

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO PLANNING COMMISSION
DECEMBER 15, 2016**

A meeting of the Louisville Metro Planning Commission was held on December 15, 2016 at 1:00 p.m. at the Old Jail Building, located at 514 W. Liberty Street, Louisville, Kentucky.

Commission members present:

Vince Jarboe, Chair
Marilyn Lewis, Vice Chair
Jeff Brown
Lula Howard
Emma Smith
Rob Peterson (arrived at approximately 1:15 p.m.)
Rich Carlson
David Tomes
Marshall Gazaway

Commission members absent:

Robert Kirchdorfer

Staff Members present:

Brian Davis, Planning Manager
Joe Haberman, Planning Manager
Emily Liu, Planning Director
Steve Hendrix, Planning Supervisor
Julia Williams, Planning Supervisor
Brian Mabry, Planning Supervisor
Joel Dock, Planner I
John Carroll, Legal Counsel
Jonathan Baker, Legal Counsel
Sue Reid, Management Assistant

The following matters were considered:

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APPROVAL OF MINUTES

DECEMBER 1, 2016 PLANNING COMMISSION PUBLIC HEARING MINUTES

00:03:17 On a motion by Vice Chair Lewis, seconded by Commissioner Howard, the following resolution was adopted:

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the minutes of the Planning Commission Public Hearing conducted on December 1, 2016.

The vote was as follows:

Yes: Commissioners Brown, Tomes, Howard, Smith, Carlson, Gazaway, Vice Chair Lewis and Chair Jarboe

Not Present: Commissioners Kirchdorfer and Peterson

**PLANNING COMMISSION MINUTES
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CONSENT AGENDA

CASE NO. 16STREETS1009

Request:	Street Closure
Project Name:	Swift Pork Company
Location:	Northern terminus of Webster Street
Owner:	Louisville Metro
Applicant:	JBS Swift
Representative:	Frost Brown Todd LLC – Glenn Price
Jurisdiction:	Louisville Metro
Council District:	4 – David Tandy
Case Manager:	Joel Dock, 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. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

An audio/visual recording of the 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.

Agency Testimony:

00:04:14 Joel Dock stated this item is on the Consent Agenda, so he is just here to answer questions if needed.

00:04:35 On a motion by Commissioner Howard, seconded by Commissioner Smith, the following resolution was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the requested closure does not result in demand on existing or future public facilities and services as the street proposed for closure does not contain public services which require easements for maintenance, and

WHEREAS, the Commission further finds that any utility access necessary within the right-of-way to be closed will be maintained by agreement with the utilities. No need for utility access has been expressed by the utility agencies servicing the area, and

WHEREAS, the Commission further finds that the cost for a street or alley closing, or abandonment of any easement or land dedicated to the use of the public shall be paid by the applicant or developer of a proposed project, including cost of improvements to adjacent rights-of-way or relocation of utilities within an existing easement, and

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CASE NO. 16STREETS1009

WHEREAS, the Commission further finds that The closure complies with the Goals, Objectives and Plan Elements of the Comprehensive Plan found in Guideline 7 (Circulation) and Guideline 8 (Transportation Facility Design). Any physical improvements necessary for the closure will be completed by the applicant. Right-of-way proposed for closure does not serve as public access to surrounding uses or obstruct circulation with adjacent uses, and

WHEREAS, the Commission further finds that there are no other relevant matters; now, therefore be it

RESOLVED, that the Louisville Metro Planning Commission, in Case Number 16STREETS1009, does hereby **RECOMMEND APPROVAL** to Louisville Metro Council, based on the staff report and evidence provided at the Public Hearing today.

The vote was as follows:

Yes: Commissioners Brown, Tomes, Howard, Smith, Carlson, Gazaway, Vice Chair Lewis and Chair Jarboe

Not Present: Commissioners Kirchdorfer and Peterson

**PLANNING COMMISSION MINUTES
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CONSENT AGENDA

CASE NO. 16STREETS1019

Request:	Alley Closure
Project Name:	E. Washington Street Alley
Location:	Northeast from E. Washington Street; Southwest from Buchanan Street
Owner:	Jabb LLC
Applicant:	Jabb LLC
Representative:	Schroll Land Surveying – Bill Schroll
Jurisdiction:	Louisville Metro
Council District:	4 – David Tandy
Case Manager:	Joel Dock, 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. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

An audio/visual recording of the 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.

Agency Testimony:

00:05:56 Joel Dock stated there were some concerns pointed out at the LD&T Committee hearing about the possibility of bricks or stones being below the portion of the alley to be closed. Mr. Dock stated stones were found beneath this portion of the alley and those stones would need to be excavated and stockpiled for Public Works to pick up or to be delivered to the Public Works facility prior to the recording of the street closure, so that would need to be the only Condition of Approval of this street closure (see recording for detailed presentation).

00:07:51 On a motion by Commissioner Carlson, seconded by Vice Chair Lewis, the following resolution was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the requested closure does not result in demand on existing or future public facilities and services as the alley is not in operable condition and does appear to contain any utilities requiring easements, and

WHEREAS, the Commission further finds that any utility access necessary within the right-of-way to be closed will be maintained by agreement with the utilities. No need for utility access has been expressed by the utility agencies servicing the area, and

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WHEREAS, the Commission further finds that the cost for a street or alley closing, or abandonment of any easement or land dedicated to the use of the public shall be paid by the applicant or developer of a proposed project, including cost of improvements to adjacent rights-of-way or relocation of utilities within an existing easement, and

WHEREAS, the Commission further finds that the closure complies with the Goals, Objectives and Plan Elements of the Comprehensive Plan found in Guideline 7 (Circulation) and Guideline 8 (Transportation Facility Design). Any physical improvements necessary for the closure will be completed by the applicant. Right-of-way proposed for closure does not serve as public access to surrounding uses or obstruct circulation with adjacent uses, and

WHEREAS, the Commission further finds that there are no other relevant matters; now, therefore be it

RESOLVED, that the Louisville Metro Planning Commission, in Case Number 16STREETS1019, does hereby **RECOMMEND APPROVAL** to Louisville Metro Council on **CONDITION** that historic bricks and stones be excavated for preservation purposes and that the applicant and Metro Public Works shall work together to arrange for their collection prior to recording of the street closure.

The vote was as follows:

Yes: Commissioners Brown, Tomes, Howard, Smith, Carlson, Gazaway, Vice Chair Lewis and Chair Jarboe

Not Present: Commissioners Kirchdorfer and Peterson

**PLANNING COMMISSION MINUTES
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BUSINESS SESSION

CASE NO. 16ZONE1056

Request:	Change in zoning from R-5A, R-4, and OR-1 to R-7 on approximately 9.61 acres with a waiver, Revised District Development Plan and Amendments to Binding Elements
Project Name:	Prospect Cove
Location:	6500 Forest Cove Lane & 7301 River Road
Owner:	Prospect Development LLC
Applicant:	LDG Multi-Family LLC
Representative:	Sabak, Wilson, & Lingo, Inc.; Dinsmore and Shohl
Jurisdiction:	Louisville Metro
Council District:	16-Kelly Downard
Case Manager:	Julia Williams, RLA (IN), AICP, Planning Supervisor

NOTE: Commissioner Peterson arrived at approximately 1:15 p.m.

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.)

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.

Agency Testimony:

00:09:40 Julia Williams stated we're looking at setting a night hearing date for 6:00 p.m., and it was discussed that the closest government center was here at the Old Jail, and also the opposition had requested the Springdale Community Church as well for a night hearing date. Ms. Williams stated Springdale Community Church is available January 31st February 21st, and the Old Jail is available any time. Ms. Williams stated we're looking at maybe January 31st at either location (see staff report and recording for detailed presentation).

The following spoke in favor of this request:

Cliff Ashburner, 101 S. 5th Street, Suite 2500, Louisville, KY 40202
Grover Potts, 2500 PNC Plaza, Louisville, KY 40202

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BUSINESS SESSION

CASE NO. 16ZONE1056

Summary of testimony of those in favor:

00:10:55 Cliff Ashburner stated the church is adequate and would do a good job of getting a record, and the main concern is making sure a record is created (see recording for detailed presentation).

00:11:35 Grover Potts stated there were 247 people who attended the neighborhood meeting and obviously that's much more than can be accommodated here. Mr. Potts stated the church will seat 400 (see recording for detailed presentation).

00:12:06 Discussion to determine location for night hearing (see recording for detailed presentation)

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

(NOTE: There was further discussion regarding the location prior to the recording of votes)

RESOLVED, that the Louisville Metro Planning Commission, in Case Number 16ZONE1056, does hereby **SET THE DATE AND LOCATION FOR A NIGHT HEARING** for January 31, 2017 at the Old Jail Auditorium, 514 W. Liberty Street, Louisville, KY at 6:00 p.m.

The vote was as follows:

Yes: Commissioners Brown, Tomes, Peterson, Howard, Smith, Carlson, Gazaway, Vice Chair Lewis

No: Chair Jarboe

Not Present: Commissioners Kirchdorfer

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BUSINESS SESSION

PARKING WAIVER FEES

Parking Waiver Fees

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.

Agency testimony:

00:31:43 Emily Liu requested the Commission defer this item to the January 5, 2017 Planning Commission Public Hearing (see recording for detailed presentation).

00:32:05 On a motion by Vice Chair Lewis, seconded by Commissioner Brown, the following resolution was adopted:

RESOLVED, that the Louisville Metro Planning Commission does hereby **DEFER** the Parking Waiver Fees to the January 5, 2017 Planning Commission Public Hearing.

The vote was as follows:

Yes: Commissioners Brown, Tomes, Peterson, Howard, Smith, Carlson, Gazaway, Vice Chair Lewis and Chair Jarboe
Not Present: Commissioners Kirchdorfer

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PUBLIC HEARING

CASE NO. 16CELL1004

Request:	Cell tower consisting of a 150 foot monopole with a 10 foot lightning arrestor (total height of 160 feet) within a 1,800 square foot compound area
Project Name:	Dana Drive
Location:	4610 R Manslick Road
Owner:	First Cumberland Presbyterian Church
Applicant:	Eco-Site, Inc. & T-Mobile
Representative:	Pike Legal, David Pike
Jurisdiction:	Louisville Metro
Council District:	15 – Marianne Butler
Case Manager:	Steve Hendrix, Planning Supervisor

Notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicants.

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

An audio/visual recording of the 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.

Agency testimony:

00:33:11 Steve Hendrix stated the applicants are asking for a continuance to February 16, 2017 because they needed more time to do further studies on possible other locations (see recording for detailed presentation).

00:34:04 On a motion by Commissioner Howard, seconded by Commissioner Brown, the following resolution was adopted:

RESOLVED, that the Louisville Metro Planning Commission, in Case Number 16CELL1004, does hereby **CONTINUE** the case to the February 16, 2017 Planning Commission Public Hearing.

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PUBLIC HEARING

CASE NO. 16CELL1004

The vote was as follows:

**Yes: Commissioners Brown, Tomes, Peterson, Howard, Smith, Carlson,
Gazaway, Vice Chair Lewis and Chair Jarboe**

Not Present: Commissioners Kirchdorfer

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PUBLIC HEARING

CASE NO. 15AREA1004

Request:	Area-wide Change in Zoning for the Portland Neighborhood
Project Name:	Portland Area-Wide Re-Zoning
Location:	Multiple properties in the Portland Neighborhood
Owner:	Multiple Owners
Applicant:	Louisville Metro
Representative:	Louisville Metro
Jurisdiction:	Louisville Metro
Council District:	5-Cheri Bryant-Hamilton
Case Manager:	Julia Williams, RLA (IN), AICP, Planning Supervisor

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

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

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.

Agency testimony:

00:35:29 Julia Williams presented the case and showed a Powerpoint presentation. Ms. Williams responded to questions from the Commissioners (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

No one spoke.

The following spoke in opposition of the request:

No one spoke.

00:42:10 Commissioners' deliberation

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PUBLIC HEARING

CASE NO. 15AREA1004

00:44:22 On a motion by Commissioner Carlson, seconded by Commissioner Smith, the following resolution was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the area wide rezoning complies with the applicable guidelines and policies of Cornerstone 2020, and

WHEREAS, the Commission further finds that the area wide rezoning complies with Guideline 1, Community Form of Cornerstone 2020. The area wide rezoning will ensure that new development will be designed to be compatible with the scale and form of existing development in the neighborhood, as well as with the pattern of existing uses. The neighborhood is comprised of predominantly residential uses and a grid pattern of streets, alleys and sidewalks, and

WHEREAS, the Commission further finds that the area wide rezoning complies with Guideline 2, Centers of Cornerstone 2020. The area wide rezoning will promote an efficient use of land and investment in existing infrastructure. The area wide rezoning will encourage commercial, office and multi-family residential developments to take place in and around identified activity centers in the neighborhood. The area wide rezoning will encourage vitality and a sense of place in the neighborhood, and

WHEREAS, the Commission further finds that the area wide rezoning complies with Guideline 3, Compatibility of Cornerstone 2020. The area wide rezoning will encourage commercial uses on these properties, which have been identified to have been used as commercial both historically and currently. The area wide rezoning will encourage commercial, office and multi-family residential developments to take place in and around identified activity centers in the neighborhood. For the reasons stated above, the area wide rezoning will preserve the character of the existing neighborhood, and

WHEREAS, the Commission further finds that the area wide rezoning complies with Guideline 5, Natural Areas and Scenic and Historic Resources. The area wide rezoning will help preserve this historically single family residential neighborhood and encourage commercial, office and multi-family residential developments to take place in and around identified activity centers in the neighborhood, and

WHEREAS, the Commission further finds that the area wide rezoning complies with Guideline 6, Economic Growth and Sustainability. The area wide rezoning will encourage commercial, office and multi-family residential developments to take place in and around identified activity centers in the neighborhood where existing infrastructure is adequate to support these uses, and

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PUBLIC HEARING

CASE NO. 15AREA1004

WHEREAS, the Commission further finds that the area wide rezoning complies with Guideline 14, Infrastructure. The area wide rezoning will encourage effective and appropriate connections between land use patterns and supporting infrastructure, and

WHEREAS, the Commission further finds that based on the reasons stated above, or otherwise stated in the staff report, and as depicted in the maps presented at the Planning Commission public hearing, the area wide rezoning complies with all other Guidelines and Policies of Cornerstone 2020, and

WHEREAS, the Commission further finds that the existing zoning classification is inappropriate and the proposed zoning classification is appropriate. The area wide rezoning will ensure that new development will be designed to be compatible with the scale and form of existing development in the neighborhood, as well as with the pattern of existing uses. The neighborhood is comprised of predominantly residential uses and a grid pattern of streets, alleys and sidewalks. The area wide rezoning will encourage a mix of appropriate uses according to the specified zoning district on the identified properties, some of which have been identified to have been used as commercial uses historically and currently; now, therefore be it

RESOLVED, that the Louisville Metro Planning Commission, in Case Number 15AREA1004, does hereby **RECOMMEND APPROVAL** to Louisville Metro Council the Area-Wide Change in Zoning for the Portland Neighborhood, based on the Staff Report and the testimony heard today.

The vote was as follows:

Yes: Commissioners Brown, Tomes, Peterson, Howard, Smith, Carlson, Gazaway, Vice Chair Lewis and Chair Jarboe
Not Present: Commissioners Kirchdorfer

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PUBLIC HEARING

CASE NO. 16AREA1003

Request:	Area-wide Change in Zoning for Jacobs
Project Name:	Jacobs Area-wide Rezoning
Location:	Multiple Properties
Owner:	Multiple Owners
Applicant:	Louisville Metro
Representative:	Louisville Metro
Jurisdiction:	Louisville Metro
Council District:	15-Marianne Butler
Case Manager:	Brian Mabry, AICP, Planning & Design Supervisor

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

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

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.

Agency testimony:

00:46:08 Brian Mabry presented the case and showed a Powerpoint presentation. Mr. Mabry responded to questions from the Commissioners (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Susan Hughes, 601 W. Jefferson Street, Louisville, KY 40202

Summary of testimony of those in favor:

00:56:24 Susan Hughes, representative for Councilwoman Marianne Butler, spoke in favor of the request (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

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PUBLIC HEARING

CASE NO. 16AREA1003

00:56:46 **Commissioners' deliberation**

00:58:57 On a motion by Commissioner Peterson, seconded by Commissioner Howard, the following resolution was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the area wide rezoning complies with the applicable guidelines and policies of Cornerstone 2020, and

WHEREAS, the Commission further finds that the area wide rezoning complies with Guideline 1, Community Form of Cornerstone 2020. The area wide rezoning will ensure that new development will be designed to be compatible with the scale and form of existing development in the neighborhood, as well as with the pattern of existing uses. The neighborhood is comprised of a mix of residential and commercial uses with a grid pattern of streets, alleys and sidewalks and with two main thoroughfares, Taylor Boulevard and Barry Boulevard, and

WHEREAS, the Commission further finds that the area wide rezoning complies with Guideline 2, Centers of Cornerstone 2020. The area wide rezoning will promote an efficient use of land , investment in existing infrastructure and help to encourage revitalization. The area wide rezoning will encourage light commercial and office uses to take place in and around the intersection of Taylor Boulevard and Barry Boulevard, an identified neighborhood gateway. The area wide rezoning will encourage vitality and a sense of place in the neighborhood, and

WHEREAS, the Commission further finds that the area wide rezoning complies with Guideline 3, Compatibility of Cornerstone 2020. The area wide rezoning will help to solidify the viability of long-standing compatible commercial uses along Taylor Boulevard by removing their nonconforming status and making them conforming uses. In addition, the area wide rezoning will encourage light commercial and office uses to take place in and around identified activity centers in the neighborhood, thus lessening the potential of non-residential expansion into residential areas, and

WHEREAS, the Commission further finds that the area wide rezoning complies with Guideline 6, Economic Growth and Sustainability. The area wide rezoning will encourage light commercial and office uses to take place in and around an identified neighborhood gateway where existing infrastructure is adequate to support these uses, and

WHEREAS, the Commission further finds that the area wide rezoning complies with Guideline 14, Infrastructure. The area wide rezoning will encourage effective and appropriate connections between land use patterns and supporting infrastructure, and

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CASE NO. 16AREA1003

WHEREAS, the Commission further finds that the area wide rezoning complies with Land Use Recommendation 4 of the Jacobs Neighborhood Small Area Plan. The Plan recommends rezoning the subject properties to C-1 in order to encourage future light commercial and office development at the neighborhood gateway at the intersection of Taylor and Berry Boulevards. Although the Plan does not recommend rezoning of the property at 3600 Taylor Boulevard, through further public engagement at the Neighborhood Meeting, Staff came to believe it appropriate to include the property within the area wide rezoning request, and

WHEREAS, the Commission further finds that based on the reasons stated above, or otherwise stated in the staff report, and as depicted in the maps presented at the Planning Commission public hearing, the area wide rezoning complies with all other Guidelines and Policies of Cornerstone 2020, and

WHEREAS, the Commission further finds that the existing zoning classification is inappropriate and the proposed zoning classification is appropriate. The existing Residential and Office Residential zoning designations of the subject properties are not ideal for the intersection of a Major Arterial and a Minor Arterial. The area wide rezoning will ensure that new development will be appropriate for this neighborhood gateway. In addition, the area wide rezoning will help to solidify the viability of long-standing compatible commercial uses along Taylor Boulevard by removing their nonconforming status and making them conforming uses; now, therefore be it

RESOLVED, that the Louisville Metro Planning Commission, in Case Number 16AREA1003, does hereby **RECOMMEND APPROVAL** to Louisville Metro Council the Area-Wide Change in Zoning from R-6, R-7 and OR-2 to C-1 and R-6 to OR, based on the Staff Report and testimony heard today.

The vote was as follows:

Yes: Commissioners Brown, Tomes, Peterson, Howard, Smith, Carlson, Gazaway, Vice Chair Lewis and Chair Jarboe
Not Present: Commissioners Kirchdorfer

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PUBLIC HEARING

CASE NO. 16ZONE1033

Request: Zoning Change from R-4 to C-1 and C-2 With a Waiver for
Approximately 4.67 Acres
Project Name: Greenwood Plaza
Location: 6300 Greenwood Dr.
Owner: Irma V. Waller
Applicant: Brian Forrest
Representative: Evans/Griffin; Bardenwerper, Talbott & Roberts, PLLC
Jurisdiction: Louisville Metro
Council District: 12 – Rick Blackwell
Case Manager: Brian Mabry, Planning & Design Supervisor

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

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

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.

Agency testimony:

01:01:01 Brian Mabry presented the case and showed a Powerpoint presentation. Mr. Mabry responded to questions from the Commissioners (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Nick Pregliasco, 1000 N. Hurstbourne Pkwy., Louisville, KY 40223
Jim Griffin, 4010 Dupont Circle, Suite 478, Louisville, KY 40207
Brian Forrest, 8909 Lippincott Road, Louisville, KY 40222

Summary of testimony of those in favor:

01:08:06 Nick Pregliasco spoke in favor of the request and showed a Powerpoint presentation. Mr. Pregliasco responded to questions from the Commissioners (see recording for detailed presentation).

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01:20:23 Jim Griffin spoke in favor of the request (see recording for detailed presentation).

01:21:28 Nick Pregliasco responded to further questions from the Commissioners (see recording for detailed presentation).

The following spoke in opposition of the request:
Betty Braden, 7419 Beahl Blvd., Louisville, KY 40258
Ed Braden, 7419 Beahl Blvd., Louisville, KY 40258

Summary of testimony of those in opposition:

01:23:52 Betty Braden spoke in opposition of the request. Mrs. Braden stated their main concern is the traffic (see recording for detailed presentation).

Rebuttal:

01:26:45 Nick Pregliasco spoke in rebuttal and responded to questions from the Commissioners (see recording for detailed presentation).

01:31:30 Brian Forrest responded to questions from the Commissioners in regard to the types of uses for the development (see recording for detailed presentation).

Further testimony in opposition of the request:

01:32:27 Ed Braden spoke in opposition of the request (see recording for detailed presentation).

Rebuttal:

01:36:20 Nick Pregliasco spoke in rebuttal and responded to questions from the Commissioners (see recording for detailed presentation).

01:39:38 **Commissioners' deliberation**

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01:42:42 Counsel Baker asked Mr. Pregliasco if he would certify that the iteration of the Findings of Fact is the exact same document that Commissioner Howard has, just that it corrects for C-1 Zoning (see recording for detailed presentation).

01:42:53 Mr. Pregliasco said that is correct (see recording for detailed presentation).

01:46:18 On a motion by Commissioner Brown, seconded by Vice Chair Lewis, the following resolution was adopted:

Change in Zoning from R-4 to C-1 for approximately 4.67 Acres

WHEREAS, the Louisville Metro Planning Commission finds that this property has been one of the remaining decent size residential properties surrounded by recent developments, with commercial developments to the West along Greenwood Road and surrounded on the East and South by the McBride Moss Creek condominium development; there is no market for this property for a residential development as the Moss Creek residential development has been stalled for almost 10 years and is still not fully complete; the property has good access off Greenwood Road and off the access easement serving River City Bank and the Kroger center and near the intersection of Terry Road and Greenwood Road; and it is already an "activity center" location because of the proximity to the River City Bank and other commercial developments to the west as well as Kroger Center, not to mention the church across the street, and

WHEREAS, the Commission further finds that the application complies with the Suburban Neighborhood Form District description of an area characterized by *predominantly* residential uses but that also includes, at appropriate locations, a mixture of uses, such as offices, retail shops, restaurants and services so long as these uses are at a scale appropriate for the nearby neighborhoods; this small retail center is precisely what is contemplated by the Suburban Neighborhood Form District; indeed, when the above-referenced condominium development community was originally approved there were discussions about the lack of restaurant and other retail in close walking distance proximity, which this would provide, in order to round out the "activity center" that the condominium development community and other above-named uses are a part of, and

WHEREAS, the Commission further finds that the application complies with the Intents and applicable Policies 1, 2, 3, 4, 5, 7, 8, 9, 11, 13, 14 and 15 of this Guideline because the subject property adjoins the mixture of commercial, high-density residential condominiums and single-family residential uses mentioned above, placing it in the

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activity center that already exists in and around this location; with goods and services available in close proximity to the west of this site and at the Kroger center and the residential uses mentioned above, this small retail center adds to the vitality and sense of place among the mostly disconnected nearby neighborhoods, some of whose residents will be able to walk to this small center for food or to shop at the retail establishments; others will find it a convenient stop on their ways home returning west along Greenwood Road or North on Terry Road, and

WHEREAS, the Commission further finds that as an "activity center", it is appropriately located along a minor arterial road very close to Terry Road, also a minor arterial road, expanding the existing activity center to the west, and it is designed to be of intensity, density, size and mix of uses appropriate for a small neighborhood center; everything within this small center is compact, and it presently is contemplated to include four buildings: a Taco Bell restaurant, another fast food restaurant or coffee shop, and two retail buildings which are connected; and they share parking and work off the same utility infrastructure, and

WHEREAS, the Commission further finds that the application complies with the Intents and applicable Policies 1, 2, 4, 5, 6, 7, 8, 9, 12, 20, 21, 22, 23, 24 and 28 of this Guideline because, as set forth above, this is a small neighborhood-serving retail center; it will have an attractive look and feel in accordance with the style and design concepts accompanying this application and as shown at the neighborhood meeting, and the elevations to be shown at the public hearing; odors would only exist as a consequence of the proposed restaurants, but those are located along the Greenwood Road portion of the site the furthest away from the adjoining residential properties, which are further separated by the sewer and drainage easement, further buffering the these developments; noise would only potentially emanate from the later hours of the restaurants as the retail portion is not anticipated to have any form of late hours; but residential properties potentially impacted by such nuisances are located significant distances away; lighting will follow restrictions of the Land Development Code (LDC) and thus be directed down and away from nearby residential properties, with 90 degree cut-off at property lines; transitions to adjoining properties on the south and east side will be attractively screened with the required landscaping as well as the increased distance of the drainage easement and parking will be shared; loading and delivery will be located and/or screened so as to minimize impacts on nearby properties and signage will be in conformance with the LDC, and

WHEREAS, the Commission further finds that the application complies with the Intents and applicable Policies 2, 5, 6 and 11 of this Guideline because, as set forth above, this property is located along Greenwood Road and close to Terry Road, both of which are minor arterials, with significant improvements to Greenwood Road already approved; due to the location of the property, surrounded by commercial development to the west

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and a stalled residential development to the south and east, the property no longer has any residential viability for development; as part of an existing activity center, it is designed to be a high quality, neighborhood compatible retail center with much needed restaurant uses; it is located close to fairly intense residential populations the length of Greenwood Road from Greenbelt Highway to Dixie Highway and along minor arterial-level streets connecting with Greenwood Road, such as Terry Road; and absent this rezoning application, this no longer suitable single-family property could not be reused in virtually any other manner, and

WHEREAS, the Commission further finds that the application complies with the Intents and applicable Policies 1, 2, 4, 6, 9, 10, 11, 12, 13, 14, 15, 16 and 18 of Guideline 7; Policies 1, 4, 5, 7, 9, 10 and 11 of Guideline 8; and Policies 1, 2, 3 and 4 of Guideline 9 because, as mentioned above, Greenwood Road is slated for near-term reconstruction and improvement; this will move traffic much more efficiently along this busy arterial roadway; the traffic from this development will have access off of Greenwood Road and off the private access easement serving the Kroger center; also, the intersection of Greenwood Road and Terry Road is already a signalized one, which helps with traffic flows through that intersection and into and out of this site by creating traffic gaps for vehicles to safely enter and exit; furthermore, the design of this small center, together with its points of access, take into account the standards promulgated by KTC and Metro Transportation Planning and Public Works; the latter required a review and preliminary approval of a traffic study with traffic counts and a detailed district development plan (DDDP) submitted with this application prior to time of docketing for LD&T and Planning Commission public reviews; and that review and preliminary stamp of approval assures that Transportation Planning and Public Works standards for corner clearances, access, connectivity, internal circulation and parking minimums are all satisfied; and bike racks and sidewalks will be provided as required, and

WHEREAS, the Commission further finds that the application complies with the Intents and applicable Policies 1, 3, 4, 6, 7, 10 and 11 of this Guideline because stormwater drainage will be addressed through the very significant drainage easement to the south and east, in compliance with MSD's standards for storm water management; MSD reviewed the storm water management plan and gave its preliminary stamp of approval to the DDDP prior to docketing for LD&T and Planning Commission public reviews; and the applicant's professional representatives have met with MSD to review area resident concerns about use of the existing drainage easement, and

WHEREAS, the Commission further finds that the application complies with the Intents and applicable Policies 3, 5 and 8 of this Guideline because MSD has promulgated both soil erosion/sedimentation control regulations and even newer ones with respect to water quality; and construction plans for this center will require compliance with these regulations prior to obtaining building permits, and

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WHEREAS, the Commission further finds that the application complies with the Intents and applicable Policies 2, 4, 7 and 8 of this Guideline because this proposed extension of a small neighborhood center in close proximity to a large residential support population, notably along close to the intersection of two minor arterial roads, not only will vehicle miles traveled be reduced, but also customers already driving these road systems will be able to pop in and pop out of this center without having to travel greater distances for the exact same services, and

WHEREAS, the Commission further finds that the application complies with the Intents and applicable Policies 1, 2, 4, 5 and 6 of this Guideline because compliance with this Guideline is achieved by virtue of compliance with LDC requirements and as stated above, landscaping, screening and buffering will exceed LDC requirements, as promised neighbors at the neighborhood meeting, and

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

RESOLVED, that the Louisville Metro Planning Commission, in Case Number 16ZONE1033, does hereby **RECOMMEND APPROVAL** to Louisville Metro Council the Change in Zoning from R-4 to C-1, based on the Staff Report, testimony heard today and the Findings of Fact provided by the applicant at this meeting.

The vote was as follows:

Yes: Commissioners Brown, Tomes, Peterson, Howard, Smith, Carlson, Gazaway, Vice Chair Lewis and Chair Jarboe
Not Present: Commissioners Kirchdorfer

01:47:19 On a motion by Commissioner Brown, seconded by Vice Chair Lewis, the following resolution was adopted:

Detailed District Development Plan

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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. The open space provided on the site is in the form of the buffers and landscape islands provided, 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

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. Access between the subject property and other nonresidential properties is provided, and

WHEREAS, the Commission further finds that the development plan conforms to applicable guidelines and policies of the Comprehensive Plan and, except for the requested waiver, to requirements of the Land Development Code; and

Waiver of LDC Section 10.2.4.b to allow the property perimeter landscape buffer area along the south and east lines of the subject property to encroach 100% into the existing sewer and drain easement

WHEREAS, the Louisville Metro Planning Commission finds that the waiver will not adversely affect adjacent property owners since the screening and buffering requirements will still be met. In addition, the width of the drainage easement will contribute to the buffering of the subject properties from neighboring residential properties. The easement is wide enough so that it will not be overly burdened by the presence of the LBA, 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

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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 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 landscape buffers are not being reduced they are just being proposed to be located within an existing wide drainage easement, making the site compatible with the surrounding properties, and

WHEREAS, the Commission further finds that the waiver is the minimum to give relief to the applicant because the LBA will otherwise fully comply with the LDC except that the LBA is located completely within the existing drainage easement along the south and east property lines of the subject property, and

WHEREAS, the Commission further finds that the strict application would deprive the applicant of reasonable use of the land because locating the LBA outside of the easement would cause an unnecessary hardship with the layout of the proposed development; now, therefore be it

RESOLVED, that the Louisville Metro Planning Commission, in Case Number 16ZONE1033, does hereby **APPROVE** the Detailed District Development Plan and the Waiver of LDC Section 10.2.4.b to allow the property perimeter landscape buffer area along the south and east lines of the subject property to encroach 100% into the existing sewer and drain easement, based on the Staff Report, testimony heard today and the Findings of Fact provided by the applicant and **SUBJECT** to the following Binding Elements:

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. The development shall not exceed 31,455 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.
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 Develop Louisville, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b) A minor subdivision plat or legal instrument 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.
 - c) Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
 - 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.
6. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structures or land for the proposed use. All

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binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.

7. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
8. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
9. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the December 15, 2016, Planning Commission hearing.

The vote was as follows:

Yes: Commissioners Brown, Tomes, Peterson, Howard, Smith, Carlson, Gazaway, Vice Chair Lewis and Chair Jarboe

Not Present: Commissioners Kirchdorfer

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Request: Change in zoning from R-4 to OR-3 on 2.89 acres with variances and a waiver
Project Name: Dorsey Office
Location: 1025 Dorsey Lane
Owner: Charles Insurance Company
Applicant: Nicklies Real Estate Development
Representative: Heritage Engineering LLC
Jurisdiction: City of Lyndon
Council District: 18-Marilyn Parker
Case Manager: Julia Williams, RLA (IN), AICP, Planning Supervisor

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

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

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.

Agency testimony:

01:49:26 Julia Williams presented the case and showed a Powerpoint presentation. Ms. Williams responded to questions from the Commissioners (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Jim Calvery, 6060 Dutchmans Lane, Suite 110, Louisville, KY 40205

Summary of testimony of those in favor:

01:55:47 Jim Calvery spoke in favor of the request and responded to questions from the Commissioners (see recording for detailed presentation).

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The following spoke in opposition of the request:

No one spoke.

02:05:42 Commissioners' deliberation

02:08:13 On a motion by Commissioner Carlson, seconded by Vice Chair Lewis, the following resolution was adopted:

Change in Zoning from R-4 to OR-3 on 2.89 acres

WHEREAS, the Louisville Metro Planning Commission finds that the proposal conforms with KRS100.213 because it agrees with the Comprehensive Plan of Metro Louisville and Jefferson County, its goals, objectives, guidelines and policies (sometimes called "Cornerstone 2020") as further detailed in these Findings, and

WHEREAS, the Commission further finds that the existing zoning classification is inappropriate and the proposed zoning classification is appropriate as further detailed in these findings, and

WHEREAS, the Commission further finds that there have been major changes of an economic, physical or social nature within the area involved which were not anticipated in the adopted comprehensive plan and which have substantially altered the basic character of the area as further detailed in these findings, and

WHEREAS, the Commission further finds that the property lies in the Neighborhood Form Area as identified by Core Graphic 1, and is consistent with Guidelines for development within this Form Area, because Neighborhood Form may contain open space and, at appropriate locations, a mixture of uses such as offices, because the proposal is at a scale that is appropriate for nearby neighborhoods, because the proposal provides for accessibility and connectivity between adjacent uses and neighborhoods by automobile, pedestrian, bicycles and transit, because the proposal is characterized by an office use where the building is set back from the street; because this proposal will contain a smaller- scale use consisting of one structure; because adequate transportation access to, from, and throughout the proposal has been designed in accordance with Guidelines 1 and 2; because significant buffering from abutting uses is provided naturally and as shown on the proposal; because the development is located at the intersection of a major arterial (Hurstbourne Parkway) and a primary collector (Dorsey Lane), as identified in the Core Graphics of Cornerstone 2020, and is of a scale that is appropriate for the nearby neighborhoods, businesses

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and industrial uses, all as shown on the Detailed District Development Plan prepared by Heritage Engineering, Inc. and last updated and provided to the Land Design and Transportation Committee on November 10, 2016 ("Development Plan"), and

WHEREAS, the Commission further finds that the proposal complies with Compatibility Guidelines 3 and 4 and all applicable Policies adopted thereunder, because the proposed development is of a scale and site design compatible with adjacent development in the Campus Form District and with the pattern of development as defined appropriate within the Neighborhood Form District; because the type of building materials is appropriate for the character of the area and surrounding structures; because any adverse impact on adjacent residential uses, including traffic, parking, signs, and lighting, will be mitigated through the design and construction phase and the binding elements that have been proposed and agreed upon by the applicant; because appropriate transitioning from residential to non-residential uses will be provided through the use of natural vegetative buffers and landscaping, landscaped buffer yards, vegetative berms, compatible building design and materials, height restrictions and setbacks, which will also protect the character of residential areas, roadway corridors, and public spaces from visual intrusions; because the proposed development is designed to provide accessibility to people with disabilities; because the parking, loading and delivery areas are adequate for the proposed uses and are designed to minimize any adverse impact on adjacent residential areas, with the parking and circulation areas adjacent to the street screened and buffered; because the proposed signage is compatible with the adjacent Campus Form Area and with the pattern of development as defined appropriate within the Neighborhood Form Area, and

WHEREAS, the Commission further finds that the proposal complies with Natural Areas and Scenic and Historic Resources Guideline 5 and all applicable Policies adopted thereunder including 5.1, 5.2, 5.3 and 5.6 because there are no known cultural or historic resources located on this site; because the proposal respects the natural features of the site through sensitive site design, avoids substantial changes to the topography and avoids property damage and environmental degradation resulting from disturbance of natural systems; and because the proposal is not locating in a regulatory floodplain; and because the proposal includes the preservation, of sites, and landscapes that are recognized as having a beneficial purpose and value, and

WHEREAS, the Commission further finds that the proposal complies with Economic Growth and Sustainability Guideline 6 and all applicable Policies thereunder including 6.1, 6.4, and 6.8 because the development is appropriately located in the Neighborhood Form Area and adjacent to the Campus Form Area to meet the needs of these Form Area's its residents and employees; because the proposed development has chosen to locate on a site that will enable primary creation in close proximity to existing social and economic infrastructures; because the proposed development adheres to the policies

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designed to promulgate the intentions of this Guideline; because the development will help keep dollars in the immediate community; because the development will have the ability to shoulder some of the tax burden for public facilities maintenance and neighborhood programs; because the development will attract new investment dollars; because the development will provide management level and entry-level positions; because the development will offer flexible working hours; because the development will assist in preserving existing standards of living over time, and

WHEREAS, the Commission further finds that the proposal complies with Circulation Guideline 7 and all applicable Policies thereunder including 7.1, 7.2, 7.3, 7.5, 7.6, 7.9, 7.10, 7.14, and 7.15 because the proposed design provides good internal circulation as well as a connections to major thoroughfare and adjacent roadway networks; because it has been demonstrated that the development will not cause adverse impacts to the traffic-carrying capacity of Dorsey Lane and Hurstbourne Parkway or other nearby roads and intersections by installing a designated turning lane and reconstructing a new south bound thru-lane on Dorsey Lane; because, the aforesaid improvements will be located on roadways with ample right of way, pavement width and carrying capacity; because sidewalks constructed along Dorsey Lane and Hurstbourne Parkway and throughout the development will facilitate pedestrian access to, from and throughout the development; because on-site parking is sufficient to serve the development and is set back and screened away from nearby existing residential areas; because the access point is located as reviewed and approved by the Louisville and Jefferson County Metro Department of Public Works and the City of Lyndon Engineer, and will not pose any safety hazards, as the Department's approval indicates; and because the Applicant has agreed to future requirements to consider joint and cross access through the development and to connect to adjacent development sites where appropriate, and

WHEREAS, the Commission further finds that the proposal complies with Transportation Facility Design Guideline 8 and all applicable Policies adopted thereunder including Policies 8.8, 8.9 and 8.10 because primary access to the site can be had off Dorsey Lane will lessen any traffic through areas of lower intensity; because the primary access point has adequate sight distance and shall be constructed and approved by the Louisville and Jefferson County Metro Department of Public Works; because the system of internal traffic circulation as shown on the plan will be constructed after being reviewed and approved by the Department, and has appropriate linkages between parking areas which have been located so as to avoid creating nuisances to surrounding uses, and

WHEREAS, the Commission further finds that the proposal complies with Bicycle, Pedestrian and Transit Guideline 9 and all applicable Policies adopted thereunder including Policies 9.1 and 9.2 because the location of the site has transit ("TARC")

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service; because sidewalks connections will be provided along Dorsey Lane and Hurstbourne Parkway; and because bicycle racks will be located where appropriate, and

WHEREAS, the Commission further finds that the proposal complies with Flooding and Stormwater Guideline 10 and all applicable Policies adopted thereunder including Policies 10.1, 10.2, 10.5, 10.6 and 10.7 because the Development does not impact any streams and is not proposing construction in the 100 year regulatory floodplain; because the proposed plan has been approved by the Metropolitan Sewer District ("MSD"); because preliminary drainage facility plans on file have been approved and future plans will meet or exceed MSD requirements as determined in the construction plan design process; because the detention and drainage facilities should they be needed will be constructed in dedicated sanitary sewer and drainage easements and will ensure that stormwater runoff is management according to MSD rules and policies, and

WHEREAS, the Commission further finds that the proposal complies with Water Quality Guideline 11 and all applicable Policies adopted thereunder including Policy 11.3 because prior to any construction activity on site, a soil erosion and sediment control plan shall be submitted to and approved by MSD. See Erosion Prevention and Sediment Control Notes on the Development Plan (MS4 Note 12), and

WHEREAS, the Commission further finds that the proposal complies with Air Quality Guideline 12 and all applicable Policies adopted thereunder including Policies 12.1, 12.3, 12.4 and 12.8 because the plan was reviewed by and approved by the Louisville and Jefferson County Metro Air Pollution Control; and because mass transit service is available and sidewalks are provided as appropriate, and

WHEREAS, the Commission further finds that the proposal complies with Landscape Character Guideline 13 and all applicable Policies adopted thereunder including Policies 13.1, 13.2, 13.5 and 13.6 because landscaping in compliance with Chapter 10 will be provided as required, and construction fencing shall be erected prior to any construction activities on site to prevent compaction of the root systems of trees to be preserved by enclosing the areas beneath the drip lines, and

WHEREAS, the Commission further finds that the proposal complies with Infrastructure Guideline 14 and all applicable Policies adopted thereunder including Policies 14.2, 14.3 and 14.4 because the site is served by all necessary utilities including water and sewerage facilities by lateral extension to an approved MSD Treatment Plant, because the Health Department has no issues with the proposal, and

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WHEREAS, the Commission further finds that the proposal complies with Community Facilities Guideline 15 and all applicable Policies adopted thereunder, including Policy 15.9 because the site is located within the Middletown Fire Protection District and the Applicant has agreed to the installation of a NFPA13 Automatic Fire Suppression System (Sprinkler System) and the placement of a remote FDC and Hydrant to be placed directly in front of the building; now, therefore be it

RESOLVED, that the Louisville Metro Planning Commission, in Case Number 16ZONE1039, does hereby **RECOMMEND APPROVAL** to the City of Lyndon the Change in Zoning from R-4 to OR-3 on 2.89 acres, based on the Staff Report, the testimony heard today and the Findings of Fact submitted by the applicant.

The vote was as follows:

Yes: Commissioners Brown, Tomes, Peterson, Howard, Smith, Carlson, Gazaway, Vice Chair Lewis and Chair Jarboe

Not Present: Commissioners Kirchdorfer

02:09:47 On a motion by Commissioner Carlson, seconded by Vice Chair Lewis, the following resolution was adopted:

Variance from 5.3.1.C.5 to reduce the 30' setback to 20' (10' variance)

WHEREAS, the Louisville Metro Planning Commission finds that the requested variance will not adversely affect the public health, safety or welfare since the encroachment is being mitigated by the compliance with the landscape requirements within the buffer, and

WHEREAS, the Commission further finds that the requested variance will not alter the essential character of the general vicinity since the encroachment is being mitigated by the compliance with the landscape requirements within the buffer, and

WHEREAS, the Commission further finds that the requested variance will not cause a hazard or nuisance to the public since the encroachment is being mitigated by the compliance with the landscape requirements within the buffer, and

WHEREAS, the Commission further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations since the proposed driveway

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encroachment is being mitigated by the compliance with the landscape requirements within the buffer, and

WHEREAS, the Commission further finds that the requested variance arises from special circumstances which do not generally apply to land in the same zone as this variance arises from the applicant wanting to preserve the area around the intermittent stream instead of encroaching into it with additional parking. The parking encroaches into the side property line in lieu of the above mentioned encroachment , and

WHEREAS, the Commission further finds that the strict application of the regulation would deprive the applicant of reasonable use of the land since the buffer requirements will be met and the encroachment is due to an effort to preserve trees and the area of the intermittent stream, and

WHEREAS, the Commission further finds that the circumstances are the result of action of the applicant taken subsequent to the adoption of the zoning regulations from which relief is sought; and

Variance from 5.3.1.C.5 to increase the maximum building height from 30' to 47' (17' variance)

WHEREAS, the Louisville Metro Planning Commission finds that The requested variance will not adversely affect public health safety or welfare since this area is mainly office and commercial with large lot residential adjacent to the south and east, and

WHEREAS, the Commission further finds that the requested variance will not alter the essential character of the general vicinity since there are other multi-story buildings located in the vicinity, and

WHEREAS, the Commission further finds that the requested variance will not cause a hazard or nuisance to the public since the site is adding to the existing office atmosphere of Hurstbourne Parkway in this area, and

WHEREAS, the Commission further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations since there are other multi-story office buildings in the area, 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 other multi-story buildings are located in the adjacent campus form district where this site is located in the neighborhood form, 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 reasonable use of the land since there are other multi-story office buildings located in the area, 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, that the Louisville Metro Planning Commission, in Case Number 16ZONE1039, does hereby **APPROVE** Variance from 5.3.1.C.5 to reduce the 30' setback to 20' (10' variance) and Variance from 5.3.1.C.5 to increase the maximum building height from 30' to 47' (17' variance), based on the Staff Report, the testimony heard today and the applicant's Findings of Fact.

The vote was as follows:

Yes: Commissioners Brown, Tomes, Peterson, Howard, Smith, Carlson, Gazaway, Vice Chair Lewis and Chair Jarboe
Not Present: Commissioners Kirchdorfer

02:11:10 On a motion by Commissioner Carlson, seconded by Vice Chair Lewis, the following resolution was adopted:

District Development Plan

WHEREAS, the Louisville Metro Planning Commission finds that there do not appear to be any environmental constraints being overly disturbed 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. Open space along the intermittent stream is being preserved, 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, 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; and

Waiver from 10.3.5.A.1 to reduce the 15' parkway buffer to 10' for the first 100' of Dorsey Lane

WHEREAS, the Louisville Metro Planning Commission finds that the waiver will not adversely affect adjacent property owners since the property line in this area is located at an odd angle where the edge of pavement is more than 65' away from where the waiver is being requested. The existing right of way provides an increased buffer, and

WHEREAS, the Commission further finds that Guideline 3, Policy 9 of Cornerstone 2020 calls for the protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigate when appropriate. Guideline 3, Policies 21 and 22 calls for appropriate transitions between uses that are substantially different in scale and intensity or density, and to mitigate the impact caused when incompatible developments occur adjacent to one another through the use of landscaped buffer yards, vegetative berms and setback requirements to address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances. Guideline 3, Policy 24 states that parking, loading and delivery areas located adjacent to residential areas should be designed to minimize the impacts from noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered. Guideline 13, Policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. Guideline 13, Policy 7 calls for protection of 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

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corridors. The parkway is still protected due to the distance of the edge of pavement from the property line and because the planting requirements are still being met in the buffer, and

WHEREAS, the Commission further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since the planting requirements will still be met in the buffer, and

WHEREAS, the Commission further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant since the buffer requirements will be met within the buffer; now, therefore be it

RESOLVED, that the Louisville Metro Planning Commission, in Case Number 16ZONE1039, does hereby **RECOMMEND APPROVAL** to the City of Lyndon the District Development Plan and Waiver from 10.3.5.A.1 to reduce the 15' parkway buffer to 10' for the first 100' of Dorsey Lane, based on the Staff Report, the testimony heard today and the applicant's justification, and **SUBJECT** to the following Binding Elements:

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. 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.

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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 Planning Commission meeting.

The vote was as follows:

**Yes: Commissioners Brown, Tomes, Peterson, Howard, Smith, Carlson,
Gazaway, Vice Chair Lewis and Chair Jarboe**

Not Present: Commissioners Kirchdorfer

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STANDING COMMITTEE REPORTS

Land Development and Transportation Committee

No report given.

Site Inspection Committee

No report given.

Planning Committee

No report given.

Development Review Committee

No report given.

Policy and Procedures Committee

No report given.

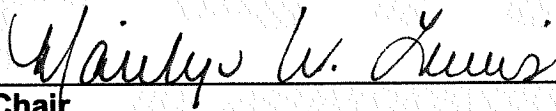
CHAIRPERSON/DIRECTOR'S REPORT

Chair Jarboe stated that today will be Counsel Jon Baker's last meeting. Emily Liu and Chair Jarboe presented Mr. Baker with a proclamation. Deborah Bilitski spoke about Mr. Baker's accomplishments and wished him well.


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ADJOURNMENT

The meeting adjourned at approximately 3:30 p.m.



Chair



Planning Director

