by transit; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of **Mobility: Goal 2** because the site will not be accessed through lower density development; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of **Mobility: Goal 3** because C-2 allows for both regional and neighborhood serving uses; C-2 allows for mixed use; the site is accessible by all forms of transportation; and roadway improvements are proposed and will be implemented by the applicant; and

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**WHEREAS**, the Commission further finds that the proposal meets the intents of **Community Facilities: Goal 2** because existing utilities are available for connection; an adequate water supply exists for the site; and MSD has not indicated any issues with the proposal; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of **Economic Development: Goal 1** because the industrial CUP is located adjacent to an employment center that also permits industrial; the proposal is located at the intersection that includes a major arterial where most of the traffic will be coming from; the proposed CUP is not generally supported by river or airport oriented industrial uses; the proposed CUP is located along a major arterial and adjacent to an employment center which allows for other industrial development; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of **Livability: Goal 1** because erodible Soils are not an issue with the proposal; the proposal will not impact a regulatory floodplain; and the proposal will not allow for hazardous materials; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of **Housing: Goal 1** because the proposal allows for high density residential along a transit route; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of **Housing: Goal 2** because the proposal allows for mixed use where existing multi-modal transportation is available; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of **Housing: Goal 3** because existing residential will not be displaced; and residential is permitted with the zoning; ; now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the City of Lyndon that the proposed Change in zoning from OR-3 to C-2 on property described in the attached legal description be **APPROVED**.

**The vote was as follows:**

**YES: Commissioners Tomes, Peterson, Daniels, Brown, Howard, and Carlson.**  
**NOT PRESENT: Commissioners Jarboe, Lewis, Robinson, and Smith.**

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**Conditional Use Permit (CUP)**

02:59:44 On a motion by Commissioner Brown, seconded by Commissioner Howard, the following resolution based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposed Conditional Use Permit for Mini-Warehouses is consistent with the policies of Plan 2040; and

**WHEREAS**, the Commission further finds that the proposed Mini-Warehouses appear to be at a scale appropriate with the surrounding residential area, and will have limited impact on adjacent and nearby residential uses. The proposal provides appropriate transitions to adjacent residential through the use of landscape buffer yards, setbacks and screening. Setbacks and building heights are compatible with nearby properties and generally meet form district requirements for the proposed zoning district. Therefore, the proposal is compatible with surrounding uses and the general character of the area; and

**WHEREAS**, the Commission further finds that improvements to the site and right-of-way made necessary by the proposed development, such as transportation and drainage, have been adequately provided to serve the proposed use; and

**WHEREAS**, the Commission further finds that the proposal provides appropriate transitions to adjacent residential and day care uses through the use of landscape buffer yards, setbacks and screening. Setbacks and building heights are compatible with nearby properties and meet form district requirements for the proposed zoning district; and

**WHEREAS**, the Commission further finds that the proposal provides 30 ft landscape buffer areas adjacent to both side property lines abutting properties with residential zoning districts; and

**WHEREAS**, the Commission further finds that no outdoor storage areas are proposed on the development plan; and

**WHEREAS**, the Commission further finds that no toxic or hazardous materials will be stored on the property; and

**WHEREAS**, the Commission further finds that no retail or wholesale or distributing activities are proposed on the site; and



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**WHEREAS**, the Commission further finds that all loading doors and vehicle maneuvering areas are facing the interior of the site, away from the exterior of the property; and

**WHEREAS**, the Commission further finds that all proposed structures are one story in height and do not exceed 15 feet in height; and

**WHEREAS**, the Commission further finds that the proposed freestanding sign conforms to size, height and style requirements of the Land Development Code; now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Conditional Use Permit for mini-storage with relief from 4.2.35.G to allow the building to be taller than 1 story and 15' (proposed 3 story and 47').

**The vote was as follows:**

**YES: Commissioners Tomes, Peterson, Daniels, Brown, Howard, and Carlson.**  
**NOT PRESENT: Commissioners Jarboe, Lewis, Robinson, and Smith.**

**Variance**

03:00:43 On a motion by Commissioner Brown, seconded by Commissioner Peterson, the following resolution based on the Standard of Review and Staff Analysis, and evidence and testimony heard today, was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that the requested variance will not adversely affect public health safety or welfare since the building is located to away from the closest residential development; and

**WHEREAS**, the Commission further finds that the requested variance will not alter the essential character of the general vicinity since the 3 story structure is located towards Hurstbourne Parkway; and

**WHEREAS**, the Commission further finds that the requested variance will not cause a hazard or nuisance to the public since the 3 story structure is located near Hurstbourne Parkway; and

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**WHEREAS**, the Commission further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations since the 3 story structure is located near Hurstbourne Parkway; 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 applicant wants to build a multi-level storage facility, instead of the standard 1- story; 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 3 story structure is located close to Hurstbourne Parkway; 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; now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Variance from 5.3.1.C.5 to allow the building height to be 47' instead of the required 30' (17' Variance)

**The vote was as follows:**

**YES: Commissioners Tomes, Peterson, Daniels, Brown, Howard, and Carlson.**  
**NOT PRESENT: Commissioners Jarboe, Lewis, Robinson, and Smith.**

- **Waiver #1 - Waiver from 10.3.5 to permit the encroachment of parking into the 15' parkway buffer**
- **Waiver #2 - Waiver from 5.9.2.A.1.b.i to not provide a pedestrian connection from Hurstbourne Parkway to the building entrance**

03:01:54 On a motion by Commissioner Brown, seconded by Commissioner Peterson, the following resolution based on the Standard of Review and Staff Analysis, and evidence and testimony heard today, was adopted:

**(Waiver #1) WHEREAS**, the Louisville Metro Planning Commission finds that the waiver will not adversely affect adjacent property owners since the encroachment is minimal and the planting requirements will still be in compliance with the LDC; and

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**WHEREAS**, the Commission further finds that Plan 2040 calls for the protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigate when appropriate. Appropriate transitions between uses that are substantially different in scale and intensity or density, and to mitigate the impact caused when incompatible developments occur adjacent to one another through the use of landscaped buffer yards, vegetative berms and setback requirements to address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances. Parking, loading and delivery areas located adjacent to residential areas should be designed to minimize the impacts from noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered. Ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. Protect the character of parkways and scenic byways and corridors through standards for buffers, landscape treatment, lighting and signs. The intent of parkway development standards is to protect existing scenic and aesthetic qualities, to ensure a quality visual experience on developing corridors and to protect and improve the visual experience on established corridors. The encroachment is minimal and the planting requirements will still be in compliance with the LDC; and

**WHEREAS**, the Commission further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since the encroachment is minimal and the planting requirements will still be in compliance with the LDC; and

**WHEREAS**, the Commission further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant the encroachment is minimal and the planting requirements will still be in compliance with the LDC; and

**(Waiver #2) WHEREAS**, the Commission further finds that the waiver will not adversely affect adjacent property owners since mini-storage is not a pedestrian oriented land use; and

**WHEREAS**, the Commission further finds that Plan 2040 states that new development should provide, where appropriate, for the movement of pedestrians, bicyclists and transit users with walkways for access to public transportation stops. While the land use is not a pedestrian oriented land use, the zoning allows for commercial uses that would be pedestrian oriented. The pedestrian connection could be re- evaluated with a different land use should another one develop on the site over time; and

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**WHEREAS**, the Commission further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since the land use is not a pedestrian oriented land use; and

**WHEREAS**, the Commission further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant since the land use is not a pedestrian oriented land use; now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the City of Lyndon that the requested Waiver from 10.3.5 to permit the encroachment of parking into the 15' parkway buffer (Waiver #1) and the requested Waiver from 5.9.2.A.1.b.i to not provide a pedestrian connection from Hurstbourne Parkway to the building entrance (Waiver #2) be **APPROVED**.

**The vote was as follows:**

**YES: Commissioners Tomes, Peterson, Daniels, Brown, Howard, and Carlson.**  
**NOT PRESENT: Commissioners Jarboe, Lewis, Robinson, and Smith.**

**Detailed Development plan with removal of existing binding elements and adoption of proposed binding elements**

03:02:43 On a motion by Commissioner Brown, seconded by Commissioner Tomes, the following resolution based on the Standard of Review and Staff Analysis, and evidence and testimony heard today, was adopted:

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

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

**WHEREAS**, the Commission further finds that there are no open space requirements pertinent to the current proposal but much of the rear of the site is preserved in open space; and

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

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

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

**RESOLVED**, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the City of Lyndon that the proposed Detailed Development plan with removal of existing binding elements, **SUBJECT** to the following binding elements:

**Existing Binding Elements (to be removed)**

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 for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. The development shall not exceed 24,000 square feet of gross floor area.
3. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
4. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.

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5. Before any permit (including but not limited to building, parking lot, change of use, site disturbance) is requested:
  - (a) The development plan must receive full construction approval from Develop Louisville, Louisville Metro Public Works and the Metropolitan Sewer District.
  - (b) Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
  - (c) The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
  - (d) A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
6. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
7. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
8. The property owner shall provide a cross over access easement if the property to the east is ever developed for a nonresidential use. A copy of the signed easement agreement shall be provided to Planning Commission staff upon request.
9. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the December 15, 2016

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**Proposed Binding Elements**

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee and to the City of Lyndon 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, site disturbance is requested:
  - a. The development plan must receive full construction approval from Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.
  - b. Encroachment permits must be obtained from the Kentucky Transportation Cabinet.
  - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
  - d. A reciprocal access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be created between the property owner and the adjoining property owner to the east (should it develop non-residentially) and recorded. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services.

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- e. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance
  - f. The final elevations and renderings shall be submitted for review and approval by Planning Commission staff. A copy of the approved renderings shall be available in the case file on record in the offices of the Louisville Metro Planning Commission.
5. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
6. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
7. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.

**The vote was as follows:**

**YES: Commissioners Tomes, Peterson, Daniels, Brown, Howard, and Carlson.**  
**NOT PRESENT: Commissioners Jarboe, Lewis, Robinson, and Smith.**



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**STANDING COMMITTEE REPORTS**

**Land Development & Transportation Committee**

No report given.

**Site Inspection Committee**

No report given.

**Planning Committee**

No report given.

**Development Review Committee**

No report given.

**Policy & Procedures Committee**

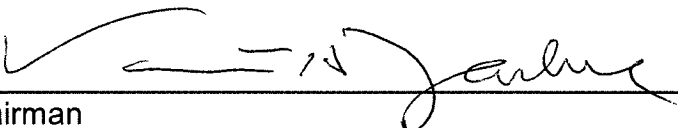
No report given.

**CHAIRPERSON/DIRECTOR'S REPORT**

No report given

**ADJOURNMENT**

The meeting adjourned at approximately 4:10 p.m.

  
\_\_\_\_\_  
Chairman

  
\_\_\_\_\_  
Division Director

