

**MINUTES OF THE MEETING  
OF THE  
LOUISVILLE METRO PLANNING COMMISSION MEETING  
MARCH 29, 2018**

A meeting of the Louisville Metro Planning Commission was held on March 29, 2018 at 1:00 p.m. at the Old Jail Building, located at 514 W. Liberty Street, Louisville, KY 40202.

**Commissioners present:**

Vince Jarboe, Chair  
Jeff Brown  
Rich Carlson  
Laura Ferguson  
Lula Howard  
David Tomes

**Commissioners absent:**

Ramona Lindsey  
Marilyn Lewis, Vice Chair  
Emma Smith  
Robert Peterson

**Staff members present:**

Joe Reverman, Assistant Director, Planning & Design Services  
Brian Davis, Planning & Design Manager  
Julia Williams, Planning & Design Supervisor  
Michael King, Urban Planner, Advanced Planning  
Laura Mattingly, Planner II  
Joel Dock, Planner II  
Beth Stuber, Transportation Planning  
Tony Kelly, MSD  
Paul Whitty, Legal Counsel  
Travis Fiechter, Legal Counsel  
Kristen Padron, Management Assistant

The following matters were considered:

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**APPROVAL OF MINUTES**

**MARCH 15, 2018 PLANNING COMMISSION MEETING MINUTES**

**00:07:27** On a motion by Commissioner Carlson, seconded by Commissioner Ferguson, the following resolution was adopted:

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** the minutes of its meeting conducted on March 15, 2018.

**The vote was as follows:**

**YES: Brown, Jarboe, Ferguson, and Carlson**

**NOT PRESENT: Lewis, Peterson, Smith, and Lindsey**

**ABSTAINING: Tomes and Howard**

**PLANNING COMMISSION MINUTES  
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**PUBLIC HEARING**

**CASE NUMBER 16ZONE1086**

Request: R-5 to O-R  
Project Name: KY Hospitality Bookkeeping Office  
Location: 4511 South 3rd Street  
Owner: Georgetta Duncan, G.P.D.  
Applicant: Georgetta Duncan, G.P.D.  
Representative: Georgetta Duncan, G.P.D.  
Jurisdiction: Louisville Metro  
Council District: 21 – Vitalis Lanshima  
Case Manager: Laura Mattingly, AICP, Planner II

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

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

**Agency Testimony:**

**00:08:33** Laura Mattingly discussed the case summary, standard of review and staff analysis from the staff report.

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

Georgetta Duncan, 1918 Riverside Drive, Prospect, KY 40059

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

**00:11:13** Applicant Georgetta Duncan spoke about the request. The property is intended to be a bookkeeping office for her business, KY Hospitality Bookkeeping, which she states sends workers to hotels. The hotel workers do not come to this location. She does not think this home should be residential because the Thornton's across the street is very noisy, and the future orchard next to her property will bring traffic to the area. The gas station is so noisy that she had trouble sleeping in one of the upstairs bedrooms at one time.

Commissioner Brown stated that he has driven by the property several times and there are consistently more than four cars in the driveway and gravel area. Ms. Duncan stated there is one upstairs apartment that belongs to the office manager, but her son and another person are living there currently because their home recently flooded and is being renovated. This will not be a day labor office. She has three regular employees who bill hotels for workers' hours.

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

Nicole George, 4517 Southern Parkway, Louisville, KY40214

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Voncile Ellison, 4510 S 2<sup>nd</sup> Street, Louisville, KY 40214  
Joshua Hunt, 4631 S 3<sup>rd</sup> Street, Louisville, KY 40214  
Rosemary Hauck McCaudless, 418 W Kenwood Drive, Louisville, KY 40214  
Robin Amsbury, 308 Kenwood Hill Road, Louisville, KY 40214  
Ann Ramser, 307 E Kenwood Drive, Louisville, KY 40214  
Stephanie Hunt, 4631 S 3<sup>rd</sup> Street, Louisville, KY 40214  
Jackson Cooper, 126 Gillette Avenue, Louisville, KY 40214  
Stefanie Buzan, 230 Kenwood Hill Road, Louisville, KY 40214

**Summary of testimony of those in opposition:**

**00:26:38** Nicole George showed a presentation. She feels that the proposed zoning is incompatible with the neighborhood and will cause nuisance and safety issues in the community. She stated that the applicant is currently operating without proper zoning and has extended gravel parking onto KYTC property. There are often more than five cars parked in the driveway at any given time, and they are different cars day to day. Multiple passenger vans are also regularly parked on-site.

**00:34:25** Voncile Ellison stated that there has been confusion about the rezoning since it began. She did not receive notice of neighborhood meetings and was only aware of them by word of mouth. There are always cars in the driveway when she drives by, and she has seen as many as eight vehicles parked in the driveway at one time.

**00:37:31** Joshua Hunt lives near a gas station a block away from the subject site and has no problems sleeping at night because of noise. He is not opposed to this business, but does not believe that homes in this area should be rezoned to office or commercial. There are homes north and south of this neighborhood that have been converted to businesses, and he does not want to see further encroachment of this kind of zoning in his neighborhood.

**00:38:48** Rosemary Hauck McCaudless stated that the people who have attended today in opposition are only a few of the many who could not be here today. She would like the request for rezoning to be denied because it will not be beneficial to the neighborhood. She does not want any more businesses in the neighborhood.

**00:43:36** Robin Amsbury is mainly concerned about the rezoning portion of the request. She loves this neighborhood and does not want to see it overtaken by commercial zoning. There are plenty of commercial properties nearby.

**00:46:51** Ann Ramser stated that she contacted Ms. Mattingly to ask questions following the March 1, 2018 public hearing since she was unable to attend. She feels that most of the information Ms. Mattingly told her about the proposal was based on a day-labor service, even though the applicant states this is not for day-labor. She contacted KYTC about the five residential lots across the street from Thornton's and stated that they said that there cannot be driveways within so many feet of the Watterson expressway ramps. She is not opposed to this because it is an immigrant-owned business.

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**00:56:22** Stephanie Hunt stated that she and her husband are opposed to the request because they would prefer to see new business utilize properties that are already zoned commercial, which would promote a thriving business culture in their neighborhood. When asking for rezoning from residential to commercial, she feels that businesses should have to state why other available commercial properties are not sufficient for their business needs.

**01:00:41** Stefanie Buzan stated that she took off work today to speak and for the last meeting. She agrees with everything that has been said by the previous speakers.

**01:01:35** Jackson Cooper is the President of the Beechmont Neighborhood Association. The organization has been opposed to this proposal since the beginning. The neighborhood is unique to the city, and this request would not preserve the residential quality of the neighborhood.

**Rebuttal:**

**01:04:53** Ms. Duncan spoke in rebuttal. She stated that she understands what the opposition has said, but they are exaggerating their concerns. She wants to abide by the law. She still does not see this request as a problem, but she would have not purchased the property if she knew it would disturb the neighborhood. (See recording for detailed testimony.)

**Deliberation:**

**01:07:58**

Commissioner Carlson stated that he is uncomfortable putting this kind of use mid-block rather than closer to an intersection. This is not a neighborhood-serving business—employees will be traveling from outside of the neighborhood. Vehicles will have to back out onto the road into fast traffic.

Commissioner Howard is concerned about the intensity of the use. Normally, a bookkeeping use is low intensity, and one would not expect a high volume of parking, other than tax season.

Commissioner Brown is not sure if this use falls within O-R permitted uses because of the staffing operation. Residential is not the most appropriate use for this site because of the proximity to the expressway ramps. The use being proposed today is too intense for this small lot.

Commissioner Ferguson feels that this seems more mid-block, whereas businesses should be closer to an intersection. She is concerned with the parking situation. The use is intense and not neighborhood-serving. If there is a noise issue with Thornton's, that can be addressed outside of the Planning Commission's jurisdiction.

Commissioner Tomes does not think the proposal is justified, and there is not adequate parking on-site. Homes in this area don't typically have cars parked like this in the front portion of the home.

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Chair Jarboe agrees with the other Commissioners that this use is too intense for a mid-block location. This approximately two block area is all residential.

**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 Zoning**

**041:14:34** On a motion by Commissioner Carlson, seconded by Commissioner Howard, the following resolution, based on testimony heard today, was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal is not consistent with Land Development Code 5.2.2.B: Traditional Neighborhood Form District (TNFD) is intended to promote development and redevelopment in a manner consistent and compatible, and effectively integrates the use and protects the character of the neighborhood, and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal is not consistent with Cornerstone 2020 C3.2a: Discourages more intense commercial development which is incompatible with the traditional neighborhood form, and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal is not consistent with Cornerstone 2020 C3.2.b: A change in permitted use from single family to multi-family or office should be encouraged only at the interface between commercial nodes and residential uses and when the orientation, design, scale and location of the proposed development are compatible with surrounding uses or when policies governing appropriate housing are met, and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal is not consistent with Cornerstone 2020 C3.7: Allow compatible neighborhood office uses in traditional neighborhoods IF consistent with the existing development pattern, and

**WHEREAS**, the Commission further finds that the proposed use is incompatible with the area and therefore does not comply with the Comprehensive Plan due to its intensity and scale; now, therefore be it

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the change in zoning from R-5 Single-Family Residential to O-R Office-Residential on 0.18 acres of property described in the attached legal description be **DENIED**.

**The vote was as follows:**

**YES: Brown, Howard, Carlson, Ferguson, Tomes, and Jarboe**

**NOT PRESENT: Lindsey, Lewis, Smith, and Peterson**

**Variance and Waivers**

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**01:19:39** On a motion by Commissioner Carlson, seconded by Commissioner Howard, the following resolution, based on testimony heard today, was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that there has not been adequate justification provided to approve the variance and waivers; now, therefore be it

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **DENY (1)** the variance from Section 5.2.2 to reduce the 3' side yard setback to 0' along the northern property line, **(2)** the waiver from Section 10.2.10 to eliminate the required 5' VUA LBA along the northern property line shared with a residential zone, and **(3)** the waiver from Section 10.2.4 to allow the existing structure and parking to encroach into the 10' LBA along the southern and northern property lines and to not provide plantings along the northern property line.

**The vote was as follows:**

**YES: Brown, Howard, Carlson, Ferguson, Tomes, and Jarboe**

**NOT PRESENT: Lindsey, Lewis, Smith, and Peterson**

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**PUBLIC HEARING**

**CASE NUMBERS 18NEIGHPLAN1000 & 18NEIGHPLAN1001**

Project Name: South Dixie Highway Master Plan  
Applicant: Louisville Metro Advanced Planning  
Jurisdiction: Louisville Metro  
Council District: 14 (Cindi Fowler)  
Case Manager: Michael King, Urban Planner

Notice of this public hearing appeared in The Courier-Journal.

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

**Agency Testimony:**

**01:22:00** Michael King provided a brief background for the South Dixie Highway Master Plan, which was initiated by Councilwoman Cindi Fowler as an extension of the Dixie Highway Corridor Master Plan.

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

Charles Cash, 815 W Market St., Suite 302, Louisville, KY 40202  
Mohammad Nouri, Concepts 21, LLC, Louisville, KY  
Councilwoman Cindi Fowler, Louisville Metro Council District 14

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

**01:24:20** Charles Cash spoke about Urban 1, LLC's role in developing this plan. This was a continuation of the work that was adopted in 2012; the idea was to extend that same level of planning to the county line. (See recording for detailed presentation.)

**01:29:44** Mohammad Nouri of Concepts 21, LLC spoke about mobility, more specifically, increasing village center connectivity, sidewalks on Dixie Highway, pedestrian and bicycling options, and traffic safety improvements. (See recording for detailed presentation.)

**01:34:30** Councilwoman Cindi Fowler thanked Councilmen Blackwell and Yates for their roles in funding this study as well as PDS Staff for their work on this project. It makes sense that the entire corridor gets the same treatment, and the improvements are greatly needed in the area.

**01:35:23** Mr. King further spoke about Staff's findings, the notification process, and the actions required of the Planning Commission.

**01:36:35** The presenters responded to questions from the Commissioners. Commissioner Tomes pointed out the need from trees along Dixie Highway. Mr. Nouri and Mr. Cash discussed that they would like to see more trees incorporated into the plan, but are restricted by certain



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state regulations as to where trees can be planted along the highway. There is hope that more trees can be planted in the lower speed limit areas. Legal Counsel Paul Whitty and Mr. King discussed the next steps in the process of moving forward with the plan.

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

No one spoke.

**Deliberation:**

**01:42:06** The Commissioners concur that the proposal is justified.

**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.**

**South Dixie Highway Master Plan**

**01:45:28** On a motion by Commissioner Carlson, seconded by Commissioner Howard, the following resolution, based on the Staff Report and testimony heard today, was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Community Form guideline because the proposed Land Use/Community Form recommendations in the South Dixie Highway Master Plan promote new development and redevelopment that will be designed to be compatible with the scale, rhythm, form and function of the existing development as well as with the pattern of uses. The recommendations support existing land uses and patterns of the Village and Neighborhood Form, and preserve the neighborhood character, and

**WHEREAS**, the Commission further finds that the proposal meets the Compatibility guideline because the plan proposes recommendations for promoting the commercial corridor while maintaining the existing residential and natural character of the neighborhood. The proposed recommendations will minimize impacts to existing residences, schools and other areas in the neighborhood, and

**WHEREAS**, the Commission further finds that the proposal meets the Open Space guideline because the plan proposes recommendations for enhancing and connecting open spaces serving the neighborhood and region, and

**WHEREAS**, the Commission further finds that the proposal meets the Natural Areas and Scenic and Historic Resources guideline because the plan recommends efforts to cultivate interaction with the areas natural amenities and enhance the streetscape of the neighborhood, and

**WHEREAS**, the Commission further finds that the proposal meets the Economic Growth and Sustainability guideline because the plan encourages growth and development along the corridor and the establishment of a village center, and

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**WHEREAS**, the Commission further finds that the proposal meets the Circulation guideline because the proposed Mobility recommendations include improvements to multi-modal functionality and safety, and

**WHEREAS**, the Commission further finds that the proposal meets the Bicycle, Pedestrian and Transit guideline because the Mobility recommendations encourage improvements to the current street and sidewalk networks to support access to community facilities via walking and biking. The recommendations also would provide for safer access to public transit; now, therefore be it

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the South Dixie Highway Master Plan be **APPROVED**.

**The vote was as follows:**

**YES: Brown, Howard, Carlson, Ferguson, Tomes, and Jarboe**  
**NOT PRESENT: Lindsey, Lewis, Smith, and Peterson**

**Executive Summary**

**01:46:48** On a motion by Commissioner Carlson, seconded by Commissioner Howard, the following resolution, based on the Staff Report and testimony heard today, was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Community Form guideline because the proposed Land Use/Community Form recommendations in the South Dixie Highway Master Plan promote new development and redevelopment that will be designed to be compatible with the scale, rhythm, form and function of the existing development as well as with the pattern of uses. The recommendations support existing land uses and patterns of the Village and Neighborhood Form, and preserve the neighborhood character, and

**WHEREAS**, the Commission further finds that the proposal meets the Compatibility guideline because the plan proposes recommendations for promoting the commercial corridor while maintaining the existing residential and natural character of the neighborhood. The proposed recommendations will minimize impacts to existing residences, schools and other areas in the neighborhood, and

**WHEREAS**, the Commission further finds that the proposal meets the Open Space guideline because the plan proposes recommendations for enhancing and connecting open spaces serving the neighborhood and region, and

**WHEREAS**, the Commission further finds that the proposal meets the Natural Areas and Scenic and Historic Resources guideline because the plan recommends efforts to cultivate interaction with the areas natural amenities and enhance the streetscape of the neighborhood, and

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**WHEREAS**, the Commission further finds that the proposal meets the Economic Growth and Sustainability guideline because the plan encourages growth and development along the corridor and the establishment of a village center, and

**WHEREAS**, the Commission further finds that the proposal meets the Circulation guideline because the proposed Mobility recommendations include improvements to multi-modal functionality and safety, and

**WHEREAS**, the Commission further finds that the proposal meets the Bicycle, Pedestrian and Transit guideline because the Mobility recommendations encourage improvements to the current street and sidewalk networks to support access to community facilities via walking and biking. The recommendations also would provide for safer access to public transit; now, therefore be it

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **RECOMMEND** that the Louisville Metro Council **ADOPT** the Executive Summary of the South Dixie Highway Master Plan as an amendment to Cornerstone 2020.

**The vote was as follows:**

**YES: Brown, Howard, Carlson, Ferguson, Tomes, and Jarboe**

**NOT PRESENT: Lindsey, Lewis, Smith, and Peterson**

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**PUBLIC HEARING**

**CASE NUMBER 17ZONE1001**

Project Name: 1312 E Washington Street  
Location: 1312 E Washington Street  
Owner(s): Estate of Allen Gene Rosenstein  
Applicant: Estate of Allen Gene Rosenstein  
Jurisdiction: Louisville Metro  
Council District: 4- Barbara Sexton Smith  
Case Manager: Julia Williams, RLA, AICP, Planning Supervisor

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

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

**Agency Testimony:**

**01:48:20** Julia Williams discussed the case summary, standard of review and staff analysis from the staff report.

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

Kathy Matheny, 9009 Preston Hwy., Louisville, KY 40219

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

**01:53:17** Kathy Matheny summarized the applicant's proposal and showed a presentation.

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

No one spoke.

**Deliberation:**

**01:55:53** The Commissioners concur that the proposal is justified.

**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 Zoning**

**01:56:50** On a motion by Commissioner Carlson, seconded by Commissioner Tomes, the following resolution, based on the Cornerstone 2020 Checklist and the applicant's findings of fact, was adopted:

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**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Community Form guideline because the proposal will preserve the existing street pattern, sidewalks and alley. The existing lot pattern and the lots will not change with the proposal. The public realm is maintained. The proposal is for the preservation and renovation of existing historic structures on the site, and

**WHEREAS**, the Commission further finds that the proposal meets the Centers guideline because the proposal is for residential uses on a residential site in a mixed residential area. The proposal is for one residential type use. The proposal is not for new construction in an area where there is mixed residential. The proposal is not a large development. The proposal uses 1 onsite parking space and 2 on street spaces. On street parking is shared by the public. No new utility easements are necessary. The site can be accessed by alternate forms of transportation, and

**WHEREAS**, the Commission further finds that the proposal meets the Compatibility guideline because the existing buildings are to remain and are historic and are compatible with the form district. No new construction is proposed. The proposal is for a higher density than the adjacent R-6. However, utilizing a carriage house for a residential unit is consistent with the historic nature of the neighborhood. Transportation planning has determined no negative effects of the proposal on traffic. Lighting will meet LDC requirements. The proposal is for high density and is not located directly along a transit route but where transit is available nearby. Also nearby and across the alley is an existing commercial zoned activity corridor. A specific user of the property has not been identified. No buffers are required between multi-family and other multi-family zoning districts, and

**WHEREAS**, the Commission further finds that the proposal meets the Open Space guideline because open space is not required. No new construction is proposed. Any natural features will remain, and

**WHEREAS**, the Commission further finds that the proposal meets the Natural Areas and Scenic and Historic Resources guideline because no new construction is proposed. Any natural features will remain. The proposal preserves 2 historic structures in the existing historic neighborhood. Soils are not an issue with the proposal, and

**WHEREAS**, the Commission further finds that the proposal meets the Circulation guideline because ROW improvements are not necessary. No new roadways are proposed. Additional dedication of ROW is not necessary, and

**WHEREAS**, the Commission further finds that the proposal meets the Transportation Facility Design guideline because stub streets are not required. Access to the development is to and from public rights of way, and

**WHEREAS**, the Commission further finds that the proposal meets the Bicycle, Pedestrian and Transit guideline because the public rights of way provide for the movement of all transportation, and

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**WHEREAS**, the Commission further finds that the proposal meets the Flooding and Stormwater guideline because MSD has no issues with the proposal, and

**WHEREAS**, the Commission further finds that the proposal meets the Landscape Character guideline because no new construction is proposed. Any natural features will remain, and

**WHEREAS**, the Commission further finds that the proposal meets the Infrastructure guideline because existing utilities will serve the site. An adequate water supply is available to the site. The health department has no issues with the proposal, and

**WHEREAS**, the Commission further finds that based upon a review of the Planning Commission Record, public hearing testimony and exhibits submitted that the application to rezone the subject property at 1312 E. Washington Street from R-6 to R-7, is appropriate and conforms with the intent and policies of Guidelines 1 and 2 because the site's use is a rezoning of existing residential structures and the use is compatible with the area in which the property is located, and

**WHEREAS**, the Commission further finds that in cornerstone 2020 Comprehensive Land Use Plan, the property is in the Traditional Neighborhood Form District which is appropriate for multifamily housing. Further, the Commission finds it is in the Butchertown Neighborhood and its block it designated as a "residential" block on the Butchertown Planning map and that currently on the block, there are a mixture of types of residential uses and offices uses and the site's use as a 3 plex is consistent with the Butchertown Neighborhood Plan and with the Traditional Neighborhood Form District which encourages a range of housing style options, and

**WHEREAS**, the Commission further finds that this proposal is for existing structures to be zoned from R-6 to R-7 to allow for this existing 120 year old home and carriage house to be renovated and serve as a three unit residential dwelling place and the only need for the zoning change is density requirements, thus making the request zoning change appropriate under KRS 100.213 and consistent with the Guidelines and Policies of the current Comprehensive Plan under Guideline 1, Policy B.2, and

**WHEREAS**, the Commission further finds that this proposal complies with the intent and the policies of Guideline 3 for all the location reasons set forth above and because this is an existing home and proposed use which is compatible with the neighboring uses and represents no change to this traditional neighborhood. Further, the requested rezoning designation is compatible because no discernible changes to the appearance of the neighborhood will occur by this project. The issue of appropriate size and shape of the structure, setbacks, transitions and visual impact to the neighborhood are basically non-existent because this home is existing and the streetscape will remain the same. The use as multifamily allows for a variety of housing types and one which is found already on the block. Further, the building is being restored, thus adding to the streetscape along the historic area. For these reasons, the proposal is consistent with Guideline 3, Policies 1, 3, 9, 10, 11, 22 and 23, and

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**WHEREAS**, the Commission further finds that the proposal is of low impact to the neighborhood and should not generate any nuisances, new traffic issues or lightening issues making the proposal consistent with, Guideline 3, Policies 6, 7, 8 and 24, and

**WHEREAS**, the Commission further finds that based upon a review of the Planning Commission Record, public hearing testimony and exhibits submitted that the application to rezone this tract to R-7 Zoning complies with the Open Space requirements of Guideline 4 because no Open Space is required with such a small lot, and

**WHEREAS**, the Commission further finds that based upon a review of the Planning Commission Record, public hearing testimony and exhibits submitted that the application to rezone this tract to R-7 zoning complies with the intent and the policies of Guideline 5 because the subject property is not to be altered and is in conformance with the historical Butchertown Neighborhood style of housing. Additionally, there are no special districts or soil and slope issues facing this proposal, and

**WHEREAS**, the Commission further finds that based upon a review of the Planning Commission Record, public hearing testimony and exhibits submitted that the application to rezone a this tract to R-7 zoning promotes and is consistent with the policies of Guideline 6 because the proposal is an investment in an older neighborhood and is located in an area served by existing public infrastructure and utility connections of water, and electric services thus reducing the cost of land development and preventing sprawl as desired by Guideline 6, Policy 10. Further, this proposal promotes and is consistent with the policies of Guideline 6, Policy 3 because the project is an investment in an older neighborhood which is targeted for historical preservation. The proposal restores a carriage house and preserves an old home and is good for the neighborhood's economic revitalization and is consistent with the neighborhood plan, and

**WHEREAS**, the Commission further finds that based upon a review of the Planning Commission Record, public hearing testimony and exhibits submitted that the application to rezone this Tract to R-7 is appropriate because it provides adequate parking and the site is in an area with access to mass transit a few blocks away which promotes pedestrian and bike travel all being factors in compliance Guideline 7, Policy 10, and

**WHEREAS**, the Commission further finds that based upon a review of the Planning Commission Record, public hearing testimony and exhibits submitted that the application to rezone this tract to R-7 zoning complies with the intent and the policies of Guidelines 8 and 9 because the Development Plan does not impact any environmentally sensitive areas, scenic corridors or streetscape issues, and

**WHEREAS**, the Commission further finds that based upon a review of the Planning Commission Record, public hearing testimony and exhibits submitted that the application to rezone this tract complies with the intent and the policies of Guidelines 10 and 11 because no construction is proposed and the property is not in floodplain, and

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**WHEREAS**, the Commission further finds that based upon a review of the Planning Commission Record, public hearing testimony and exhibits submitted that the application to rezone a this tract to R-7 zoning complies with the intent and the policies of Guideline 12 because the proposal is in a developed area which works to decrease vehicular miles traveled between home and trips to neighboring businesses, and

**WHEREAS**, the Commission further finds that based upon a review of the Planning Commission Record, public hearing testimony and exhibits submitted that the application to rezone this tract to R-7 zoning complies with the intent of Guideline 13 by maintaining the existing residential look of the area and complying with all required landscaping buffers, and

**WHEREAS**, the Commission further finds that based upon a review of the Planning Commission Record, public hearing testimony and exhibits submitted that the application to rezone this tract to R-7 zoning complies with the intent and the policies of Guideline 14 because all necessary utilities are available, and

**WHEREAS**, the Commission further finds that based on all of the foregoing, the Commission finds that the proposal to rezone this tract to R-7 zoning is compatible with this Traditional Neighborhood Form District and in conformance with all applicable guidelines of the Cornerstone 2020 Comprehensive Plan and is consistent with KRS Chapter 100; now, therefore be it

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the change in zoning from R-6 to R-7 on 0.12 acres of property described in the attached legal description be **APPROVED**.

**The vote was as follows:**

**YES: Brown, Howard, Carlson, Ferguson, Tomes, and Jarboe**  
**NOT PRESENT: Lindsey, Lewis, Smith, and Peterson**

**District Development Plan**

**01:57:40** On a motion by Commissioner Carlson, seconded by Commissioner Howard, the following resolution, based on Standard of Review and Staff Analysis, was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that the development proposes to preserve the site and buildings as is with only renovation to the existing historic structures, and

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

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



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**CASE NUMBER 17ZONE1001**

**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, and

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

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** the district development plan, **SUBJECT** to the following binding elements:

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.

**The vote was as follows:**

**YES: Brown, Howard, Carlson, Ferguson, Tomes, and Jarboe**

**NOT PRESENT: Lindsey, Lewis, Smith, and Peterson**

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**PUBLIC HEARING**

**CASE NUMBER 17ZONE1070**

Request: R-7 to C-2  
Project Name: Gas and Convenience Store  
Location: 4949 Terry Road  
Owner: Gilbert & Dorothy Mettling  
Applicant: Axis Investments, LLC  
Representative: Cliff Ashburner, Dinsmore & Shohl, LLP  
Jurisdiction: Louisville Metro  
Council District: 1 – Jessica Green  
Case Manager: Laura L. Mattingly, AICP, Planner II

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

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

**Agency Testimony:**

**01:59:45** Laura Mattingly discussed the case summary, standard of review and staff analysis from the staff report, noting that KYTC will need to approve the Traffic Impact Study prior to the issuance of an Encroachment Permit.

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

Cliff Ashburner, 101 S 5<sup>th</sup> Street, Suite 2500, Louisville, KY40207

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

**02:08:10** Cliff Ashburner summarized the applicant's proposal and showed a presentation. He responded to questions from the Commissioners.

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

No one spoke.

**Deliberation:**

**02:13:21** The Commissioners concur that the proposal is justified.

**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 Zoning**

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**02:14:50** On a motion by Commissioner Howard, seconded by Commissioner Carlson, the following resolution, based on the Cornerstone 2020 Checklist and the applicant's presentation, was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Community Form guideline because this proposal is located within a small commercially zoned area along Cane Run Road and is appropriately scaled to serve the neighborhood. The proposal is located at the intersection of a major arterial and a minor arterial, and

**WHEREAS**, the Commission further finds that the proposal meets the Centers guideline because the proposal has sufficient population to support it, as it is surrounded by single family subdivisions as well as multi-family housing. The proposal utilizes the entire site and is cost effective due to existing infrastructure. The proposed development is commercial in nature but there are multi-family and single family developments in close proximity. The proposal does not share entrances, but this is not appropriate at this location as the only shared property line is with a residential use. The proposal will be utilizing existing utilities. The existing 5' public sidewalks will be maintained and new sidewalks added where none currently exist along the frontage, and

**WHEREAS**, the Commission further finds that the proposal meets the Compatibility guideline because building materials appear to be compatible with surrounding development. This proposal is not a non-residential expansion into a residential area, as most of the parcel is already C-2. The proposal is providing the required screening and setbacks for adjacent less intense uses. A note has been placed on the plan regarding lighting and all lighting will be required to adhere to Land Development Code standards. The proposal is located on a major arterial, near a small area of other commercial zones. The 25' buffer adjacent to the R-7 property to the west has been provided and all setbacks and height restrictions have been adhered to. Setbacks, lot dimensions and building height appear to be compatible and appropriate. The parking is located away from the R-7 property to the north, although the drive thru is adjacent to the apartments. Buffers have been provided. The proposed site design appears to be the most compatible layout for this use. The proposal will be utilizing the existing pole sign on the east side of the site, and

**WHEREAS**, the Commission further finds that the proposal meets the Open Space guideline because this site has been previously developed and there does not appear to be any natural features. The proposal will be adding 12,109 SF of tree canopy, and

**WHEREAS**, the Commission further finds that the proposal meets the Natural Areas and Scenic and Historic Resources guideline because this site has been previously developed and this proposal will increase the natural features on site by adding tree canopy that currently does not exist. This site does not contain any hydric soils or steep slopes, and

**WHEREAS**, the Commission further finds that the proposal meets the Economic Growth and Sustainability guideline because this proposal is located on an arterial road near other commercial zones, and

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**WHEREAS**, the Commission further finds that the proposal meets the Circulation guideline because the proposal is using an existing roadway and access is acceptable. Where sidewalks do not currently exist, the applicant has proposed them and a TARC line runs along both Cane Run Road and Terry Road. A TARC boarding area is proposed. Transportation has stated that right of way dedication is not needed in this location. Parking is adequate for the proposed uses. The adjacent site, while partially zoned C-1, is a multi-family residential use, and

**WHEREAS**, the Commission further finds that the proposal meets the Transportation Facility Design guideline because access is from Cane Run Road a major arterial, as well as Terry Road. The proposal is using the existing roadway network, and

**WHEREAS**, the Commission further finds that the proposal meets the Bicycle, Pedestrian and Transit guideline because location is appropriate and sidewalks along the site's frontage will be completed with this proposal. Pedestrian connections have been shown on the plan and there are several TARC stops along Cane Run Road and Terry Road within walking distance, and

**WHEREAS**, the Commission further finds that the proposal meets the Flooding and Stormwater guideline because MSD has given preliminary approvals for the proposed drainage plans, and

**WHEREAS**, the Commission further finds that the proposal meets the Air Quality guideline because APCD has no issues with the proposal, and

**WHEREAS**, the Commission further finds that the proposal meets the Infrastructure guideline because this area is developed and served by utilities, and

**WHEREAS**, the Commission further finds that the subject property is within the Neighborhood Form District at the intersection of Terry Road, a collector road, and Cane Run Road, an arterial road. The proposed redevelopment complies with the intent of Guideline 1 because it will allow a neighborhood serving commercial use at an appropriate location, and

**WHEREAS**, the Commission further finds that the proposed redevelopment complies with the intent and applicable Policies of Guideline 2- Centers. The subject property is almost entirely commercially zoned and used, with a small triangle of residentially zoned property at the southern end. The property is surrounded by other commercial and multifamily properties in this small center along Cane Run Road, and

**WHEREAS**, the Commission further finds that the proposed redevelopment complies with the intent of and applicable Policies of Guideline 3- Compatibility. The proposed redevelopment will bring a well-designed fuel station to the subject property, along with a drive through restaurant as part of the main building. The proposed redevelopment should not have an adverse traffic, noise or odor impact compared to the existing commercial uses on the subject property. The applicant will provide required buffering adjacent to the apartments to the west of the subject property, along with a sidewalk connection directly to that property, and

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**WHEREAS**, the Commission further finds that the proposed redevelopment complies with the intent and applicable Policies of Guideline 7- Circulation. The proposed redevelopment will have access on both Terry Road and Cane Run Road. Access to Cane Run Road will be evaluated by the Kentucky Department of Transportation. The Applicant is providing a pedestrian connection directly to the property to the west of the subject property. There is no shared vehicular access to adjoining properties existing and none is proposed, and

**WHEREAS**, the Commission further finds that the proposed redevelopment complies with the intent and applicable Policies of Guideline 9- Bicycle, Pedestrian and Transit. The proposed redevelopment will connect a sidewalk to the adjacent multifamily property and will provide sidewalks around the site as required by the LDC. Bike parking will be provided on site, and transit service is available on Terry Road, and

**WHEREAS**, the Commission further finds that the proposed redevelopment complies with the intent and applicable Policies of Guidelines 10 and 11. The Applicant will incorporate storm water design measures consistent with MSD requirements for water quantity and quality, and

**WHEREAS**, the Commission further finds that the proposed redevelopment complies with the intent of Guideline 12. The proposed redevelopment will provide sidewalks and bike parking and is adjacent to a transit corridor, mitigating the impact of the proposed fueling station use, and

**WHEREAS**, the Commission further finds that the proposed redevelopment complies with the intent of Guideline 13. The proposal will provide landscaping in keeping with the LDC, improving the appearance of the site; now, therefore be it

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the change in zoning from R-7 Multi-Family Residential to C-2 Commercial on 0.2 acres of property described in the attached legal description be **APPROVED**.

**The vote was as follows:**

**YES: Brown, Howard, Carlson, Ferguson, Tomes, and Jarboe**

**NOT PRESENT: Lindsey, Lewis, Smith, and Peterson**

**Variance and Waiver**

**02:15:50** On a motion by Commissioner Howard, seconded by Commissioner Carlson, the following resolution, based on the Standard of Review and Staff Analysis, was adopted:

**Variance from Section 5.3.1 to allow the proposed structure to be setback more than 80' from the front and street side property lines**

**WHEREAS**, the Louisville Metro Planning Commission finds that

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**WHEREAS**, the Commission further finds that the requested variance will not adversely affect the public health, safety or welfare as the required setbacks have been provided adjacent to residential and the sight lines from the public right of way are unaffected by the proposed front and street side setbacks, and

**WHEREAS**, the Commission further finds that the requested variance will not alter the essential character of the general vicinity as the proposed site design is similar to existing commercial sites in the area, and

**WHEREAS**, the Commission further finds that the requested variance will not cause a hazard or nuisance to the public as the building will be buffered where it is adjacent to residential and the building location does not affect visibility from public areas, and

**WHEREAS**, the Commission further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the proposed site design is typical for a gas station and all other required setbacks are being met, and

**WHEREAS**, the Commission further finds that the requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone as this site is constrained by its triangular shape and three frontages, and

**WHEREAS**, the Commission further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as the site layout would have to be substantially altered from the business's design due the typical layout of parking for gas stations, 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

**Waiver from Section 10.2.10 to allow pavement to encroach into the required 15' vehicle use area landscape buffer along the northern property line**

**WHEREAS**, the Commission further finds that the waiver will not adversely affect adjacent property owners as the encroachment is only 2.5 feet and the landscaping that will be provided is a significant improvement over existing conditions where no landscaping is provided, and

**WHEREAS**, the Commission further finds that the waiver will not violate Guideline 3, Compatibility, of Cornerstone 2020, which calls for the protection of roadway corridors and public areas from visual intrusions, for mitigation of parking areas so as not to negatively impact nearby residents and pedestrians, and for screening and buffering of parking areas adjacent to streets. The waiver will not violate Guideline 13, Landscape Character, which calls for the protection of parkways through standards for buffers, landscape treatment, lighting and signs. The purpose of vehicle use area landscape buffer areas is to improve the appearance of vehicular use areas and property abutting public rights-of way. The guidelines are not violated

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as the remaining 12.5 buffer and plantings that are proposed meet the intent of the Comprehensive Plan, and

**WHEREAS**, the Commission further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as 12.5' of buffer is all that can be provided after provisions are made for adequate parking and vehicle maneuvering, and

**WHEREAS**, the Commission further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant as providing the full 15' buffer would cause issues with meeting other requirements, such as parking and maneuvering on site; now, therefore be it

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE (1)** the variance from Section 5.3.1 to allow the proposed structure to be setback more than 80' from the front and street side property lines and **(2)** the waiver from Section 10.2.10 to allow pavement to encroach into the required 15' vehicle use area landscape buffer along the northern property line.

**The vote was as follows:**

**YES: Brown, Howard, Carlson, Ferguson, Tomes, and Jarboe**

**NOT PRESENT: Lindsey, Lewis, Smith, and Peterson**

**Detailed District Development Plan**

**02:17:31** On a motion by Commissioner Howard, seconded by Commissioner Carlson, the following resolution, based on the Standard of Review and Staff Analysis, was adopted:

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

**WHEREAS**, the Commission further finds that the Kentucky Cabinet of Transportation and Department of Public Works will ensure that provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community will be provided, and

**WHEREAS**, the Commission further finds that open space is not required as part of this plan and no existing open space is impacted by this development, and

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

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

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

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** the detailed district development plan, noting a correction is needed to the plan to show the zoning as R-7, and **SUBJECT** to the following binding elements:

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
3. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
4. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested:
  - a. The development plan must receive full construction approval from 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 minor plat or legal instrument shall be recorded consolidating the property into one lot. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of the approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.



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5. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
6. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system permitted on the site.
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 materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the March 29, 2018 Planning Commission meeting.

**The vote was as follows:**

**YES: Brown, Howard, Carlson, Ferguson, Tomes, and Jarboe**

**NOT PRESENT: Lindsey, Lewis, Smith, and Peterson**

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**CASE NUMBER 17ZONE1069**

*Please note: the minutes for this case were approved by the Planning Commission on April 5, 2018.*

Request:	R-6 to R-7
Project Name:	Park Lake Apartments
Location:	7100 Leisure Lane
Owner:	Dennis Anderson, Park Lake Apartments, LLC
Applicant:	Park Lake Apartments, LLC
Representative:	Cliff Ashburner, Dinsmore & Shohl, LLP
Jurisdiction:	Louisville Metro
Council District:	23 – James Peden
Case Manager:	Laura Mattingly, AICP, Planner II

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

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

**Agency Testimony:**

**02:20:10** Laura Mattingly discussed the case summary, standard of review and staff analysis from the staff report.

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

Clifford Ashburner, 101 S 5<sup>th</sup> Street, Suite 2500, Louisville, KY 40202

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

**02:26:43** Clifford Ashburner summarized the applicant's proposal and showed a presentation. He has been working with MSD to come to an agreement so that MSD can be relieved of their maintenance responsibility for the existing pump station on the site. MSD proposed a solution just this morning, but his client has not had sufficient time to review the proposal. Mr. Ashburner feels that binding element 4.a. is sufficient to provide MSD the ability to withhold construction approval if necessary while they come to a solution. He responded to questions from the Commissioners.

**02:45:00** Tony Kelly with MSD pointed out which buildings are serviced by the gravity system and which are serviced by the pump station. Mr. Kelly stated MSD proposed new language for binding element 4.a. to the applicant this morning, but they were uncomfortable with using that until they evaluate the maintenance cost and responsibility. County Attorney

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Paul Whitty stated that MSD already has ultimate authority to deny full construction approval until they are satisfied.

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

No one spoke.

**Deliberation:**

**02:56:57** The Commissioners concur that the proposal is justified and that the binding elements are adequate.

**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 Zoning**

**03:02:06** On a motion by Commissioner Carlson, seconded by Commissioner Howard, the following resolution, based on the Cornerstone 2020 Checklist, the applicant's justification, and testimony heard today, was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Community Form guideline because the proposal is located in an area dominated by single family residences and will be offering more diverse housing options with additional multi-family. The development is located on a local road but is bounded by two streets and McNeely Lake Park, making impacts on the surrounding neighborhoods minimal. The Park Lake Apartments have existed for some time and the additional apartments will be similar in design and massing to the existing apartments. This is a compact apartment development with no new streets being created, and

**WHEREAS**, the Commission further finds that the proposal meets the Centers guideline because the proposal displays efficient use of land with a compact layout of buildings. This proposal is located adjacent to a park and a school. This development is located within an existing residential neighborhood. This proposal has one access point for this development only, but a shared access in this location is not appropriate, due to the property being bounded by existing roadways and then single family to the south. The parking is located in the most appropriate areas of the site, and sidewalks are existing. Pedestrian connections have been made where appropriate, and

**WHEREAS**, the Commission further finds that the proposal meets the Compatibility guideline because the scale of the proposed buildings is similar to those that are existing. The 4 story portions are set back away from the roadway where they will have the least impact on the pattern of development. The building design is compatible with existing buildings on site as well as surrounding single family homes. As this development is existing, it is not introducing a new type of density although the density is being increased. New construction is not is not directly

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adjacent to any single family residence and the four story portions of the proposed buildings face the lake, away from surrounding development. The proposal meets parking requirements and has met all transportation requirements. All lighting will face downward and will not shine into any adjoining properties. The proposal adds diversity in housing choices to the area by proposing multi-family in an area that offers predominantly single family homes. The proposal is higher density and is not near an activity center or on an arterial. Conversely, this is an existing development and is located near natural amenities. The proposal is not near a transit route but has met ADA requirements and has pedestrian access to McNeely Lake Park. The proposal is appropriate and inclusive in that it offers a different housing choice for those that may not be able to afford or prefer single family homes. Buffers and setbacks are in compliance with LDC standards. All setbacks and building heights appear to be within LDC standards and are compatible with surrounding development, and

**WHEREAS**, the Commission further finds that the proposal meets the Open Space guideline because the applicant has provided double the required open space. The design respects the protected waterway buffer and meets tree canopy requirements, and

**WHEREAS**, the Commission further finds that the proposal meets the Natural Areas and Scenic and Historic Resources guideline because the design respects the protected waterway buffer and meets tree canopy requirements. The applicant has changed the location of one of the proposed buildings in order to not disturb an area with archeological deposits and a portion of a cave system. LOJIC did not identify any wetlands on site, and

**WHEREAS**, the Commission further finds that the proposal meets the Circulation guideline because Transportation requirements have been met. The proposal has adequate access and is not required to connect to any other abutting use due to the lower intensity of uses surrounding the development. No dedication of right of way is required, and

**WHEREAS**, the Commission further finds that the proposal meets the Transportation Facility Design guideline because this site is existing and will continue to gain access from a local road. Impacts on the surrounding single family areas appear to be negligible. By connecting to the existing street network, the appropriate linkages are made, and

**WHEREAS**, the Commission further finds that the proposal meets the Bicycle, Pedestrian and Transit guideline because sidewalks are provided and the site has a direct pedestrian connection to McNeely Lake Park and the future Louisville Loop directly adjacent to this site, and

**WHEREAS**, the Commission further finds that the proposal meets the Landscape Character guideline because the development is preserving the natural corridor that exists along McNeely Lake by not intruding into the waterway buffer, and

**WHEREAS**, the Commission further finds that the proposal meets the Infrastructure guideline because there are existing utility, public water, and MSD connections on site, and

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**WHEREAS**, the Commission further finds that the subject property is located in the Neighborhood Form District adjacent to McNeely Lake and McNeely Lake Park. The property is bordered on the south and east by single-family residential development and on the north by a Jefferson County Public School. Although multi-family is generally encouraged to be closer to arterial roadways, Park Lake has been at this location for several decades, and the Applicant is merely trying to redevelop portions of it. Therefore, the proposed redevelopment complies with the intent of Guideline I-Community Form, and

**WHEREAS**, the Commission further finds that the proposed redevelopment complies with the intent and applicable Policies of Guideline 3-Compatibility. The proposed redevelopment involves additional buildings within the subject property and additional parking. The proposed redevelopment also includes the relocation of Park Lake's trash compactor to a more central location within the community, reducing noise and odor issues to the extent they exist. The addition of parking on the subject property should address street parking issues in the adjacent neighborhood by making parking more convenient for residents. The addition of new units in the apartment community should provide additional housing opportunities for those in the area, as the community is currently 100% occupied. The proposed redevelopment will allow for an increased variety of housing by providing new units in the existing apartment community and adjacent to McNeely Lake. The proposed redevelopment also matches existing buffers along its perimeter, and

**WHEREAS**, the Commission further finds that the proposed redevelopment complies with the intent and applicable Policies of Guidelines 4-Open Space and 5-Natural Areas and Scenic and Historic Resources. The proposed redevelopment will observe buffers and setbacks along McNeely Lake and will maintain the existing path along the lake shore. The proposed redevelopment also contains the required amount of open space and is adjacent to McNeely Lake Park, another significant recreational area, even absent the lake itself, and

**WHEREAS**, the Commission further finds that the proposed redevelopment complies with the intent and applicable policies of Guideline 7-Circulation. The proposed redevelopment is contained within the existing development site and does not involve the extension of any roads. The proposed redevelopment will increase the amount of off-street parking available to the apartment community up to the level required by the LDC. The Applicant will also provide access across its lake frontage for the existing pedestrian path surrounding McNeely Lake, and

**WHEREAS**, the Commission further finds that the proposed redevelopment complies with the intent and applicable policies of Guideline 9-Bicycle Pedestrian and Transit. The subject property was developed as apartments several decades ago and is located adjacent to McNeely Lake Park, providing pedestrian and bicycling opportunities for residents. Although the subject property is not located near transit, adding units should not be prevented by a lack of transit opportunities, and

**WHEREAS**, the Commission further finds that the proposed redevelopment complies with the intent of and applicable policies of Guidelines 10 and 11. The proposed redevelopment will follow all MSD regulations regarding stormwater runoff both during and after construction. The

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proposed redevelopment is observing all required buffers from McNeely Lake and will incorporate water quality control measures as required by MSD, and

**WHEREAS**, the Commission further finds that the proposed redevelopment complies with the intent and applicable policies of Guideline 13-Landscape Character. The proposed redevelopment will comply with tree canopy requirements of the LDC and will provide landscaping where required by the LDC; now, therefore be it

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the change in zoning from R-6, Multi-Family Residential to R-7, Multi-Family Residential on 10.83 acres of property described in the attached legal description be **APPROVED**.

**The vote was as follows:**

**YES: Brown, Howard, Tomes, Carlson, Jarboe, and Ferguson**

**NOT PRESENT: Lindsey, Peterson, Smith, and Lewis**

**Detailed District Development Plan**

**03:03:04** On a motion by Commissioner Carlson, seconded by Commissioner Howard, the following resolution, based on testimony heard today, was adopted:

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** the detailed district development plan, **SUBJECT** to the following binding elements:

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

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- a. The development plan must receive full construction approval from Develop Louisville, Louisville Metro Public Works and the Metropolitan Sewer District.
  - b. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter. Applicant shall also provide an alternative design for the Leisure Lane parking addition to encourage the preservation of the existing trees along the southern side of Leisure Lane, if feasible.
  - c. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
5. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
  6. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system permitted on the site.
  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 materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the March 29, 2018 Planning Commission meeting.
  9. No land disturbance will occur on the southeast portion of the site where the Kentucky Heritage Council has identified Durrett's Cave and associated archeological deposits in the area labeled "karst area."
  10. The applicant, developer, or property owner will work with the Louisville Metro Government to allow a portion of the Louisville Loop to cross the property along the banks of McNeely Lake. This area will be recorded as an easement or transferred as a fee simple property at the applicant, developer, or owner's expense within 60 day requests of Metro Government on a mutually agreed upon legal description provided by Metro Government.
  11. Applicant will install additional fire hydrants as requested by the fire department, not to exceed the number and spacing of hydrants required by the fire hydrant ordinance. Construction features will be added to prevent vehicles from blocking access to fire hydrants.

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12. Sidewalk connection to the existing sidewalk to the south shall be provided prior to the issuance of the first Certificate of Occupancy.

**The vote was as follows:**

**YES: Brown, Howard, Tomes, Carlson, Jarboe, and Ferguson**

**NOT PRESENT: Lindsey, Peterson, Smith, and Lewis**



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Project Name: Crossroads IGA  
Location: 6101 Fegenbush Lane  
Owner(s): Byron Pendleton  
Applicant: JR Food Stores, Inc  
Representative(s): Bardenwerper, Talbott & Roberts, PLLC  
Project Area/Size: 3.86 acres  
Jurisdiction: Louisville Metro  
Council District: 2 – Barbara Shanklin  
Case Manager: Joel P. Dock, Planner II

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

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

**Agency Testimony:**

**03:07:42** Joel Dock discussed the case summary, standard of review and staff analysis from the staff report.

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

John Talbott, 1000 N Hurstbourne Pkwy., Louisville, KY 40223  
Tim Rich, 700 Church Street, Bowling Green, KY 42102  
Bernie Koetter, 360 Kingswood Drive, Taylorsville, KY 40071

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

**03:12:41** John Talbott summarized the applicant's proposal and showed a presentation.

**03:28:07** Tim Rich with Houchens IGA stated that the restaurant feature will be similar to that of a Subway restaurant.

**03:28:45** Mr. Talbott responded to questions from the Commissioners.

**03:33:30** Houchens IGA Louisville District Manager Bernie Koetter stated that diesel fuel will be offered to individuals only. Large trucks typically do not use their service for diesel due to their size.

**03:34:50** Mr. Dock stated that the waiver of Land Development Code Section 5.9.2.A.1.b to omit the pedestrian connection to Fegenbush Lane was erroneously left out of the Staff

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Report and should be considered by the Planning Commission. The findings of fact for this waiver can be found under Tab 8 of the applicant's booklet.

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

No one spoke.

**Deliberation:**

**03:36:17** Commissioner Carlson believes the proposal is justified; however, he is concerned for an unattended gas pump being near a protected waterway. He would prefer for the pump to be attended 24/7 or shut off when unattended.

**03:42:52** Mr. Rich stated that the IGA at Shelbyville Road does offer fuel sales after hours. There are regulations that require a trench to be constructed around the gas pad to contain any leaks. This regulation is required by the state Fire Marshall.

**03:43:55** Mr. Koetter stated that the trench leads to a separate tank that is buried in the ground. The tank is of substantial size.

**03:44:21** Mr. Talbott pointed out that the proposal is compliant with all laws and state regulations. 24-hour gas stations are fairly common.

**03:45:22** The other Commissioners concur that the proposal is justified.

**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 Zoning**

**03:54:20** On a motion by Commissioner Brown, seconded by Commissioner Howard, the following resolution, based on the Cornerstone 2020 Checklist, the applicant's findings of fact, and testimony heard today, was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the Community Form guideline because the building and parking areas are setback significantly from the street allowing for landscaped areas to meet and/or exceed planting standards. The subject site is opposite three corners of non-residential zoning districts; one containing Haier Appliance Park, another containing land zoned for commercial or employment uses, and the other zoned for industrial uses but may contain environmentally sensitive features. An activity center of build out employment and commercial uses is located three-tenths of one mile East along Fern Valley Road. Sidewalks and pedestrians connections have been provided to encourages access to public transportation, and provides for pedestrians, and

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**WHEREAS**, the Commission further finds that the proposal meets the Compatibility guideline because the proposed building materials increase the new development's compatibility. While the site is currently zoned for single-family residential use, it is located in a suburban workplace form district which is characterized by predominately industrial and office uses. A service station and grocery will allow for good and services to be provided to both employees and residents of the area. As with any service station, emissions will be present, but it would not appear that the proposal contains a large amount of gasoline pumps and its primary service will be grocery and food services. The site is appropriately located at the intersection of arterial roadways within close proximity to employment facilities. It would not appear that the site alone would attract new users/traffic, but rather attract those already in the area for employment. The proposal mitigates adverse impacts of its lighting on nearby properties, and on the night sky. The site is appropriately located at the intersection of arterial roadways within close proximity to employment facilities. A protected waterway provides additional buffering to single family residential properties to the South. The residential lots to the sites immediate East is vacant and located in the SW form district intended for non-residential uses. Space is sufficient to provided landscaping to mitigate any adverse impacts. The site is appropriately located in the SW form district and future uses are intended to be non-residential. Setbacks, lot dimensions and building heights appear to compatible with non-residential uses within the area. Parking areas are located on the street side of the building away from residential areas, except for two small areas which are buffered by a protected waterway and a detention basin. Parking areas will be screened as the site has sufficient space to appropriately landscape impervious areas. Signs will be compatible with the form district pattern and contribute to the visual quality of their surroundings. The site contains multiple areas of green or vegetative space included in the protected waterway buffer areas and along the frontage, and

**WHEREAS**, the Commission further finds that the proposal meets the Open Space guideline because existing, healthy trees and vegetation within the Buffer Area will be preserved. Riparian vegetation shall be planted, as necessary, to stabilize the banks of a protected waterway within a Buffer Area, and

**WHEREAS**, the Commission further finds that the proposal meets the Natural Areas and Scenic and Historic Resources guideline because existing, healthy trees and vegetation within the Buffer Area will be preserved. Riparian vegetation shall be planted, as necessary, to stabilize the banks of a protected waterway within a Buffer Area. Historic resource on-site will be documented. Existing, healthy trees and vegetation within the Buffer Area will be preserved. Riparian vegetation shall be planted, as necessary, to stabilize the banks of a protected waterway within a Buffer Area, and

**WHEREAS**, the Commission further finds that the proposal meets the Economic Growth and Sustainability guideline because the proposed use will provide services and goods to the existing employment in the area, as well residents to the South. The proposal is at the intersection of arterial roadways, adjacent to an employment center, and

**WHEREAS**, the Commission further 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

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improvements to these facilities, contribution of money, or other means. The proposal promotes mass transit, bicycle and pedestrian use and provides amenities to support these modes of transportation. Access road from Hurstbourne provides access to abutting property. The proposal includes the dedication of rights-of-way for street, transit corridors, bikeway and walkway facilities within or abutting the development. Parking is sufficient to serve the development. Access road from Hurstbourne provides access to abutting property, and

**WHEREAS**, the Commission further finds that the proposal meets the Transportation Facility Design guideline because access road from Hurstbourne provides access to abutting property. Subject site is adjacent to non-residential zoning districts with the exception of the Southeast boundary which is separated by a protected waterway. Traffic would not appear to be generated by this use alone, but rather generated by uses currently present in the area. Access road from Hurstbourne provides access to abutting property, and

**WHEREAS**, the Commission further 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, provides bicycle and pedestrian connections to adjacent developments and to transit stops, and is appropriately located for its density and intensity, and

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

**WHEREAS**, the Commission further 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 Commission further finds that the proposal meets the Landscape Character guideline because the protected waterway provides for a corridor and natural habitat area, and

**WHEREAS**, the Commission further 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 Highview Fire department and LWC have no objections to the proposal. The proposal has access to an adequate supply of potable water and water for fire-fighting purposes. The proposal will have an adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams, and

**WHEREAS**, the Committee further finds that the application complies with the Suburban Workplace Form District as it is located at the intersection of major (Fern Valley Road/S. Hurstbourne Parkway) and minor (Fegenbush Lane) arterials; major industry is located catty-corner across Fegenbush Lane and Fern Valley Road, while properties located along Hurstbourne Parkway are zoned for high intensity retail and high density residential use; a catholic girls school is located a short distance in a northerly direction down Fegenbush Lane; and this is a high traffic location that will assure a lot of drive-by business going to and from nearby workplaces, other retail, schools and residential communities, and

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**WHEREAS**, the Committee 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 this site was most recently used for a church; and with the addition of grocery and gas goods and services in close proximity to major workplaces, particularly the Ford assembly plant, and residential communities, this small grocery/gas station/restaurant, located at a busy intersection will accommodate the regular daily shopping and service needs of workers and residents in the area, and

**WHEREAS**, the Committee further finds that as an “activity center”, it is appropriately located at the intersection of a major and minor arterial street and 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 includes three uses: a grocery, a small restaurant and a fuel station; and they share parking and work off the same utility infrastructure, and

**WHEREAS**, the Committee 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 workplace and residential serving center; it will have the look and feel of similar Crossroads IGA stores already built around Louisville and Oldham County; elevation renderings are included in the neighborhood meeting PowerPoint presentation accompanying this application, although changes have been requested by Councilman Peden that the applicant is attempting to address; odors will be contained within the building, especially given that the type restaurant will be a sandwich-type restaurant; noise will not be a late evening/overnight factor given that this store, except for the fuel pumps, will likely be closed during those hours; lighting will follow restrictions of the Land Development Code (LDC) and thus be directed down and away from nearby residential properties, with a 90 degree cut-off at property lines; transitions to adjoining properties to the north and east will be well screened and buffered in accordance with LDC requirements and in consultation with adjoining property owners; parking will be shared; loading and delivery will be located and/or screened so as to minimize impacts on any nearby residentially occupied properties; and signage will be in conformance with the LDC, and

**WHEREAS**, the Committee further finds that the application complies with the Intents and applicable Policies 2, 3, 5, 6 and 11 of this Guideline because this proposed combination of three compatible uses constitutes a high quality, workplace/neighborhood/high traffic arterial serving center; it is located in the midst of intense workplace and residential populations along the referenced arterial highways, and

**WHEREAS**, the Committee 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 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; and that LD&T and Planning Commission review, and preliminary stamp of approval process, assures that Transportation Planning and Public Works standards for corner clearances, access, connectivity, internal circulation and parking minimums are all satisfied, and

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**WHEREAS**, the Committee further finds that the application complies with the Intents and applicable Policies 1, 3, 4, 6, 7, 10 and 11 of this Guideline because small detention basins distributed at points on the DDDP, in compliance with MSD's standards for storm water management will assure post-development peak rates of runoff will not exceed pre-development conditions; and MSD will be required to review the storm water management plan and give its preliminary stamp of approval to the DDDP prior to docketing for LD&T and Planning Commission public reviews, and

**WHEREAS**, the Committee 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

**WHEREAS**, the Committee further finds that the application complies with the Intents and applicable Policies 2, 4, 7 and 8 of this Guideline because by locating this small workplace/neighborhood/high-traffic arterial serving center in close proximity to those uses and populations will reduced vehicle miles traveled, and

**WHEREAS**, the Committee 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 Committee 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 does hereby **RECOMMEND** to the Louisville Metro Council that the change in zoning from R-4 Single-Family Residential to C-1 Commercial on 3.86 acres of property described in the attached legal description be **APPROVED**.

**The vote was as follows:**

**YES: Brown, Howard, Tomes, Jarboe, and Ferguson**

**NO: Carlson**

**NOT PRESENT: Lindsey, Peterson, Smith, and Lewis**

**Variance and Waivers**

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**03:55:15** On a motion by Commissioner Brown, seconded by Commissioner Howard, the following resolution, based on the Standard of Review and Staff Analysis, the applicant's findings of fact, and testimony heard today, was adopted:

**Variance of Land Development Code (LDC), section 4.8.3 to encroach upon the 100' stream buffer**

**WHEREAS**, the Louisville Metro Planning Commission finds that the requested variance will not adversely affect public health, safety, or welfare as the proposed pavement will control and reduce the existing impervious areas. Existing, healthy trees and vegetation within the Buffer Area will be preserved. Riparian vegetation will be planted, as necessary, to stabilize the banks of the waterway as prescribed in LDC Chapter 4, Part 8, and

**WHEREAS**, the Commission further finds that the requested variance will not alter the essential character of the general vicinity as the protected waterway increases the compatibility of the subject site with surrounding residential areas through the preservation of a buffer between non-residential and residential uses, and

**WHEREAS**, the Commission further finds that the requested variance will not cause a hazard or nuisance to the public as existing informal impervious surface will be improved and controlled for a minimal amount of surface parking and the owner will be responsible for the restoration of portions of the waterway which fall within or are impacted by the proposed development in accordance with Chapter 4, part 8 and the binding elements of the approved district development plan, and

**WHEREAS**, the Commission further finds that the requested variance will not allow an unreasonable circumvention of zoning regulations as the applicant has made a conscious effort to reduce impact in the buffer areas provided the needs of the use and demands of the environment on site, and

**WHEREAS**, the Commission further finds that the requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone as protected waterways do not commonly impact development, and

**WHEREAS**, the Commission further finds that the strict application of the provisions of the regulation would deprive the applicant of reasonable use of the land as minimal encroachments have been made and the owner will be responsible for the restoration of portions of the waterway which fall within or are impacted by the proposed development in accordance with Chapter 4, part 8 and the binding elements of the approved district development plan, and

**WHEREAS**, the Commission further finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as the site has not been developed and relief is being sought, and

**WHEREAS**, the Commission further finds that the variance will not adversely affect the public health, safety or welfare because the encroachment is minor, the vast majority of the stream

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setback is observed, and some additional setback is provided in areas other than this encroachment, and

**WHEREAS**, the Commission further finds that the variance will not alter the essential character of the general vicinity for the reasons stated in #1 above, and

**WHEREAS**, the Commission further finds that the variance will not cause a hazard or a nuisance to the public because the stream is protected in other ways as well through compliance with MSD's soil erosion and sediment control plus water quality ordinances, and

**WHEREAS**, the Commission further finds that the variance will not allow an unreasonable circumvention of the requirements of the zoning regulations because only the absolute minimum amount of encroachment necessary to allow this development is requested, and

**WHEREAS**, the Commission further finds that the variance arises from special circumstances, which do not generally apply to land in the general vicinity because the site shape, elevation changes, and relationship of the stream to the site necessitate this variance if this site is to be reasonably developed as reasonably planned; and because the variance requested will encroach into the buffer area less than the current existing condition of the driveway currently existing, and

**WHEREAS**, the Commission further finds that strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create unnecessary hardship because the building, few number of pumps and restaurant with drive-thru otherwise would not fit on this site, and

**WHEREAS**, the Commission further finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the regulation but rather are mostly the result of land conditions, and

**Waiver of LDC, section 5.6.1.C to reduce the requirement to have 50% of wall surfaces at street level consist of clear windows and doors**

**WHEREAS**, the Commission further finds that the waiver will not adversely affect adjacent property owners as the development is setback a considerably distance from pedestrian facilities and the use is predominately auto-centric, and

**WHEREAS**, the Commission further finds that the waiver will not violate specific guidelines of Cornerstone 2020 as Guideline 3, Policy 2 calls for compatible building materials to increase the new development's compatibility. The new building is setback to a distance where its visual impact on the road and the need to attract pedestrians through window displays is negligible, and

**WHEREAS**, the Commission further finds that the extent of the waiver of the regulation is not the minimum necessary to afford relief to the applicant as windows can be provided with little impact on the overall development, and



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**WHEREAS**, the Commission further finds that the strict application of the provisions of the regulation would not deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant as windows could be provided with little impact on the overall development. Their provision in this auto-centric development may have no net-beneficial impact, and

**WHEREAS**, the Commission further finds that the waiver will not adversely affect adjacent property owners because this a design issue that does not have to do with issues of impact on adjoining properties; and moreover, aesthetics of this site and building are also not negatively impacted by this waiver, and

**WHEREAS**, the Commission further finds that the waiver will not violate the Comprehensive Plan for all the reasons set forth in the Detailed Statement of Compliance with all applicable Guidelines and Policies of the Cornerstone 2020 Comprehensive Plan filed with the original rezoning application, and

**WHEREAS**, the Commission further finds that the extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because the building otherwise remains aesthetically attractive, although this is a minor waiver for some building facades so as not to adversely impact internal store operations, and

**WHEREAS**, the Commission further finds that the strict application of the provisions of the regulation would deprive the applicant of a reasonable use of the land or would create an unnecessary hardship on the applicant because the applicant would have to design its building in a manner that significantly affect internal store operations particularly as respects shelf space and display of merchandise, and

**Waiver of LDC 5.8.1.B to not provide a sidewalk along the frontage south of the Fegenbush Lane Entrance**

**WHEREAS**, the Commission further finds that the waiver will not adversely affect adjacent property owners because there aren't sidewalks along the frontages on either side of this subdivision for this sidewalk to connect. Moreover, the area of the requested waiver consists of considerably steep slopes going toward the bridge, which are conditions created by the land, not created by the development, and

**WHEREAS**, the Commission further finds that the waiver will not violate specific guidelines of Cornerstone 2020 as adequate pedestrian mobility and connection has been accounted for in all others areas of the development, 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 this is the only place that the sidewalk waiver is being requested, and

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**WHEREAS**, the Commission further finds that 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 because building a sidewalk in this location, considering the fact that the geography with steep slopes would make building this sidewalk almost impossible to safely build and certainly detrimental to the development, and

**WHEREAS**, the Commission further finds that the waiver will not adversely affect adjacent property owners because there aren't sidewalks along the frontages on either side of the subdivision to which this sidewalk for this site could connect; and the area of the requested waiver consists of considerably steep slopes going toward the bridge, which are conditions created by the land, not created by the development, and

**WHEREAS**, the Commission further finds that the waiver will not violate the Comprehensive Plan for all the reasons set forth in the Detailed Statement of Compliance with all applicable Guidelines and Policies of the Cornerstone 2020 Comprehensive Plan filed with the original rezoning application, and

**WHEREAS**, the Commission further finds that the extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because this is the only place that the sidewalk waiver is being request, and

**WHEREAS**, the Commission further finds that 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 because building a sidewalk in this location, considering the fact that the geography with steep slopes would make building this sidewalk almost impossible build, impossible to safely use, and certainly detrimental to the development, and

**Waiver of LDC Section 5.9.2.A.1.b to omit the pedestrian connection to Fegenbush Lane**

**WHEREAS**, the Commission further finds that the waiver will not adversely affect adjacent property owners because few people look to access a gas station on foot, and there are natural vehicle-pedestrian conflicts that cannot be overcome; and further the waiver will not adversely affect adjacent property owners because a different design of access and circulation (which would result from moving of the canopy and convenience store structures) would cause hazards and nuisances to the traveling public and customers, thus negatively impacting adjacent property owners with bad transportation design, and

**WHEREAS**, the Commission further finds that the waiver will not violate the Comprehensive Plan for all the reasons set forth in the Detailed Statement of Compliance with all applicable Guidelines and Policies of the Cornerstone 2020 Comprehensive Plan filed with the rezoning application, and

**WHEREAS**, the Commission further finds that the extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because, as stated above, this is the only layout that works, and, also as set forth above this plan results in greater LDC compliance than current conditions, and

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**WHEREAS**, the Commission further finds that 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 because the site could not otherwise be developed; now, therefore be it

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE (1)** the Variance of Land Development Code (LDC), section 4.8.3 to encroach upon the 100' stream Buffer, **(2)** the waiver of LDC, section 5.6.1.C to reduce the requirement to have 50% of wall surfaces at street level consist of clear windows and doors, **(3)** the waiver of LDC 5.8.1.B to not provide a sidewalk along the frontage south of the Fegenbush Lane Entrance, and **(4)** the waiver of LDC Section 5.9.2.A.1.b to omit the pedestrian connection to Fegenbush Lane.

**The vote was as follows:**

**YES: Brown, Howard, Carlson, Tomes, Jarboe, and Ferguson**

**NOT PRESENT: Lindsey, Peterson, Smith, and Lewis**

**Detailed District Development Plan**

**03:56:36** On a motion by Commissioner Brown, seconded by Commissioner Howard, the following resolution, based on the Standard of Review and Staff Analysis and testimony heard today, was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that existing, healthy trees and vegetation within the Buffer Area will be preserved. Riparian vegetation will be planted, as necessary, to stabilize the banks of the waterway as prescribed in LDC Chapter 4, Part 8. Historic resources will be documented prior to development, 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 as sidewalks and connections have been provided, and

**WHEREAS**, the Commission further finds that the provision of sufficient open space (scenic and recreational) to meet the needs of the proposed development is being provided as Existing, healthy trees and vegetation within the Buffer Area will be preserved. Riparian vegetation will be planted, as necessary, to stabilize the banks of the waterway as prescribed in LDC Chapter 4, Part 8. Historic resources will be documented prior to development, and

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

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

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

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** the detailed district development plan, **SUBJECT** to the following binding elements:

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
3. 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. Construction Fencing shall also be provided along the Limits of Disturbance as shown on the approved district development plan.
4. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested:
  - a. The development plan must receive full construction approval from Louisville Metro Department of Codes and Regulations Construction Permits and Transportation Planning Review and the Metropolitan Sewer District.
  - b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways for any work within the state right-of-way.
  - 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

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- 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.
  - e. A traffic study shall be submitted to Public works and KYTC for review and incorporation into the record. Any recommendations of the traffic study shall be accounted for in construction plans, including, but not limited to, access to KY 864 as permitted by KYTC.
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. No overnight idling or idling of trucks while loading or unloading equipment shall be permitted on-site.
7. At the time of development, the following restoration standards shall be met:
- A. Riparian vegetation shall be planted, as necessary, to stabilize the banks of a protected waterway within a Buffer Area. Where a bank is denuded of its vegetation due to erosion, slope failure or similar occurrence, appropriate vegetation shall be planted to quickly establish a vegetative cover, and then replanted with riparian vegetation to ensure the long-term stabilization of the bank. Restoration plantings shall be selected from the MSD native species restoration specifications.
  - B. Where stream bank erosion has occurred as a result of on-site development activities, riparian vegetation shall be planted to stabilize the stream bank unless MSD determines such vegetation would be inadequate to re-stabilize the bank. In instances where the MSD determines that planting of riparian vegetation is inadequate to stabilize the stream bank alternate methods of stabilization, approved by the MSD shall be utilized.
  - C. Stream, stream bank, and vegetation restoration projects are allowed where the goal is to restore the protected waterway, wetlands, or Buffer Area to an ecologically healthy state, as approved by MSD.
8. Tree and Vegetation Removal.
- A. Existing, healthy trees and vegetation within the Buffer Area shall be preserved, except for those areas designated by the Limits of Disturbance on the approved district development plan. Trees and vegetation shall be restored in accordance with Binding Element #7 for all areas within the buffer that lie between impervious surfaces and the Limits of Disturbance.
  - B. This provision shall not prohibit any of the following: Removal of dead or diseased trees/vegetation (provided a live root system stays intact); removal of noxious weeds; Removal of non-native trees/vegetation that threaten native species growth or reintroduction; removal of fallen trees, tree limbs, brush and similar debris that accumulate naturally in river/stream beds and that impede river/stream flow, or removal of any other

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tree/vegetation that is a threat to the public health or safety; Removal of trees as part of an approved plan for stream side recreation or access (e.g. pedestrian trail) or as part of an approved utility or road construction project.

9. The materials and design of proposed structures shall be substantially the same as depicted in the renderings at the 3/29/18 Planning Commission public hearing of the Louisville Metro Planning Commission.

10. An Individual Historic Resource Survey Form shall be completed for any historic resources on the subject site. The documentation must occur prior to the issuance of a demolition permit or ground disturbance at the site. The documentation shall be submitted to Urban Design/Historic Preservation Staff upon completion.

**The vote was as follows:**

**YES: Brown, Howard, Tomes, Jarboe, and Ferguson**

**NO: Carlson**

**NOT PRESENT: Lindsey, Peterson, Smith, and Lewis**

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**CASE NUMBER 16DEVPLAN1170**

Project Name:	Nelson Commercial Property
Location:	9609 National Turnpike
Owner(s):	Dan Nelson
Applicant:	Dan Nelson
Representative(s):	Dan Nelson
Jurisdiction:	Louisville Metro
Council District:	13 – Vicki Aubrey Welch
Case Manager:	Joel P. Dock, Planner II

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

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

**Agency Testimony:**

**03:59:22** Joel Dock discussed the case summary, standard of review and staff analysis from the staff report. A revised detailed district development plan for auto sales at 9609 National Turnpike has been produced to fulfill the request of the Planning Commission during the binding element enforcement case on October 20, 2016. The applicant will be required to also produce a landscape plan to be approved by Planning and Design Services staff pending the outcome of this hearing. No amendments to binding elements have been proposed.

Staff and the applicant would like to move forward with resolving the binding element violation, which has to start with the approval of a proposed development plan. The applicant could then move forward with approval of a landscape plan, which would resolve the binding element violation of lack of implementation of a landscape plan. Staff would also like the Planning Commission to consider a timeline for implementation of the landscape plan. There is also a pending variance that needs to be taken to the Board of Zoning Adjustment. Staff was reluctant to docket that until action was taken by the Planning Commission. Mr. Dock recommended that a timeline be added as an additional binding element on the proposed development plan.

**04:06:21** Legal Counsel Paul Whitty stated that proceedings in October 2016 found that there was a violation, and the final order was appealed by the applicant to District Court. A pre-trial conference will be held soon. If action is not taken today, or he does not meet the deadline that may be proposed today, the case will go back to trial to obtain the fines.

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

Paul Curry, 1038 Edward Avenue, Louisville, KY 40204  
Dan Nelson, 9609 National Turnpike, Fairdale, KY 40118

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

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**04:07:52** Paul Curry spoke on behalf of the applicant. He has not had an opportunity to review the revisions to the plan, and does not know how accurate they are to the circumstances. He is not apprised of the waivers being requested. They recognize that the asphalt is required per the original plat and will move forward when they receive a timeline.

**04:10:24** Applicant Dan Nelson stated that the plan appears to be an accurate representation, but there is additional landscaping on the plan that is not currently on the site. He is ok with what is on the plan.

**04:12:20** Chair Jarboe suggested that the case be delayed until Bill Schroll is available for questioning.

**04:12:47** Mr. Dock stated that he worked closely with Mr. Schroll on the plan, and it is based on a survey of existing conditions with some improvements added. He responded to questions from the Commissioners.

**04:15:30** Mr. Whitty suggested that the case be continued until Bill Schroll is available for questioning. If the case is not approved at that time, Counsel will proceed with a court case. The Commissioners would like to see the original plan as a reference point. Mr. Dock stated that the plan, with its existing conditions, does not require these waivers. The waivers are being requested by the applicant at the request of the Planning Commission.

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

No one spoke.

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

**04:26:40 Planning Commission Deliberation**

**04:27:30** On a motion by Commissioner Brown, seconded by Commissioner Tomes, the following resolution was adopted:

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **CONTINUE** case number 16DEVPLAN1170 to the May 10, 2018 Planning Commission public hearing to allow Bill Schroll to appear before the Commission for questioning and to provide a copy of the original approved plan.

**The vote was as follows:**

**YES: Brown, Howard, Tomes, Carlson, Jarboe, and Ferguson**

**NOT PRESENT: Lindsey, Peterson, Smith, and Lewis**



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**CASE NUMBER 17ZONE1055**

Project Name: Highview PDD Text Amendments  
Location: Highview Neighborhood/Town Center  
Jurisdiction: Louisville Metro  
Council District: 23 – James Peden  
Case Manager: Joel P. Dock, Planner II

Notice of this public hearing appeared in The Courier-Journal.

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

**Agency Testimony:**

**04:28:38** Joel Dock discussed the request for text amendments to the Highview Planned Development District land use and design standards.

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

John Torsky, Councilman James Peden's office, 601 W Jefferson St., Louisville, KY 40202

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

**04:39:23** John Torsky spoke on behalf of Councilman James Peden's office. He stated that Councilman Peden's main concern was to make sure that nothing has changed since this request was last presented to the Commissioners. Mr. Dock stated that no changes have been made since this was heard at the February 22, 2018 LD&T meeting.

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

No one spoke.

**Deliberation:**

**04:44:05** The Commissioners concur that the amendments are justified.

**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.**

**04:47:10** On a motion by Commissioner Howard, seconded by Commissioner Carlson, based on the Staff Report, testimony heard today, and the Highview PDD Plan, the following resolution was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposed amendments are in keeping with the vision of the Highview Neighborhood Plan as the amendments further the

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creation of a “Downton Highview” by focusing commercial and higher density uses into a designated center, along with the creation of a pedestrian-friendly and well connected network of walkways. The proposed amendments are supported by the following recommendations of the Neighborhood Plan; now, therefore be it

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **RECOMMEND** that the Louisville Metro Council **ADOPT** the text amendments to the Highview Planned Development District (PDD) land use and design standards pursuant to Land Development Code, part 2.8.5.A.4 as referenced below:

**Amendment 1**

*RESIDENTIAL USE RESTRICTIONS*

*In the Highview PDD, land development having frontage along the Rights-of-Way of Fegenbush Lane, Vaughn Mill Road, Outer Loop, Peppermill Lane, and Beulah Church Road shall be limited to non-residential uses. Mixed use development that includes a residential component is encouraged and shall be allowed, providing that the first floor is dedicated to a non-residential use and oriented towards the public way. Civil and/or institutional uses shall be permitted following a Community Facilities Review. Residential development shall be allowed without a non-residential component, provided that sufficient frontage and/or out-lot(s) is made available for future non-residential development.*

**Amendment 2**

**GATEWAY**

All *Outer Loop* uses except:

- Automobile rental agencies shall be limited to no more than 25 rental passenger vehicles stored on site, and no more than two service bays for cleaning or maintenance, and having no repair or storage/dispensing of fuel
- Automobile service stations shall be limited to service bays for repair of no more than two vehicles (see definition of Automobile Service Station for the type of repairs permitted)

**CENTRAL CORRIDOR**

All *Gateway* uses except for the following:

- Automobile sales agencies
- Automobile service stations
- Boat Sales and related storage
- Building materials, storage and sales provided all operations are totally enclosed in a building (Outdoor sales, display and storage as referenced in Section 4.4.8 is not permitted in association with a contractor’s shop in this zoning district)
- Drive-in restaurants where all or part of the service or consumption is inside a vehicle

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- Used car sales areas, provided that no repair or reconditioning of automobiles or storage of parts shall be permitted except when enclosed in a building
- Drive through facilities

**Amendment 3**

*SIDEWALKS*

*In addition to those applicable sidewalk requirements of the Town Center Form District as contained in Land Development Code, Chapter 5, sidewalks shall also be required in accordance with Metro Public Works design standards for the following:*

1. *Expansion of the cumulative existing gross floor area of all buildings (accessory or primary) on a development site by 50% or more, or 2,000 square feet or more, whichever is less*
2. *Increase in the number of dwelling units of an existing residential development site*
3. *Conversion of any non-residential space to a residential use*
4. *Change of use from residential to non-residential*
5. *Construction of 5 or more new parking spaces*

*The Planning Director or designee is authorized to grant a waiver of these additional sidewalk requirements contained in items 1 through 5 above, provided that the applicant can demonstrate that existing conditions are such that construction of a sidewalk is not feasible or would deprive the applicant of reasonable use of the land or create an unnecessary hardship. The applicant or Planning Director or designee may request consideration of the request before the Planning Commission or designee. In such instances, the request shall follow the standards outlined in Land Development Code, section 6.2.6.B.*

*Right-of-way dedication or public sidewalk easement may be required to accommodate installation of sidewalks.*

**Amendment 4**

A. Dimensional Standards

Dimensional standards for the Highview Town Center PDD Sub-Areas shall be as follows:

i. Outer Loop Sub-Area

Conform to the *Neighborhood* Form District dimensional standards, Chapter 5, Part 3, Sub- Section 5.3.1 with the following exceptions:

1. Building Height

Maximum building height for any use shall be 35' or 2-stories

ii. Gateway Sub-Area

Conform to the *Neighborhood* Form District dimensional standards, Chapter 5, Part 3, Sub- Section 5.3.1 with the following exceptions:

1. Maximum building height for any use shall be 35' or 2-stories

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2. Front and Street Side Yard Setback (all uses) maintain a minimum Front and Street Side Yard setback/build-to line of 15' from the edge of right-of-way.

iii. Central Corridor Sub-Area

Conform to the Town Center Form District dimensional standards, Chapter 5, Part 2, with the following exceptions:

1. Building Height

Maximum building height for any use shall be 35' or 2-stories

2. Front and Street Side Yard Setback (all uses) maintain a maximum Front and Street Side Yard setback/build-to line of 65' from the edge of right-of-way.

**Amendment 5**

B. Lot Standards

i. Maximum Floor Area Ratio (FAR)

The maximum FAR for the Highview Town Center PDD shall be 1.0, regardless of Sub-Area.

ii. The maximum density for the Highview Town Center PDD shall be as follows:

1. Outer Loop Sub-Area

Maximum Density: 12.01 dwellings per acre (note: R5A equivalent)

2. Gateway and Central Corridor Sub-Areas

Maximum Density: 17.42 dwellings per acre (note: R6 equivalent)

iii. Use Mix

Office and Residential Uses –a specified percentage of any development site may be allocated to residential development without any corresponding decrease in the maximum allowable square footage or intensity of non-residential uses allowed, provided that all other development standards set forth in this code are complied with. In addition, office and residential uses situated above ground level retail uses are permitted and shall be excluded from calculation of the site's permissible floor area ratio.

Calculation of permissible residential density shall be based on the net site area, regardless of the amount of non-residential floor area constructed on the site.

iv. Lot Area

Min: None

**Amendment 6**

D. Building Facades (applicable to new structures or when replacing 50% or more of an existing building façade)

i. Buildings shall have articulated facades with animating features (i.e., columns, piers, pilasters, or similar elements) every 20 to 40 feet to create an architectural rhythm. *Rear*

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*facades shall not be required to comply with this part, unless located within the form district transition zone or abutting a residential use.*

ii. At least 70% of the building façade facing the public right-of-way shall be located between the minimum and maximum setback/build-to-line. *This shall only apply to new construction/enlargement of the building footprint.*

iii. A minimum of fifty percent (50%) of the street level facade shall be transparent.

iv. Blank, unarticulated walls shall not extend for distances greater than twenty-five feet (25').

Note: Rear facades shall not be required to comply with this part, unless located within the form district transition zone or abutting a residential use.

v. Buildings on corner lots *shall* use windows, doors or architectural detail to address facade design on both street frontages.

vi. Multi-family structures shall not have attached front facing garages. Garages shall be accessed from alleys or, in the case of a development consisting of multiple units, from an internal drive accessible from the rear

**Amendment 7**

As noted in the existing conditions analysis of the Highview PDD, bicycle and pedestrian systems in this area are fragmented and in many cases nonexistent. As such all future developments should encourage pedestrian and bicycle systems to the fullest extent, and at a minimum what is required by the *Land Development Code*. Providing continuous sidewalk systems, bike parking in convenient, even covered locations will play an integral role in making Highview a more well connected, healthy and sustainable neighborhood.

**The vote was as follows:**

**YES: Brown, Howard, Tomes, Carlson, Jarboe, and Ferguson**

**NOT PRESENT: Lindsey, Peterson, Smith, and Lewis**

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**STANDING COMMITTEE REPORTS**

**Land Development & Transportation Committee**

No report given.

**Site Inspection Committee**

No report given.

**Planning Committee**

No report given.

**Development Review Committee**

No report given.

**Policy & Procedures Committee**

No report given.

**CHAIRPERSON/DIRECTOR'S REPORT**

No report given

**ADJOURNMENT**

The meeting adjourned at approximately 6:00 p.m.

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Chairman

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Division Director