

**PLANNING COMMISSION MINUTES**  
**January 10, 2019**

**PUBLIC HEARING**

**CASE NO. 17ZONE1067**

Request: Change in zoning from R-4 to C-1 and CM, form district change from Neighborhood to Suburban Marketplace Corridor, variance, waiver, and revised detailed district development plan

Project Name: Scheller's Fitness and Cycling

Location: 8319 and 8323 Preston Highway

Owner: George Cogan Properties, LLC; GJS Real Estate, LLC

Applicant: Scheller's Fitness and Cycling

Representative: Cardinal Planning and Design, Inc. – Kathy Matheny

Jurisdiction: Louisville Metro

Council District: 24 – Madonna Flood

**Case Manager: Joel Dock, AICP, Planner II**

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

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

**Agency Testimony:**

00:40:31 Mr. Dock discussed the case summary, standard of review and staff analysis from the staff report.

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

Kathy Matheny, 9005 Preston Highway, Louisville, Ky. 40219

**Summary of testimony of those in favor:**

00:47:51 Ms. Matheny gave a power point presentation. The existing parking lot is a conditional use permit. The existing buffering consists of white pines and an 8 foot privacy fence and firs will be added.

**Deliberation**

00:51:01 Planning Commission deliberation.

**PLANNING COMMISSION MINUTES**  
**January 10, 2019**

**PUBLIC HEARING**

**CASE NO. 17ZONE1067**

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

**Change in Form District from Neighborhood to Suburban Marketplace Corridor**

On a motion by Commissioner Howard, seconded by Commissioner Carlson, the following resolution based on the Cornerstone 2020 Staff Analysis and the Applicant's Justification was adopted.

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Community Form guideline because the proposal integrates into the existing pattern of development as the abutting site is an existing retail and warehouse complex and the subject site will be incorporated into those uses. The retail operation on-site provides accommodations for transit users, pedestrians and bicyclists and public walks are available to connect to adjacent development along the corridor. The parking lot currently serves non-residential uses which are connected to the corridor. The proposal includes a compact group of buildings using the same curb cut, parking and signs, and that have a common buffering or streetscape plan with respect to any abutting lower density or intensity uses as the Northern boundary of impervious surfaces is consistent with abutting structures and parking facilities to the West that abut a lower intensity use and the buffering along the rear is consistent with existing widths of the complex. No new signage is proposed and curb cuts are present. The proposal is of a medium to high density consistent with uses present on the development site. Landscape transitions have been provided to low density development and an existing fence and required planting material will be provided between the site and multiple family residential zoning districts. The proposal is located within the boundaries of the existing form district; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Centers guideline because the proposal does not create a new center. It slightly expands an existing complex along a commercial corridor and provides consistency in zoning districts for the parking lot serving existing commercial uses. The proposal does not entail a retail commercial component. Rather it provides a supportive use for existing retail components on-site and elsewhere. Having a sufficient population is not critical for the proposed use, but there is certainly sufficient population in the area to support of wide variety of commercial uses permitted within the district. The proposed development is compact and results in an efficient land use pattern and cost-effective infrastructure investment as the commercial district is being expanded to incorporate supportive uses utilizing existing access and parking facilities. The proposal adds to an existing mix of compatible land uses that will reduce trips as the proposal would not appear to generate new or greatly increased trip as is supportive to the existing complex

**PLANNING COMMISSION MINUTES**  
**January 10, 2019**

**PUBLIC HEARING**

**CASE NO. 17ZONE1067**

of uses. The expansion of the existing commercial district allows for the use of land that is currently not viable for commercial purposes because of its zoning and not practical for residential purposes because of its location along a commercial corridor and lack of quality access. It also allows for the parking lot to be consistent with zoning districts of adjacent and proposed districts. The proposal incorporates into an existing complex of other mixed-uses. The proposal is not a large development in a center. Rather it is an expansion to an existing complex and designed to be compact and multi-purpose. The proposal shares entrance and parking facilities with adjacent uses to reduce curb cuts and surface parking, and locates parking to balance safety, traffic, transit, pedestrian, environmental and aesthetic concerns. The warehouse will be secured from the public, while the parking lot will continue providing an existing accessory function. It would appear that the proposal is designed to share utility hookups and service entrances with adjacent developments. The proposal is designed to support easy access by bicycle, car and transit and by pedestrians and persons with disabilities; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Compatibility guideline because proposed structures will not impact public ways and appropriate landscape transitions will be provided. The proposal does not constitute a non-residential expansion into an existing residential area as the area of the rezoning is within the Suburban Marketplace Corridor, a non-residential form district, and located along and incorporated into a commercial corridor. It would not appear that any adverse impacts in the form of odor or emissions would be created. The slight expansion to the commercial district would not appear to significantly increase demand for vehicular or truck traffic. Lighting will be in compliance with LDC 4.1.3. The proposal is a medium to higher intensity, is located along a major arterial roadway with public transit access, and located along a commercial corridor. The proposal provides appropriate transitions between uses that are substantially different in scale and intensity or density of development as landscape transitions have been provided to low density development and an existing fence and required planting material will be provided between the site and multiple family residential zoning districts. The proposal mitigates the impacts caused when incompatible developments unavoidably occur adjacent to one another as landscape transitions have been provided to low density development and an existing fence and required planting material will be provided between the site and multiple family residential zoning districts. The proposal exhibits a similar site design to nearby development along the corridor and with those existing facilities within the complex. A solid fence is being provided and one is also present to minimize adverse impacts of lighting, noise and other potential impacts adjacent to residential properties. The proposed rezoning does not impact the existing street frontage as it is located away from the roadway and to the rear of existing facilities. No new signage is proposed; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Open Space guideline because open space as a component of the development is

**PLANNING COMMISSION MINUTES**  
**January 10, 2019**

**PUBLIC HEARING**

**CASE NO. 17ZONE1067**

not necessary or required for the proposed use given its situation within an existing complex and along a commercial corridor. There do not appear to be any significant natural features that require incorporation into the development; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Natural Areas and Scenic Historic Resources guideline because the site does contain sensitive natural features. The proposal does not include the preservation, use or adaptive reuse of buildings, sites, districts and landscapes that are recognized as having historical or architectural value as the expansion to the commercial district and proposed building are located adjacent to an existing complex of uses across multiple buildings and does not impact those buildings or their operation. The site does contain potential wetlands/hydric soils; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Economic Growth and Sustainability guideline because the proposed warehouse is located in a cluster adjacent to existing warehouses and retail uses. The proposed rezoning is not expressly for retail commercial purposes but the district itself is appropriately located along an arterial roadway and commercial corridor. Existing uses within the complex are both retail and industrial; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Circulation guideline because the proposal will contribute its proportional share of the cost of roadway improvements and other services and public facilities made necessary by the development through physical improvements to these facilities, contribution of money, or other means. No improvements were indicated as being necessary. The proposal promotes mass transit, bicycle and pedestrian use and provides amenities to support these modes of transportation. Where retail or service operations are provided connectivity is available, otherwise the warehouse components are secured from the public. The proposal has adequate transportation facilities in place to serve the development as it is located along a major arterial roadway with sidewalks and TARC route (18 and 45X). Additional right-of-way was not necessary. Parking is sufficient to support the use. The proposal does not impact cross connectivity as the majority of the site is secured from the public and the existing parking serves an existing use; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Transportation Facility Design guideline because no stub roadways are needed as the warehouse operation is secured from the public. Primary access to the site is through areas of similar intensity. The street network (existing or future) is not impacted by the proposal; and

**PLANNING COMMISSION MINUTES**  
**January 10, 2019**

**PUBLIC HEARING**

**CASE NO. 17ZONE1067**

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Bicycle, Pedestrian and Transit guideline because the proposal provides, where appropriate, for the movement of pedestrians, bicyclists and transit users around and through the development. There are no significant changes impacting connectivity; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Flooding and Stormwater guideline because the proposal's drainage plans have been approved by MSD; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Air Quality guideline because the proposal has been reviewed by APCD and found to not have a negative impact on air quality; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Landscape Character guideline because the subject site does not contain natural corridors, nor can natural corridors be provided given its location along a high traffic roadway in the midst of commercial uses; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Infrastructure guideline because the proposal is located in an area served by existing utilities or planned for utilities. The proposal has access to an adequate supply of potable water and water for fire-fighting purposes. The proposal has adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams.

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council the form district change from Neighborhood to Suburban Marketplace Corridor on property described in the attached legal description be **APPROVED**.

**The vote was as follows:**

**YES: Commissioners Brown, Carlson, Daniels, Howard, Lewis, Peterson, Smith, Tomes and Jarboe**

**NOT PRESENT AND NOT VOTING: Commissioner Robinson**

**Zoning Change from R-4 to C-1 and C-M**

On a motion by Commissioner Howard, seconded by Commissioner Carlson, the following resolution based on the Cornerstone 2020 Staff Analysis and Applicant's Justification was adopted.

**PLANNING COMMISSION MINUTES**  
**January 10, 2019**

**PUBLIC HEARING**

**CASE NO. 17ZONE1067**

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Community Form guideline because the proposal integrates into the existing pattern of development as the abutting site is an existing retail and warehouse complex and the subject site will be incorporated into those uses. The retail operation on-site provides accommodations for transit users, pedestrians and bicyclists and public walks are available to connect to adjacent development along the corridor. The parking lot currently serves non-residential uses which are connected to the corridor. The proposal includes a compact group of buildings using the same curb cut, parking and signs, and that have a common buffering or streetscape plan with respect to any abutting lower density or intensity uses as the Northern boundary of impervious surfaces is consistent with abutting structures and parking facilities to the West that abut a lower intensity use and the buffering along the rear is consistent with existing widths of the complex. No new signage is proposed and curb cuts are present. The proposal is of a medium to high density consistent with uses present on the development site. Landscape transitions have been provided to low density development and an existing fence and required planting material will be provided between the site and multiple family residential zoning districts. The proposal is located within the boundaries of the existing form district; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Centers guideline because the proposal does not create a new center. It slightly expands an existing complex along a commercial corridor and provides consistency in zoning districts for the parking lot serving existing commercial uses. The proposal does not entail a retail commercial component. Rather it provides a supportive use for existing retail components on-site and elsewhere. Having a sufficient population is not critical for the proposed use, but there is certainly sufficient population in the area to support of wide variety of commercial uses permitted within the district. The proposed development is compact and results in an efficient land use pattern and cost-effective infrastructure investment as the commercial district is being expanded to incorporate supportive uses utilizing existing access and parking facilities. The proposal adds to an existing mix of compatible land uses that will reduce trips as the proposal would not appear to generate new or greatly increased trip as is supportive to the existing complex of uses. The expansion of the existing commercial district allows for the use of land that is currently not viable for commercial purposes because of its zoning and not practical for residential purposes because of its location along a commercial corridor and lack of quality access. It also allows for the parking lot to be consistent with zoning districts of adjacent and proposed districts. The proposal incorporates into an existing complex of other mixed-uses. The proposal is not a large development in a center. Rather it is an expansion to an existing complex and designed to be compact and multi-purpose. The proposal shares entrance and parking facilities with adjacent uses to reduce curb cuts and surface parking, and locates parking to balance safety, traffic, transit, pedestrian, environmental and aesthetic concerns. The warehouse will be secured from the public, while the parking lot will continue providing an existing accessory function. It

**PLANNING COMMISSION MINUTES**  
**January 10, 2019**

**PUBLIC HEARING**

**CASE NO. 17ZONE1067**

would appear that the proposal is designed to share utility hookups and service entrances with adjacent developments. The proposal is designed to support easy access by bicycle, car and transit and by pedestrians and persons with disabilities; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Compatibility guideline because proposed structures will not impact public ways and appropriate landscape transitions will be provided. The proposal does not constitute a non-residential expansion into an existing residential area as the area of the rezoning is within the Suburban Marketplace Corridor, a non-residential form district, and located along and incorporated into a commercial corridor. It would not appear that any adverse impacts in the form of odor or emissions would be created. The slight expansion to the commercial district would not appear to significantly increase demand for vehicular or truck traffic. Lighting will be in compliance with LDC 4.1.3. The proposal is a medium to higher intensity, is located along a major arterial roadway with public transit access, and located along a commercial corridor. The proposal provides appropriate transitions between uses that are substantially different in scale and intensity or density of development as landscape transitions have been provided to low density development and an existing fence and required planting material will be provided between the site and multiple family residential zoning districts. The proposal mitigates the impacts caused when incompatible developments unavoidably occur adjacent to one another as landscape transitions have been provided to low density development and an existing fence and required planting material will be provided between the site and multiple family residential zoning districts. The proposal exhibits a similar site design to nearby development along the corridor and with those existing facilities within the complex. A solid fence is being provided and one is also present to minimize adverse impacts of lighting, noise and other potential impacts adjacent to residential properties. The proposed rezoning does not impact the existing street frontage as it is located away from the roadway and to the rear of existing facilities. No new signage is proposed; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Open Space guideline because open space as a component of the development is not necessary or required for the proposed use given its situation within an existing complex and along a commercial corridor. There do not appear to be any significant natural features that require incorporation into the development; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Natural Areas and Scenic Historic Resources guideline because the site does contain sensitive natural features. The proposal does not include the preservation, use or adaptive reuse of buildings, sites, districts and landscapes that are recognized as having historical or architectural value as the expansion to the commercial district and proposed building are located adjacent to an existing complex of uses across multiple

**PLANNING COMMISSION MINUTES**  
**January 10, 2019**

**PUBLIC HEARING**

**CASE NO. 17ZONE1067**

buildings and does not impact those buildings or their operation. The site does contain potential wetlands/hydric soils; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Economic Growth and Sustainability guideline because the proposed warehouse is located in a cluster adjacent to existing warehouses and retail uses. The proposed rezoning is not expressly for retail commercial purposes but the district itself is appropriately located along an arterial roadway and commercial corridor. Existing uses within the complex are both retail and industrial; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Circulation guideline because the proposal will contribute its proportional share of the cost of roadway improvements and other services and public facilities made necessary by the development through physical improvements to these facilities, contribution of money, or other means. No improvements were indicated as being necessary. The proposal promotes mass transit, bicycle and pedestrian use and provides amenities to support these modes of transportation. Where retail or service operations are provided connectivity is available, otherwise the warehouse components are secured from the public. The proposal has adequate transportation facilities in place to serve the development as it is located along a major arterial roadway with sidewalks and TARC route (18 and 45X). Additional right-of-way was not necessary. Parking is sufficient to support the use. The proposal does not impact cross connectivity as the majority of the site is secured from the public and the existing parking serves an existing use; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Transportation Facility Design guideline because no stub roadways are needed as the warehouse operation is secured from the public. Primary access to the site is through areas of similar intensity. The street network (existing or future) is not impacted by the proposal; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Bicycle, Pedestrian and Transit guideline because the proposal provides, where appropriate, for the movement of pedestrians, bicyclists and transit users around and through the development. There are no significant changes impacting connectivity; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Flooding and Stormwater guideline because the proposal's drainage plans have been approved by MSD; and



**PLANNING COMMISSION MINUTES**  
**January 10, 2019**

**PUBLIC HEARING**

**CASE NO. 17ZONE1067**

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Air Quality guideline because the proposal has been reviewed by APCD and found to not have a negative impact on air quality; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Landscape Character guideline because the subject site does not contain natural corridors, nor can natural corridors be provided given its location along a high traffic roadway in the midst of commercial uses; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Infrastructure guideline because the proposal is located in an area served by existing utilities or planned for utilities. The proposal has access to an adequate supply of potable water and water for fire-fighting purposes. The proposal has adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams.

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council the change in zoning from R-4, Single Family Residential to C-1, Commercial and CM, Commercial Manufacturing on property described in the attached legal description be **APPROVED**.

**The vote was as follows:**

**YES: Commissioners Brown, Carlson, Daniels, Howard, Lewis, Peterson, Smith, Tomes and Jarboe**

**NOT PRESENT AND NOT VOTING: Commissioner Robinson**

**Waiver of Land Development Code (LDC), section 10.2.4 for building and vehicle use area encroachments as shown on the development plan**

On a motion by Commissioner Howard, seconded by Commissioner Carlson, the following resolution based on the Standard of Review and Staff Analysis and testimony heard today was adopted.

**WHEREAS**, the waiver will not adversely affect adjacent property owners as all planting material and screening will be provided as required; and

**WHEREAS**, the waiver will not violate specific guidelines of Cornerstone 2020 as Guideline 3, Policy 21 calls for appropriate transitions between uses that are substantially different in scale and intensity or density of development such as landscaped buffer yards, vegetative berms, compatible building design and materials,

**PLANNING COMMISSION MINUTES**  
**January 10, 2019**

**PUBLIC HEARING**

**CASE NO. 17ZONE1067**

height restrictions, or setback requirements. Guideline 3, Policy 22 calls for mitigation of impacts caused when incompatible developments unavoidably occur adjacent to one another by using buffers that are of varying designs such as landscaping, vegetative berms and/or walls, and that address those aspects of the development that have the potential to adversely impact existing area developments. The proposed encroachments are a result of the limited area of development and existing conditions. All planting material and screening will be provided as required; and

**WHEREAS**, the Louisville Metro Planning Commission finds, the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as existing conditions and the limited area available for development at this location prevent full compliance; and

**WHEREAS**, the Louisville Metro Planning Commission further finds the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land as existing conditions and limited area available for development prevent full compliance with the regulation. All planting and screening material will be provided.

**Variance from LDC, section 5.3.2 to reduce non-residential to residential setback from 25' to 10' as shown on the development plan**

**WHEREAS**, the requested variance will not adversely affect the public health, safety or welfare as pedestrian and vehicular mobility are not impacted and the warehouse is secured from the public on all sides; and

**WHEREAS**, the requested variance will not alter the essential character of the general vicinity as the existing structures and parking facilities along this same property line are located in closer proximity to the property line than the proposed structure; and

**WHEREAS**, the requested variance will not cause a hazard or nuisance to the public as sight lines for the movement of pedestrians and motorists are not impacted and no projection creating a hazard are proposed; and

**WHEREAS**, the requested variance will not allow an unreasonable circumvention of the zoning regulations as the variance will allow for the reasonable use of a vacant parcel for incorporation into an existing operation; and

**WHEREAS**, the requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone as the land area is limited in size which significantly impacts the use of the land for incorporation with adjacent uses; and

**PLANNING COMMISSION MINUTES**  
**January 10, 2019**

**PUBLIC HEARING**

**CASE NO. 17ZONE1067**

**WHEREAS**, the Louisville Metro Planning Commission finds, the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as no hazards or adverse impacts on adjacent properties are created; and

**WHEREAS**, the Louisville Metro Planning Commission further finds the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as no development has occurred.

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** a waiver of the Land Development Code, section 10.2.4 for building and vehicle use area encroachments as shown on the development plan and a variance from the Land Development Code, section 5.3.2 to reduce non-residential to residential setback from 25 feet to 10 feet as shown on the development plan.

**The vote was as follows:**

**YES: Commissioners Brown, Carlson, Daniels, Howard, Lewis, Peterson, Smith, Tomes and Jarboe**

**NOT PRESENT AND NOT VOTING: Commissioner Robinson**

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

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **ABANDON** Docket No. B-182-93 CUP, conditional use permit because it's no longer necessary within the requested C-1, Commercial zoning district.

**The vote was as follows:**

**YES: Commissioners Brown, Carlson, Daniels, Howard, Lewis, Peterson, Smith, Tomes and Jarboe**

**NOT PRESENT AND NOT VOTING: Commissioner Robinson**

**Revised Detailed District Development Plan**

On a motion by Commissioner Howard, seconded by Commissioner Carlson, the following resolution based on the development plan being in order and testimony heard today was adopted.

**WHEREAS**, the conservation of natural resources on the property proposed for development, including: trees and other living vegetation, steep slopes, water courses, flood plains, soils, air quality, scenic views, and historic sites will be provided. The

**PLANNING COMMISSION MINUTES**  
**January 10, 2019**

**PUBLIC HEARING**

**CASE NO. 17ZONE1067**

proposed development site does not appear to have any significant natural or historic features; and

**WHEREAS**, provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community are provided as all accommodations required of the developer to support movement of pedestrians and vehicles will be provided. The proposal warehouse is secured from the public and the parking lot serves existing uses; and

**WHEREAS**, open space is not required or necessary for the proposed development as it is located along a commercial corridor and provides supportive uses to adjacent facilities; and

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

**WHEREAS**, the Louisville Metro Planning Commission finds, the development is compatible with existing and projected development of the area as the proposal provides appropriate transitions between uses that are substantially different in scale and intensity or density of development as landscape transitions have been provided to low density development and an existing fence and required planting material will be provided between the site and multiple family residential zoning districts; and

**WHEREAS**, the Louisville Metro Planning Commission further finds the proposed development plan conforms to the Comprehensive Plan as the proposal integrates into the existing pattern of development as the abutting site is an existing retail and warehouse complex and the subject site will be incorporated into those uses. The proposal includes a compact group of buildings using the same curb cut, parking and signs, and that have a common buffering. The proposal adds to an existing mix of compatible land uses that will reduce trips as the proposal would not appear to generate new or greatly increased trip as is supportive to the existing complex of uses. The proposal is a medium to higher intensity, is located along a major arterial roadway with public transit access, and locater along a commercial corridor.

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** the Revised Detailed District Development Plan **SUBJECT** to the following Binding Elements:

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed

**PLANNING COMMISSION MINUTES**  
**January 10, 2019**

**PUBLIC HEARING**

**CASE NO. 17ZONE1067**

upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.

2. No outdoor advertising signs, small freestanding signs, pennants, balloons, streamers or banners shall be permitted on the site.
3. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
4. Prior to issuance of a permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit):
  - a. The development plan must receive full construction approval from Louisville Metro Department of Codes and Regulations Construction Permits and Transportation Planning Review and the Metropolitan Sewer District.
  - b. The property owner/developer shall obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
  - c. A minor plat shall be recorded creating the lots as shown on the approved development plan.
5. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
6. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.

**PLANNING COMMISSION MINUTES**  
**January 10, 2019**

**PUBLIC HEARING**

**CASE NO. 17ZONE1067**

7. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the November 15, 2007 and January 10, 2019 public hearings.

**The vote was as follows:**

**YES: Commissioners Brown, Carlson, Daniels, Howard, Lewis, Peterson, Smith, Tomes and Jarboe**

**NOT PRESENT AND NOT VOTING: Commissioner Robinson**