

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO PLANNING COMMISSION
June 5, 2014**

A meeting of the Louisville Metro Planning Commission was held on Thursday, June 5, 2014 at 1:00 p.m. in the Metro Development Center, Room 101, located at 444 South Fifth Street, Louisville, Kentucky.

Commission members present:

Donnie Blake, Chair
David Proffitt, Vice Chair
Jeff Brown
David Tomes
Vince Jarboe
Robert Kirchdorfer
Clifford Turner
Chip White

Commission members absent:

Robert Peterson

Staff Members present:

Emily Liu, Director, Planning & Design Services
John G. Carroll, Legal Counsel
Jonathan Baker, Legal Counsel
Joseph Reverman, Planning Supervisor
Julia Williams, Planner II
Christopher Brown, Planner II
Jessica Wethington, Planning Information Specialist
Tammy Markert, Transportation Planning
Sharonda Duerson, Management Assistant (sign-ins)
Chris Cestaro, Management Assistant (minutes)

Others:

Pat Barry, MSD

The following matters were considered:

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Approval of Minutes

No minutes were approved.

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Business Session

Case No. 14MOD1000

Project Name: Masonic Homes of Kentucky
Location: 3701 Frankfort Avenue
Case Manager: Christopher Brown, Planner II

Request:

Discussion item to set a public hearing date and location for the requested Amendment to Binding Element (**This is not a public hearing for the request.**)

Agency Testimony:

Christopher Brown presented the issue and said input has been received from several interested parties (the applicant, citizens, and the City of St. Matthews.) Various locations were discussed, including the Old Jail Building, the East Government Center, the St. Matthews Community Center, and The Olmstead. There was also discussion about whether to hold the hearing during the day, or as a night hearing.

In response to a question from Commissioner Proffitt, Mr. Brown said e-mails had been received from about 5 or 6 interested parties concerning the date, time, and location of the hearing for this case.

The following spoke regarding Case #14MOD1000:

Todd Hollenbach (address not give.)

Jim Lobb, Weber & Rose, 471 West Main St., Suite 400, Louisville, KY 40202

Mr. Smith (address not given.)

Discussion:

Todd Hollenbach said that the St. Matthews community Center has been offered because it is the largest facility, is close to the subject site, and also offers free parking.

Jim Lobb, the applicant's representative, said the applicant is offering The Olmstead and disputed Mr. Hollenbach's assertion that the St. Matthews Community Center would hold more people. He said The Olmstead is a "neutral site".

John Carroll, legal counsel for the Planning Commission, cautioned that setting a night hearing for this case could set a precedent, since it would be a night

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hearing for something other than a zoning change. Jonathan Baker, also legal counsel for the Planning Commission, discussed Policies & Procedures information that can determine what types of cases are eligible for a night hearing. Commissioner Blake said he shared Mr. Carroll's concerns.

Mr. Lobb explained why the applicant is requesting an afternoon hearing.

A recording of the Planning Commission hearing related to this case is available in the Planning & Design Services offices. Please contact the Customer Service staff to obtain a copy. The recording of this hearing is available under the June 5, 2014 public hearing proceedings.

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

RESOLVED, the Louisville Metro Planning Commission does hereby schedule Case #14MOD1000 to July 31, 2014 at 6:00 p.m. the East Government Center.

The vote was as follows:

YES: Commissioners Blake, Proffitt, Tomes, Jarboe, Turner, and White.

NO: Commissioners Kirchdorfer and Brown.

NOT PRESENT: Commissioner Peterson.

ABSTAINING: No one.

***NOTE:** At the end of today's Planning Commission meeting, it was found that the East Government Center courtroom was not available on this date. A second vote was taken to hold the hearing at the East Government Center on July 28, 2014 instead of July 31st. Commissioner Proffitt left the meeting at 2:45 p.m. and did not vote on the motion for the revised date.

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

RESOLVED, the Louisville Metro Planning Commission does hereby schedule Case #14MOD1000 to July 28, 2014 at 6:00 p.m. the East Government Center.

The vote was as follows:

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

NO: Commissioners Kirchdorfer and Brown.

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NOT PRESENT: Commissioners Peterson and Proffitt.

ABSTAINING: No one.

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Public Hearing

Case No. 16777

Project Name: Blankenbaker Station 1 – Tract 3

Location: 12400 Sycamore Station Place

Owners/Applicants: Pinnacle Properties/TSF Properties LLC
P.O. Box 7368
Louisville, KY 40257

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

Architect/Engineer: Kent Gootee
Mindel Scott & Associates
5151 Jefferson Boulevard
Louisville, KY 40222

Jurisdiction: Louisville Metro

Council District: **20 – Stuart Benson**

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

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

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

Request:

Change in zoning from PEC (Planned Employment Center) to C-2 Commercial and building façade waivers.

Agency Testimony:

Julia Williams presented the case and showed a Power Point presentation, which included maps and photos of the site and surrounding areas (see staff report and exhibits on file.)

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She said there are several sets of binding elements on the site which do not apply to the current use. The binding elements proposed for elimination, as well as those proposed for adoption, are in the staff report (pages 14 through 21.) She discussed a change to Binding Element #5C and said the applicant is requesting that a minor plat be done, just not *before* plan transmittal. Proposed binding element #5C should read as follows:

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.~~

The following spoke in favor of the proposal:

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

Kent Gootee, Mindel Scott & Associates, 5151 Jefferson Boulevard, Louisville, KY 40222

Greg Oakley, P.O. Box 7368, Louisville, KY 40257

Paul Slone, 525 Vine Street Suite 1800, Cincinnati, OH 45202

Walter Lovell, 5116 Henry Cook Boulevard, Plano, TX 75024

Adam Smith, 8235 Douglas Avenue Suite 945, Dallas, TX 75225

Steve Porter, 2406 Tucker Station Road, Louisville, KY 40299

Steve Mattson, Hodges Architects, 13642 Omega, Dallas, TX 75244

Summary of testimony of those in favor:

William Bardenwerper, the applicant's representative, showed a Power Point presentation (see applicant's booklet for detailed presentation; on file.)

Kent Gootee contrasted the proposed changes from the plan presented at LD&T to the plan being presented today (plans on file.) He discussed the tree canopy and screening, and added that a full buffer has been provided along I-64.

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Mr. Bardenwerper discussed changes to the elevations shown at LD&T and those being proposed today (on file.)

Adam Smith, an applicant's representative, gave more detailed descriptions of the changes to the elevations and landscaping since the LD&T meeting, specifically for the southern areas. He discussed accent lighting on the buildings.

Mr. Bardenwerper said Tammy Markert, from Transportation Planning, has reviewed Paul Slone's traffic analysis. He introduced Mr. Slone and said he is available for any questions.

Stephen Porter, representing the Tucker Station Neighborhood Association, said the Association supports the rezoning. He said one additional binding element has been requested, to read as follows:

The applicant, owner, and all contractors for the site shall instruct all contractors and subcontractors and shall instruct all construction traffic to access the property by way of Bluegrass Parkway from Blankenbaker Parkway in order to reach Sycamore Station Place.

Mr Porter said the idea is to keep construction traffic off of Tucker Station Road, and that the applicant has agreed to this binding element. Re-wording the binding element was discussed. Mr. Bardenwerper said the applicant is amendable to the general intent of the binding element regarding the route that all construction-related traffic is to take.

Commissioner Jarboe asked why the waiver is still being requested, since the applicant seems to have adjusted the plan to eliminate the need for it. Ms. Williams said the waiver to not provide windows is still needed; however, she said she could not tell discern details of the façade from the scale of the drawing provided.

Walter Lovell, an applicant's representative, discussed the south elevations.

Steve Mattson, an applicant's representative, said the southern elevation has been re-articulated and discussed the elevations in detail. After much discussion, the Commissioners decided to leave both waivers in the request and to use the applicant's justification for the waivers.

In response to a question from Commissioner Blake, Mr. Bardenwerper said there had not been any discussion about the possibility of binding out C-2 uses.

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Greg Oakley, an applicant, discussed possible uses for the rest of the site, including sit-down restaurants, and the possibility of a hotel in the future. He said he is willing to agree to bind out car dealerships.

The following spoke in opposition to the proposal:

Denise Scarpellini, 11010 Brechin Road, Louisville, KY 40243

Summary of testimony of those in opposition:

Denise Scarpellini said she disagreed that there would be no major traffic issues associated with this project, and described other serious traffic problems in the area. In addition, she said a condominium and gas station projects being built on Ellingsworth, which will further contribute to traffic issues. She added that secondary roads are narrow and unlighted, and unsuitable for heavy traffic, and asked if road improvements would be in place before this project is open.

Mr. Bardenwerper explained that there has been a period of updated traffic studies for the Blankenbaker Station project over a period of time.

Paul Slone gave a summary of the traffic analysis and added that this project is an off-peak-hour generator.

In response to a question from Ms. Scarpellini, Mr. Slone said weekend traffic was not analyzed.

Tammy Markert, with Metro Transportation Planning, said a left turn auxiliary lane is possible from the Tucker Station/Sycamore that is closest to I-264. The proposed turn lane is being evaluated to see if it meets the State's requirements for an auxiliary turning lane. She said it was decided to add a binding element stating that, once that left-turn lane meets warrants, it will be installed by the developer. She produced a proposed binding element regarding this.

Commissioner Brown read the proposed binding element into the record, as follows:

A left-turn lane shall be constructed by Hollenbach-Oakley from northbound Tucker Station to Sycamore Station within six months of a request from Metro Public Works. Request for turn lane shall not occur prior to intersection meeting traffic volume warrants for a left-turn lane as determined by the KTC turn lane policy.

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Commissioner Brown discussed turn-lane criteria.

Mr. Oakley pointed out that there is another project going in on Ellingsworth and asked about crafting some type of proportional cost-sharing of road improvements, based on trips generated.

In response to a question from Commissioner Kirchdorfer, Mr. Lovell described the venues proposed for the Main Event complex (a theater, bowling alley, restaurants, games & amusements, laser tag, etc.)

A recording of the Planning Commission hearing related to this case is available in the Planning & Design Services offices. Please contact the Customer Service staff to obtain a copy. The recording of this hearing is available under the June 5, 2014 public hearing proceedings.

Zoning

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

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the intents of Guideline 1 – Community Form. North of the railroad track is an area all designated as Suburban Workplace Form District; at the rate that Blankenbaker Stations I, II, III and IV have been proceeding, it could be completed within a decade. Blankenbaker Station, with infrastructure planned and largely built, especially in the area of this particular site, is thus a suitable location for a theatre and entertainment development like this. Guideline 1 says that Suburban Workplace is a form characterized by predominantly industrial and office uses where buildings are set back from the street in a landscaped setting; suburban Workplaces also often contain a cluster of uses within a master planned development; transportation and pedestrian facilities are also encouraged, as well as a strong, connected road network; the proposed theatre and entertainment development with associated retail and restaurants will constitute the cluster of uses within a master planned development that Guideline 1, the Suburban Workplace Form, contemplate; they will serve workers within this workplace form district and residents with good access to this area from I-64, I-265, Blankenbaker Parkway, the new Urton Lane Corridor, plus other existing area roads such as Bluegrass Parkway, Tucker Station Road, and Pope Lick Road; and

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WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 2 – Centers. Guideline 2 is intended to promote the efficient use of land and investment in existing infrastructure, to lower utility costs by reducing the need for extensions, to reduce commuting time and transportation related air pollution, to provide an opportunity for a mixture of different land uses, to provide an opportunity for a marketplace that includes a diversity of goods and services, to encourage vitality and a sense of place, and to avoid individual or isolated commercial uses from developing along streets and noncommercial areas; and

WHEREAS, the Commission further finds that the intents of Guideline 2 are met because the proposed theatre and entertainment development with associated retail and restaurants will provide added services to this burgeoning population area where significant residential growth has already occurred and where it can be expected to grow in the future; development of this site for a theater and entertainment development and associated retail and restaurants is the perfect place to expand the existing activity center next door which runs west to Blankenbaker Parkway and south to Plantside Drive where hotels, other restaurants and other retail already exist in close proximity to office and other workplace uses; sanitary sewers are now available as a consequence of what the Hollenbach-Oakley related entity did to spend close to \$10 million on a new pump station and several miles of force main to assure sewer service to this area at the East County/Floyds Fork Wastewater Treatment Plant at Miles Park; this activity center is able to use existing utilities and also capture existing traffic already on area roads; this reduces commuting times back and forth between places of work, residence and shopping; and a sense of place will also be created by expanding the existing Blankenbaker Crossings/Blankenbaker Station activity center as explained above; and

WHEREAS, the Commission further finds that Policies 1 and 2 of Guideline 2 promote locating activities within existing or expanded existing activity centers which is what is proposed in this case; this proposal addresses Policy 2 of this Guideline 2 because it is of an intensity, size and mixture of uses and site design comparable to a designated center, and because it requires a special location in or near a specific land use (notably the existing Blankenbaker Station), along a transportation facility (the existing Bluegrass Parkway near Blankenbaker Parkway and I-64 and near the new Urton Lane Corridor); and

WHEREAS, the Commission further finds that Policies 3, 4, 5 and 7 all pertain to locating retail commercial development where a demonstrated support populations exist, and when a mixture of compatible land uses are included that allow alternative modes of travel and encourage vitality and senses of place that provide for desirable mixed uses; the proposed theatre and entertainment

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development with associated retail and restaurants address all of these Policies of this Guideline 2 because, as noted, there is a burgeoning population in the area; as shown on the overall development plan for Blankenbaker Stations I-IV, this activity center is compact, designed exactly as the policies of this Guideline 2 recommends; uses to the south and east within the Blankenbaker Stations I-IV and the new Tyler Town Center PDD to the south of the railroad track along Taylorsville Road include retail, hotels, offices, and, of course, uses already exist also of a “civic” nature, notably the St. Michael Church and School, which are being expanded at Taylorsville Road – all as a consequence of a significant population and workplace already evident in the area; and

WHEREAS, the Commission further finds that Policies 10, 11, 12, 13, 14 and 16 of Guideline 2 pertain to specific design aspects of this site, notably parking lot layout and usage, relationships of uses of buildings, inclusion of focal points, shared access and parking, shared utilities and access to parking by different forms of transportation, including pedestrian, bicycle and transit; as the development plan accompanying this application shows, buildings have been arranged so that they are compatible, one as to the other; at some point in time, it can be anticipated that transit will be available to the area, and so provisions for same have been included; parking has also been arranged so that it can be shared between buildings, although the theatre and entertainment development along with associated restaurants and retail will require its own significant parking area; utilities will be arranged in a manner so that they can be developed in a coordinated fashion, and, as noted, the applicant/developer through a related entity has already constructed a major pump station and force main to bring sanitary sewer service to this area; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 3 – Compatibility. The intent of this Guideline 3 is to allow a mixture of land uses and densities near each other as long as they are compatible to each other, to prohibit the location of sensitive land uses where accepted standards for noise, lighting, odors or similar nuisances are violated or visual quality is significantly diminished, and to preserve the character of existing neighborhoods; and

WHEREAS, the Commission further finds that Blankenbaker Stations I - IV have covenants, conditions and restrictions (“CCRs”), plus specific binding elements agreed to with the Planning Commission, to assure quality development that has few, if any, negative impacts on nearby residential developments; much of this is evident on the proposed development plan; the existing Blankenbaker Station Master Plan will be followed with this application so that design measures are

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known from the beginning and will serve as a guide for future development of the projects included in both these applications; and

WHEREAS, the Commission further finds that Policies 1 and 2 of Guideline 3 refer to the use of building design measures, including building materials, to ensure compatibility; as at all of Blankenbaker Station developments, design and materials are important components; and as stated, CCRs were included before and will be incorporated in this development to assure design compatibility here as well; and since the time of the LD&T meeting the Main Event entertainment building has been redesigned to address LD&T committee comments; and

WHEREAS, the Commission further finds that Policy 4 of Guideline 3 addresses the issue of non-residential expansion into existing residential areas; this is appropriate when an applicant can demonstrate that adverse impacts of uses will be mitigated; Policies 5, 6, 7, 8 and 9 of this Guideline 3 mention some of those possible adverse consequences, notably odor and air quality emission, traffic, noise, lighting and visual impacts; all of these Policies of this Guideline 3 have been addressed in prior applications for Blankenbaker Stations I-IV and are again in this application, through the Master Plan documents filed previously for review of Blankenbaker Stations I-IV; most importantly, however, most of these impacts are now addressed by the Cornerstone 2020 Land Development Code ("LDC"), which established specific standards for many of these potential negative impacts; for example, lighting is now addressed in new lighting standards included in the LDC, where lighting was never addressed under the old Development Code; and traffic has previously been addressed through previous traffic analyses, all approved by Metro Public Works, and through internal street design, as is already evident on the development plan filed with this application; and

WHEREAS, the Commission further finds that Policies 20, 21, 22, 23, 24, 28 and 29 all further address issues of building design, transitions and buffers, including setbacks, parking, loading and delivery, and signage; the development plan filed with this application fully contemplates that the overall development will be integrated via traffic routes and site specific design measures; transitions from this proposed development to the adjoining developments as well as from the proposed uses to those on the outside will be sensitively addressed through setbacks, screening, buffering and the like; of course, the major transition between existing residential to the west of this Suburban Workplace development and this theatre and entertainment development with associated retail and restaurants are I-64 to the north and Tucker Station Road to the west; and these highways and roads separate this development from nearby residential; and

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WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 6 – Economic Growth and Sustainability. The intents of this Guideline are to insure the availability of necessary usable land to facilitate commercial, industrial and residential development, to reduce public and private cost for land development, to insure that regional scale workplaces and industrial uses have access to people, goods and services and appropriate locations needed for them to conduct their business; and

WHEREAS, the Commission further finds that this application fully addresses the intents of this Guideline; it is very important to assure the opportunity for Metro Louisville to grow jobs, and the only way to do so is to have land available for new businesses to locate, whether they are existing businesses that need to expand or out of town businesses that wish to move to Louisville; the overall Blankenbaker Crossing/ Blankenbaker Station developments, plus the older Bluegrass Industrial Park located adjacent to these business parks, is generally considered to be one of the largest overall industrial/business parks in the United States, if not the world; it is an area to which businesses already located in Louisville and wishing to expand, and those coming to Louisville, have gravitated and continue to gravitate; they have good transportation access, and they are proximate to the locations where people desire to live; and without taking advantage of the available land that exists still within the Snyder Freeway adjacent to these existing business and industrial parks, Metro Louisville will not have ample opportunities to grow; and

WHEREAS, the Commission further finds that Policies 1, 2, 4, 6 and 8 of this Guideline 6 all further elaborate upon these Intent statements; these Policies of this Guideline 6 desire to preserve obvious land for workplace expansion where good access can be assured and where new industries should logically be located, near existing or proposed activity centers where transportation facilities are available; also, as respects this application, these Policies of this Guideline are addressed because of good access to the I-64, I-265, to the planned new Urton Lane Corridor and to Blankenbaker Parkway and ultimately Taylorsville Road; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guidelines 7, 8, and 9 – Circulation, Transportation Facility Design, and Bicycle, Pedestrian and Transit. These Guidelines are intended to provide for safe and proper functioning of street networks to insure that new developments do not exceed the carrying capacity of streets, to assure that internal and external circulations provide for safe and efficient travel movements for all types of transportation, to address congestion and air quality issues, and to assure opportunities for transit and non-motorized methods of travel; as the

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development plan filed with this application demonstrates, and as explained above, the proposed new Urton Lane Corridor runs through the middle of this overall Blankenbaker I-IV development, providing future access from the Blankenbaker interchange with I-64 via Blankenbaker Parkway, Bluegrass Parkway and Plantside Drive to the north and to the Snyder Freeway/Taylorsville Road interchange to the south, especially via the newly opened Blankenbaker Parkway and ultimately via the proposed new Urton Lane Corridor extension from Rehl Road to Taylorsville Road; good access will be provided via Bluegrass Parkway and Blankenbaker Parkway to the I-64 interchange and also via the Blankenbaker extension north to Shelbyville Road; and

WHEREAS, the Commission further finds that Policies 1, 2, 3, 4, 8, 9, 11, 12, 13, 14 and 16 of Guideline 7 all address various issues of impact mitigation as a consequence of new development proposals; street systems obviously need to be designed to adequately carry the proposed traffic, levels of service need to be maintained or possibly improved to better levels of service, oftentimes right-of-way needs to be dedicated, parking needs to be adequate, and such things as corner clearances, points of access and shared access must be addressed on any proposed development plan; all of these are routinely included in proposed development plan applications, and the development plan included with this application is no different than any; ultimately, a preliminary stamp of approval is needed from Louisville Metro Public Works, and it is anticipated that the preliminary stamp on this development plan will be received, because a large traffic analysis was recently completed and all of the traffic impacts of development in this area are mostly known; moreover, this proposed theater and entertainment development and associated with associated retail and restaurant is anticipated to lessen the am and pm peak hour traffic loads; and this should relieve some of the peak hour congestion that is otherwise anticipated by this traffic study, which has been added to an revised several times and which will be supplemented again as a consequence of this proposed change in use; and

WHEREAS, the Commission further finds that Policies 1, 2, 3, 4, 5, 6, 7, 8, 9, 10 and 11 of Guideline 8 primarily pertain to the issues addressed under the Policies of Guideline 7, notably in this instance with respect to specific design standards, especially if established corridors are designated as scenic or parkway, with adequate right-of-way, access to adjoining developments, and site distances and internal circulation; the development plan included with this application addresses all of the Policies of this Guideline 8 for reasons said above; street stubs, access, site distances and internal circulation, as engineering practices and normal requirements of Metro Transportation Planning and KTC determine, are addressed on the submitted development plans and received their preliminary stamp of approval; and

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WHEREAS, the Commission further finds that the proposal meets the intents of Guidelines 10, 11, and 12 – Flooding and Stormwater, Water Quality, and Air Quality. The Intents and Policies of these Guidelines are to address specifically the titles of these Guidelines; Policies 1, 2, 7, and 11 of Guideline 10 pertain to water management which will be handled with stormwater directed through a series of catch basins within streets and parking lots to an existing detention facility or a new one on this site; existing drainage issues will be addressed; consequently, the proposed storm water management, plan has received the preliminary stamp of approval from MSD; the policies of Guideline 11 pertaining to water quality are addressed in this community through green infrastructure, and storm water management and through the temporary construction arrangements of erosion and sediment and control basins – all of which will be addressed on construction plans for this development; and

WHEREAS, the Policies of Guideline 12 largely relate to commuting distances and use of alternative modes of transportation, all of which are fully addressed as set forth above; locating this expanded activity center, this theater and entertainment development with associated retail and restaurants next to an existing activity center and next to a large existing business and industrial park, reduces commuting distances for everyone and especially for residents who live nearby or who wish to locate proximate to places of work and shopping; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 13 – Landscape Character. The intent and Policies of Guideline 13 are to locate landscaping throughout any new development, whether it be via tree preservation, following the specifics of the tree canopy regulation, or to use new plantings to screen and buffer uses, one from the other; the proposed development plan submitted with this application includes all the appropriate landscape measures to assure compliance with the tree canopy and other landscape regulations included in the new LDC; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guidelines 14 and 15 – Infrastructure and Community Facilities. These Guidelines are intended to assure that adequate infrastructure and other community facilities exist to support developments such as these; note again above the approximately \$10 million pump station and sewer force main constructed by an entity related to this applicant/developer; and in addition, the Urton Lane corridor proposed to run through Blankenbaker Stations I-IV, plus major parts of Bluegrass Parkway, Plantside Drive and even Tucker Station Road, have been paid for by the developers of these projects, and right-of-way has been dedicated; and

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

RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the proposed change in zoning from PEC Planned Employment Center to C-2 Commercial on property described in the attached legal description be **APPROVED**.

The vote was as follows:

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

NO: No one.

NOT PRESENT: Commissioner Peterson.

ABSTAINING: No one.

Waivers

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

WHEREAS, the Louisville Metro Planning Commission finds that the waivers will not adversely affect adjacent property owners because the property to the south is the FBI which is not really concerned about a building design issue such as these; but moreover there is lots of animation in this façade elevation, especially with the design changes made since the LD&T meeting; and

WHEREAS, the Commission further finds that the waivers will not violate the Comprehensive Plan because for the reasons set forth in the Detailed Statement of Compliance with all applicable Guidelines and Policies of the Cornerstone 2020 Comprehensive Plan previously filed with this application; and

WHEREAS, the Commission further finds that the extent of the waivers of the regulations are the minimum necessary to afford relief to the applicant because this particular façade of this building is animated in a way that ought to compensate for what the LDC might otherwise suggest is lacking in terms of windows, especially with the design changes made since the LD&T meeting; and

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WHEREAS, the Commission further finds that strict application of the provisions of the regulation will not deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant because the applicant has provided a very attractive building with adequate animation and articulation, despite the lack of windows on this side of the building, especially given this business park location across from a government facility that is not visited by the public; and

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

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the proposed **Waiver of Section 5.6.1.B.1 to allow the building façade to have an uninterrupted length greater than 100 feet AND the Waiver of Section 5.6.1.C.1 for 50% of the wall surfaces at street level to consist of clear windows and doors.**

The vote was as follows:

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

NO: No one.

NOT PRESENT: Commissioner Peterson.

ABSTAINING: No one.

General AND Detailed District Development Plans

Before the vote was taken, Ms. Williams read the following binding elements into the record:

The applicant, owner, and all contractors on this site shall access the site by way of Bluegrass Parkway, to a short stretch of Tucker Station Road, to Sycamore Station Place.

Commissioner Brown then read the next binding element into the record, as follows:

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A contribution for a left-turn lane from northbound Tucker Station Road to Sycamore Station shall be provided for the construction of the lane within 60 (sixty) days of a request from Louisville Metro Public Works. Request for the turn lane contribution shall not occur prior to the intersection meeting traffic volume warrants for a left-turn lane as determined by the KTC Turn Lane Policy. Contributions shall be based on the total cost of the turn lane construction, with the developer paying a share proportional to the number of trips generated by the development for the current ITE Trip Generation Handbook, versus the total actual traffic through the intersection.

Commissioner Blake read the next binding element into the record, as follows:

Automobile sales will not be permitted unless approved by the Planning Commission or their designee.

Commissioner White also noted that one change shall be made to binding element #5C (page 14 of the staff report) as follows:

- 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.~~

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

WHEREAS, the Louisville Metro Planning Commission finds that there are no natural features evident on the site. Trees will be added to the site as a natural feature; and

WHEREAS, the Commission further finds that the provisions for safe and efficient vehicular and pedestrian transportation, both within the development and the community, have been met. Both pedestrians and vehicle users have been provided for on the plan; and

WHEREAS, the Commission further finds that open space is provided in the form of focal points and buffer areas; and

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WHEREAS, the Commission further finds that 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 has been met. MSD has preliminarily approved the proposal; and

WHEREAS, the Commission further finds that, with the exception of the waiver request, the proposal is compatible with the existing development in the area; and

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

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the proposed General and Detailed District Development Plans, **SUBJECT** to the following binding elements:

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. The development of Lot 7 shall not exceed 11,970 square feet of gross floor area, Lot 8 shall not exceed 49,900 square feet of gross floor area, Lot 9 shall not exceed 58,856 square feet of gross floor area, and Lot 10 shall not exceed 15,052 square feet of gross floor area.
3. No pennants, balloons, or banners shall be permitted on the site.
4. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
5. Before any permit (including but not limited to building, parking lot,

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change of use, site disturbance, alteration permit or demolition permit)
is requested:

- a. The development plan must receive full construction approval from Louisville Metro Department of Inspections, Permits and Licenses, 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. 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; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
- e. 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. **The landscaping shall be minimally provided as indicated on the rendering presented at the June 5, 2014 Planning Commission hearing.**
- f. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.

6. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.

7. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.

8. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other

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

9. The property owner shall provide a cross over access easement if the properties to the south and west are ever developed for a nonresidential use. A copy of the signed easement agreement shall be provided to Planning Commission staff upon request.

10. A legal instrument providing for the long-term use of the (off-site parking spaces or joint-use parking spaces), as shown on the approved general district development plan and in accordance with (Section 9.1.5 Off-Site Parking or Section 9.1.6 Joint Use Parking), shall be submitted and approved by the Planning Commission legal counsel and recorded in the County Clerk's office. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.

11. The materials and design of proposed structures for Lots 8 and 9 shall be substantially the same as depicted in the rendering as presented at the June 5, 2014 Planning Commission meeting.

12. The façade elevations for Lots 7 and 10 shall be in accordance with applicable form district standards and shall be approved by PDS staff prior to construction permit approval.

13. Parking lot lights shall be reduced to a minimum security level of lighting one hour after final shifts are over.

14. The applicant, owner, and all contractors on this site shall access the site by way of Bluegrass Parkway, to a short stretch of Tucker Station Road, to Sycamore Station Place.

15. A contribution for a left-turn lane from northbound Tucker Station Road to Sycamore Station shall be provided for the construction of the lane within 60 (sixty) days of a request from Louisville Metro Public Works. Request for the turn lane contribution shall not occur prior to the intersection meeting traffic volume

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warrants for a left-turn lane as determined by the KTC Turn Lane Policy. Contributions shall be based on the total cost of the turn lane construction, with the developer paying a share proportional to the number of trips generated by the development for the current IETE Trip Generation Handbook, versus the total actual traffic through the intersection.

16. Automobile sales will not be permitted unless approved by the Planning Commission or their designee.

The vote was as follows:

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

NO: No one.

NOT PRESENT: Commissioner Peterson.

ABSTAINING: No one.

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***NOTE: Commissioner Proffitt left the hearing at 2:45 p.m. and did not hear or vote on this case.**

Project Name: MAPCO Ellingsworth

Location: 1005/11805 Ellingsworth and 915
Blankenbaker Parkway

Owners: Bruce M. Williams Trust Fund
Louis A. Williams, Jr.
2092 Arrowood Place
Cincinnati, OH 45231

Clara Jo Zehnder
915 Blankenbaker Parkway
Louisville, KY

Applicant: Neil Weber, Representative
MAPCO Express
7102 Commerce Way
Brentwood, TN 37027

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

Architect/Engineer: Kevin Young
Land Design & Development Inc.
503 Washburn Avenue
Louisville, KY 40205

Jurisdiction: City of Middletown

Council District: 20 – Stuart Benson

Case Manager: **Julia Williams, 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.

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

Request:

Change in zoning from R-4 Residential to C-1 Commercial; building setback Variances, and a Landscape Waiver.

Agency Testimony:

Julia Williams presented the case and showed a Power Point presentation, which included maps and photos of the site and surrounding areas (see staff report and exhibits on file.) She added that the landscape waiver is no longer being requested.

In response to a question from Commissioner White, Ms. Williams said that an 8-foot wall, noted in binding element #12, was requested by members of an adjacent single-family residential community at the LD&T Committee meeting.

In response to a question from Commissioner Blake, Ms. Williams discussed the 10-foot-wide strip of land between the two properties which is zoned R-4.

Jo Zehnder said the 10-foot strip is a surveying error that occurred when the nursing home was originally built.

The following spoke in favor of the proposal:

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

Kevin Young, Land Design & Development Inc., 503 Washburn Avenue, Louisville, KY 40205

Neil Weber, Representative, MAPCO Express, 7102 Commerce Way, Brentwood, TN 37027

Luke Markushewski, 3400 Dutchmans Lane, Louisville, KY 40205

Jo Zehnder, 915 Blankenbaker Parkway, Louisville, KY 40243

Summary of testimony of those in favor:

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William Bardenwerper, the applicant's representative, showed a Power Point presentation (see applicant's booklet for detailed presentation; on file.)

Mr. Bardenwerper presented additions/changes to the proposed binding elements, as follows:

- An 8-foot high vinyl fence with brick columns shall be installed prior to the issuance of the Certificate of Occupancy.
- Dumpster pad relocated to the property line adjoining the King Southern Bank site.
- No outdoor music, although an outdoor PA system will be installed
- No tractor trailer parking overnight parking
- A brick wall shall be installed along Belmont Park residential lots, prior to issuance of a Certificate of Occupancy.
- The rear of the property adjoining Kings Southern Bank property will get the same brick and architectural block as the front.

Kevin Young discussed road improvements and entrances. A drainage concern has been corrected with the addition of a drainage basin, with water piped to the detention basin. He also detailed the landscape buffer along the property line adjacent to the nursing facility.

Mr. Bardenwerper added that the applicant and the City of Middletown have discussed road improvements.

Neil Weber was called but declined to speak unless to answer questions.

Luke Markushewski, attorney representing King Southern Bank, spoke in support. He requested that the front entrance of Tract 2 face Blankenbaker Parkway, instead of Ellingsworth. He said that Mayor Chapman of Middletown would also prefer the retail entrance to be on Blankenbaker Parkway.

Jo Zehnder was called but said she had nothing to add.

In response to a question from Commissioner Kirchdorfer, Mr. Young clarified the new location of the dumpster pad. Ms. Williams said this could be a condition of approval, instead of a binding element if needed.

In response to a question from Commissioner Tomes, Mr. Bardenwerper agreed to add a binding element that the applicant/site owner would build and maintain the fence; the bank would not be responsible for the maintenance.

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Commissioner Tomes' proposed wording is: **"Maintenance of the fence shall be the responsibility of the property owner."**

The following spoke in opposition to the proposal:

Denise Scarpellini, 11010 Brechin Road, Louisville, KY 40243

Summary of testimony of those in opposition:

Denise Scarpellini said this store is a "duplication of services" with another convenience store across the street. She said that there used to be a gas station/convenience store where the Enterprise Leasing is now; that store went out of business.

The following spoke neither for nor against the proposal:

No one spoke.

Rebuttal:

Mr. Bardenwerper said that market research determined that this was a good site for this type of business. He said the former gas station/convenience store was not at an intersection, and may have gone out of business for other reasons.

Discussion:

Commissioner Blake noted that a binding element regarding the location of the dumpster pad can be removed from the binding elements and added as a Condition of Approval ("amend the plan to reflect the location of the dumpster".)

Zoning

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

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the intents of Guideline 1 – Community Form. The present form district designation for the area of the subject property is Neighborhood, and this is a "Neighborhood Center" in size and design, located next to the residential communities mentioned and others and therefore, the rezoning and proposed uses fit this Form District; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 2 – Activity Centers. The Intents of Guideline 2 are to promote the efficient use of land and investment in existing infrastructure, to reduce

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commuting time and transportation related air pollution, to provide an opportunity for neighborhood centers, to encourage vitality and a sense of place in neighborhoods, and to restrict individual or isolated commercial uses from developing along streets in non-commercial areas; the proposed uses at this location comply with these Intent of this Guideline because infrastructure (in terms of roads and utilities) is already present or soon to be under construction at this location; also, by locating a mixed use retail/service development at this location, the property is able to take advantage of traffic that already exists in this interchange, especially along Blankenbaker Parkway and Ellingsworth Lane; a significant amount of traffic is obviously associated on regular, recurring basis with the large Southeast Christian Church complex located across Blankenbaker Parkway and all of the community activities associated with it; also, large amounts of traffic move along Blankenbaker Parkway to access in the morning and leave in the evening the referenced business and industrial parks; and Ellingsworth Lane is the location of multiple residential communities, including those noted (e.g., Belmont Park, Swan Point and the approved new apartment community); thus also providing a “neighborhood center” of the kind proposed at this Suburban Neighborhood location serves residents who live along or travel Ellingsworth Lane and also people who come and go on a regular basis from Southeast Christian Church and who travel in and from work along Blankenbaker Parkway and everything around this property is already developed, so it would not be an isolated commercial parcel were it rezoned; and

WHEREAS, the Commission further finds that Policies 1 and 2 of Guideline 2 recommend locating activity centers in areas exactly like this, where there are street intersections of a major arterial and collector (i.e., Blankenbaker Parkway and Ellingsworth Lane) and when an existing activity center, as already occurs at this location, simply seeks to fill in a gap, which is exactly what this property is – an in-fill site in an already existing activity center; and

WHEREAS, the Commission further finds that Policy 3 of Guideline 2 recommends locating retail commercial development in activity centers where it can be demonstrated that a sufficient support population exists; as noted, there are large new residential developments that have been built in recent times in the immediate vicinity (e.g., Belmont Park, Swan Point, Memory Place and the new Hollenbach-Oakley approved apartment community, to name just four), but Blankenbaker Parkway also leads to multiple other residential developments in and near the Cities of Douglass Hills and Middletown; the subject property is located in the City of Middletown, and Ellingsworth Lane also serves a large Middletown population; and

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WHEREAS, the Commission further finds that Policy 4 of Guideline 2 encourages compact development, whereas Policy 5 encourages a mixture of compatible land uses within activity centers; the proposed mixed use retail/service center, anchored by MAPCO, on this property is small, compact, and, as noted, it will contain a mixture of uses, including a gas and convenience store, possible restaurant and associated retail and small office space; and

WHEREAS, the Commission further finds that Policies 10, 11, 12, 13 and 15 of Guideline 2 all pertain to the design of activity centers, with the focus on proper utilization and sharing of parking and access, designed so as to assure compatibility with nearby residences, etc; the design of this activity center shows that parking is distributed throughout, and likely in a manner where there will be cross access and shared parking; the principal focal points are the outdoor seating areas around what is anticipated to be areas reserved for outdoor meals; and the access points on Blankenbaker Parkway and Ellingsworth Lane will serve the entire development; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 3 – Compatibility. The Intents of this Guideline 3 are to allow a mixture of land uses and densities near each other as long as they are compatible, to prohibit the location of sensitive land uses where accepted standards for noise, lighting, odors and similar nuisances are violated or visual quality is significantly diminished, and to preserve the character of existing neighborhoods; the Intents of this Guideline are fully addressed by the proposed mixed use center, anchored by MAPCO, because this is not an intense use of the land, relative to what already exists nearby, as noted hereinabove; and the proposed mixed use center, anchored by MAPCO, especially because of the location of the uses on their site and the designs, should have little to no adverse impacts on the adjoining residential lots in the Belmont Park subdivision or on the residents of the adjoining senior living facility, particularly given the screening and buffering plan agreed to per binding element and as shown on the proposed development plan; and

WHEREAS, the Commission further finds that Policies 1 and 2 of this Guideline 3 specifically refer to size, scale and building materials; the proposed building with the greatest impact on the referenced single-family and senior housing communities will be one story in height with a low profile roof; there will be no loading or unloading at the rear of that building, and there will be no windows also at the rear of the building whereby occupants would be looking upon the adjoining single-family subdivision (Belmont Park) or senior care housing facility; that MAPCO building will be constructed largely of brick and stone in a very attractive style shown on the rendering accompanying this application and the

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other buildings will be similarly attractive and contain materials that are acceptable to the community, just as MAPCO's; and

WHEREAS, the Commission further finds that Policy 4 of Guideline 3 discourages nonresidential expansion into existing residential areas unless the applicant can demonstrate that adverse impacts on residential uses will be mitigated; vegetative buffers, landscaping, etc. are appropriate forms of transitions from nonresidential to residential uses; in this case, the applicant has proposed that the retail building at the rear of the site adjoining the Belmont Park subdivision and senior living facility be protected by an adequate screen, including trees and a wall that will especially help protect the relatively low-rise residential buildings in Belmont Park; and

WHEREAS, the Commission further finds that Policies 5, 6, 7, 8 and 9 of this Guideline 3 pertain the most obvious impacts that need to be controlled, notably odors, traffic, noise, lighting and visual impacts; because the highest intensity uses on the subject property will be located along Blankenbaker Parkway, not adjoin the referenced residential uses, and because the property lines adjoining the referenced residential uses will meet the required setbacks with screening referenced per binding element, fencing and trees installed to help separate and screen the development from those residential communities, and because uses in the rear retail/office building are not expected to create noise or odors, all of these impacts can be fully mitigated, if they exist at all; lighting will be directed down and away from the adjoining residential developments, and the light sources will be contained and shielded; the visual appearance of the buildings is also evident on the three-dimensional site plan filed with this application; detail of the MAPCO building architecture and specific site design was filed with the rezoning application and presented at the LD&T and Planning Commission meeting, and any changes to the approved elevations, the applicant will return to the Planning Commission and City of Middletown at later dates when the actual final designs of buildings, other than MAPCO, are finally chosen, so that the Planning Commission and City of Middletown will have the final say-so on the design of those particular buildings; but the design that is presented with this application sets the bar, so to speak, at a relatively high level from an aesthetic point of view; and

WHEREAS, the Commission further finds that Policies 21, 22, 23 and 24 of this Guideline 3 pertain to these issues of transitions, buffers, setbacks and the impacts of parking, loading and delivery, which have already been addressed above; the portions of the property that adjoin the residences noted above (e.g., Belmont Park and the senior living facility) will have good screening per binding elements and as shown on the development plan; these will provide for adequate

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separation, screening and buffering of the parking in and around these buildings and the vehicles that will maneuver throughout these parking areas and there really are no other adverse impacts to be visually separated from this development; and

WHEREAS, the Commission further finds that Policy 28 of this Guideline 3 pertains to signage; signage will comply with the Middletown Sign Ordinance which restricts the type of signage and location permitted on this property, the major signs obviously being located along Blankenbaker Parkway, away from the residential properties; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guidelines 4, 5, and 13 – Open Space, Natural Areas, and Landscape Character. The Intents and Policies of these three Guidelines are to enhance the quality of life in Louisville Metro through the provision of open spaces, protection of natural areas and provisions of landscaping; the proposed mixed retail/service center with the uses described hereinabove is small in size, and so it will not contain large open spaces; it will contain nicely landscaped areas in and around buildings; and the colored site plan accompanying this application includes concepts for landscaping along the perimeters of the subject property where impacts, if any, on adjoining residential properties can be mitigated; and

WHEREAS, the Commission further finds that there are no known natural areas or features on the subject property that would necessitate specific action; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 6 – Economic Growth and Sustainability. The Intents of this Guideline 6 are to ensure the availability of necessary usable land to facilitate commercial and other development, to reduce public and private costs for land development, and to ensure that regional scale workplaces have access to people, goods and services; the proposed mixed retail/service facility, anchored by MAPCO, addresses these Intents of this Guideline 6 because this is an in-fill location with other commercial activity nearby, as described above which serves large volumes of existing traffic; and the infrastructure is located in this area, both road and utilities; and

WHEREAS, the Commission further finds that Policy 6 of this Guideline 6 pertains to activity centers and the need to locate retail commercial development in activity centers where high volumes of traffic exist along major arterials and at the intersection of major arterials and either minor arterials or collector-level streets; this proposal complies with this Policy of this Guideline, because, as explained above under Guideline 2, this is an existing activity center that this

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applicant simply seeks to expand by filling in this last land use gap that exists in this area by virtue of this still vacant property; Blankenbaker is already a busy arterial, and Ellingsworth is a busy collector street; traffic along those roads will be the traffic that will utilize this development, and likely not much additional traffic will be generated because this development will largely rely on pass-by trips from these road systems, which is right at a very busy intersection of Blankenbaker Parkway and I-64; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guidelines 7, 8, and 9 – Circulation, Transportation Facility Design, and Bicycle, Pedestrian and Transit. The Intents of these three Guidelines are to provide for safe and proper functioning of the street network, to ensure that new developments do not exceed the carrying capacity of streets, to ensure that internal and external circulation is safe and efficient, to address congestion and air quality issues, to provide efficient, safe and attractive systems for automobiles, transit and pedestrian, and to reduce or eliminate conflicts between these different forms of access and movements; the proposed mixed retail/service development, anchored by MAPCO, at this location addresses these Intents of these three Guidelines because it has been designed with inputs from the Kentucky Transportation Cabinet (KTC) and Louisville Metro Transportation Planning, as well as from neighbors who anecdotally understand traffic volumes and how traffic moves throughout this area; in this regard, meaningful additional amounts of traffic are not expected to be generated by this proposal, for all of the reasons noted above, especially the fact that the uses proposed for this location are not so much destination oriented as they are designed to attract pass-by traffic already utilizing the existing street system; also, by all accounts, Blankenbaker Parkway has adequate traffic-carrying capacity for this proposed development as well as most anything else that may reasonably occur; but recall that this is a small development, in any event by any measure, so its impacts are not going to be significant on the local street systems as they already exist; all new development makes accommodations nowadays for pedestrian and bicycle use, and as required, transit accommodations must also be made; and the same is true for this proposed project; and

WHEREAS, the Commission further finds that Policies 1 and 2 of Guideline 7 require that impacts of development be fully mitigated; as of this filing, the results of the Traffic Impact Study required by Metro Transportation Planning are yet unknown; it is reasonably certain that the impacts will be small because the development is small, the road systems have capacity, and the traffic visiting these sites is almost all already on the street system; and

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WHEREAS, the Commission further finds that Policies 9, 10, 11, 13, 14 and 16 of Guideline 7 all pertain to specific site design requirements, such as adequate parking, adequate corner clearances, joint and cross access and good internal circulation; the development plan submitted with this application, before it can proceed to review by the Planning Commission's LD&T Committee and public hearing, received the stamp of approval from Metro Transportation Planning, thus demonstrating compliance, as expected, with these design policies; and Metro Transportation Planning always works with KTC to assure that it is also satisfied with access design when a project, like this one, is located along a state road; and

WHEREAS, the Commission further finds that Policies 1, 2, 3 and 4 of Guideline 9 all pertain, as noted, to alternative means of transportation, notably pedestrian, bicycle and transit; as stated, all of those requirements are addressed on the site plan; sidewalks are provided, bike racks will be provided; and transit, if available in the area, can load or unload in front of this property, if it is deemed to be a good site for that; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guidelines 10, 11, and 12 – Flooding and Stormwater, Water Quality, and Air Quality. These are the environmental guidelines of the Comprehensive Plan and, whereas they pertain to different environmental concerns, they relate; the Intent and Policies of Guideline 10, as respects this proposed project, pertain to the management of stormwater; the proposed project will comply with the Intents and Policies of this Guideline as post-development rates of runoff will not exceed pre-development conditions because on-site over-detention will be provided, and it will be assured that off-site drainage systems will be adequate to handle the new drainage flow from new imperious surfaces; and

WHEREAS, the Commission further finds that the Intents and Policies of Guideline 11 pertain to water quality; in this community there are new MSD requirements for water quality that will be addressed at construction stage and, furthermore erosion and sediment control will also be managed at time of construction planning; and

WHEREAS, the Commission further finds that the Intents and Policies of Guideline 12 pertain to air quality; this development of mixed retail/service addresses air quality by limiting traveling distances for the goods and services that are provided at this very accessible location to both nearby residential and workplace/industrial properties as noted above; and

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

RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the City of Middletown that the change in zoning from R-4 to C-1 on property described in the attached legal description be **APPROVED**.

The vote was as follows:

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

NO: No one.

NOT PRESENT: Commissioner Peterson.

ABSTAINING: No one.

Variance #1 - Variance from 5.3.1.C.5 to permit the building on Tract 1 to exceed the maximum 80' setback to a setback between approximately 174' and 190'

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

WHEREAS, the Louisville Metro Planning Commission finds that the requested variance will not adversely affect the public health, safety or welfare. The variance will not affect the public because a pedestrian connection is being provided and the building setback is being met on one side of the proposal but due to the odd shape of the corner it is more challenging to be met on the Blankenbaker side; and

WHEREAS, the Commission further finds that there are other structures along Blankenbaker that have similar setbacks. The setbacks along this corridor vary; and

WHEREAS, the Commission further finds that the setback will not be a hazard to the public because the public is being provided for with sidewalks and pedestrian connections throughout the proposal; and

WHEREAS, the Commission further finds that since there are other structures located beyond the 80' required setback the request is not unreasonable; and

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WHEREAS, the Commission further finds that the shape of the lot at the corner is odd and does not allow both facades of the building to be located at the required setback and allow access as well; and

WHEREAS, the Commission further finds that meeting the setback on both sides would restrict the access to and from the site due to the odd shape of the lot at this corner; and

WHEREAS, the Commission further finds that the gas station is located where it is furthest away from any residential use where there could be a potential nuisance; and

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

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Variance from 5.3.1.C.5 to permit the building on Tract 1 to exceed the maximum 80' setback to a setback between approximately 174' and 190'.

The vote was as follows:

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

NO: No one.

NOT PRESENT: Commissioner Peterson.

ABSTAINING: No one.

Variance #2 - Variance from 5.3.1.C.5 to allow pavement and parking within the 30' setback along the north property line of Tract 2.

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

WHEREAS, the Louisville Metro Planning Commission finds that the variance will not affect the public because the variance arises from there being a 10 foot strip of R-4 zoned property between the site and the adjacent C-1 bank; and

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WHEREAS, the Commission further finds that the variance will not alter the character of the area because nothing will be constructed on the 10' strip of R-4 land; and

WHEREAS, the Commission further finds that the variance will not be a hazard because nothing will be constructed on the 10' strip of R-4 land; and

WHEREAS, the Commission further finds that the situation arises from there being a 10 foot strip of R-4 zoned property between the site and the adjacent C-1 bank. This is not typical; 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. Generally land is adjacent to a developable parcel not a 10' strip of unusable land; and

WHEREAS, the Commission further finds that the strict application would deprive the applicant of use of the land as the 10' strip of R-4 cannot be developed for any reasonable use; and

WHEREAS, the Commission further finds that the circumstances are a result of actions the adjacent property owner took by having a 10' strip of useless property between a bank and existing residential; and

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

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Variance from 5.3.1.C.5 to allow pavement and parking within the 30' setback along the north property line of Tract 2.

The vote was as follows:

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

NO: No one.

NOT PRESENT: Commissioner Peterson.

ABSTAINING: No one.

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General and Detailed District Development Plans

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

WHEREAS, the Louisville Metro Planning Commission finds that there are no evident natural features on the site. Existing trees will be replaced and placed along the perimeter and in ILAs within the development per the LDC; and

WHEREAS, the Commission further finds that the provisions for safe and efficient vehicular and pedestrian transportation both within the development and the community have been met. Vehicles and pedestrians are provided for with drive lanes and sidewalks; and

WHEREAS, the Commission further finds that open space is provided within LBAs and a detention basin proposed on the site; and

WHEREAS, the Commission further finds that 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 has been met. MSD has preliminarily approved the drainage for the site; and

WHEREAS, the Commission further finds that the site in its compliance with the LDC buffers ensures compatibility; and

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

RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the City of Middletown that the General and Detailed District Development Plans be **APPROVED** and **SUBJECT** to the following binding elements, **ON CONDITION** that the applicant shall show the location of the dumpster and the brick wall along the east property line on the development plan, as discussed at the June 5, 2014 Planning Commission public hearing:

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

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element(s) shall be submitted to the Planning Commission or the Planning Commission's designee and to the City of Middletown for review and approval; any changes/additions/alterations not so referred shall not be valid.

2. The development shall not exceed:
 - 4,770 square feet of gross floor area for Tract 1
 - 4,500 square feet of gross floor area for Tract 2
 - 12,000 square feet of gross floor area for Tract 3
3. No pennants, balloons, or banners shall be permitted on the site.
4. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
5. Before any permit (including but not limited to building, parking lot, change of use, site disturbance) is requested:
 - a. The development plan must receive full construction approval from Louisville Metro Department of Inspections, Permits and Licenses, 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. A minor subdivision plat shall be recorded creating the lot lines as shown on the development plan/dedicating additional right-of-way. 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 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. **The landscaping shall be planted minimally as shown on the rendering presented at the June 5, 2014 Planning Commission hearing with the exception of the north property line adjacent to the nursing care facility.**
 - e. A reciprocal access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be

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created between the adjoining property owners and recorded. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.

- f. 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 and the City of Middletown.
7. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment. There may be an outdoor PA system installed at the gas pumps on Tract 1. The PA system shall not be audible past the property lines of the overall site subject to the development plan shown at the June 5, 2014 public hearing.
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 on Tract 1 shall be substantially the same as depicted in the rendering as presented at the June 5, 2014 Planning Commission meeting and to the City of Middletown.
10. The façade elevations for Tracts 2 and 3 shall be in accordance with applicable form district standards and shall be approved by PDS staff and the City of Middletown prior to construction permit approval.

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11. No idling of trucks shall take place within 200 feet of single-family residences. No overnight idling of trucks shall be permitted on-site. There shall be no overnight parking of tractor trailer trucks.
- ~~12. The applicant shall construct an 8' wall within the 25' LBA along the east property line to meet the 8' screen requirement. The wall shall be located from the edge of the 15' LBA and connect to the proposed building. Vegetation will be used for the remainder of the 8' screen.~~
12. An eight-foot brick wall shall be installed along the east property line adjoining the Belmont Park subdivision residential building lots, and ending at Belmont Park's detention basin lot. The wall shall be installed before the Certificate of Occupancy is issued for Tract 1.
13. An eight-foot-high vinyl fence with brick columns on 10 foot centers shall be installed along the property line adjoining the King Southern Bank property before a Certificate of Occupancy is issued for Tract 1. The property owner will maintain the fence.
14. The rear of the northern-most building adjoining the King Southern Bank property shall be of the same brick and architectural block materials as included on the front of that building.

The vote was as follows:

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

NO: No one.

NOT PRESENT: Commissioner Peterson.

ABSTAINING: No one.

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**Move Louisville Multi-Modal Transportation Plan Progress Report
Presentation**

This agenda item was moved to an unspecified Planning Commission hearing and was not presented today.

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STANDING COMMITTEE REPORTS

Land Development and Transportation Committee

No report given.

Legal Review Committee

No report given.

Planning Committee

No report given.

Policy and Procedures Committee

No report given

Site Inspection Committee

No report given.

ADJOURNMENT

The meeting adjourned at approximately 3:40 p.m.

Chairman

Division Director