

PLANNING COMMISSION MINUTES
October 18, 2018

PUBLIC HEARING

CASE NO. 18ZONE1022

Request: Change in zoning from R-4 to C-1 with a Revised Detailed District Development Plan; Waivers; and a Street Closure
Project Name: Ghasem – Factory Lane
Location: 12910 Factory Lane
Owner: Ghasem Properties, Inc.
Applicant: Ghasem Properties, Inc.
Representative: William Bardenwerper – Bardenwerper Talbott & Roberts PLLC
Jurisdiction: Louisville Metro
Council District: 19 – Julie Denton

Case Manager: Joel Dock, AICP, Planner II

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

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

Agency Testimony:

03:41:34 Joel Dock presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.)

03:46:55 In response to a question from Commissioner Brown, Mr. Dock noted that binding element 8H, on page 22 of the staff report, states that building renderings for all new structures and additions shall be approved by Planning Commission staff.

The following spoke in favor of this request:

William Bardenwerper, Bardenwerper Talbott & Roberts PLLC, 1000 North Hurstbourne Parkway 2nd Floor, Louisville, KY 40223

Mark Madison, Bluestone Engineering, 301 Daventry Lane, Louisville, KY 40223

Summary of testimony of those in favor:

03:47:35 William Bardenwerper, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.) He discussed why the road closure was needed.

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03:58:50 Mark Madison, an applicant's representative, discussed the VUA/LBA, the detention basin, and other landscaping details for the site.

The following spoke neither for nor against ("Other"):
No one spoke.

The following spoke in opposition to this request:
Cliff Ashburner, Dinsmore & Shohl, 101 S 5th St #2500, Louisville, KY 40202

Summary of testimony of those in opposition:

04:01:14 Cliff Ashburner spoke on behalf of the opposition (R.J. Thieneman & Company) and showed a Power Point presentation. He said his clients own the property to the east (zoned R-4.) He said the primary concerns are that this property is being overdeveloped, that too many waivers are being requested; and that the applicant will not follow through with binding elements. See recording for his detailed presentation.

04:03:33 He discussed binding element #14 regarding a crossover access easement involving the property to the east. He suggested a change to binding element #14, to read as follows:

The property owner shall provide a crossover access easement if the property to the east is ever re-developed for a non-residential use. A copy of the signed easement agreement shall be provided to Planning Commission staff upon request.

04:04:49 Mr. Ashburner asked why the above suggested binding element is not listed under binding element #8F?

04:05:48 In response to a question from Commissioner Jarboe, Mr. Ashburner said his concern about the property being "overbuilt" is related to the specific subject site, not the general area.

04:06:38 Commissioner Brown and Mr. Ashburner discussed some issues regarding the older development plan (2000 plan) that had a prohibition on access (see recording for detailed discussion.)

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04:07:21 Mr. Dock said binding element #14 was written and intended for a different property to the east, not the Thieneman property. Mr. Bardenwerper said the cross-access should apply to any adjoining properties.

Rebuttal:

04:08:07 Mr. Bardenwerper discussed the Thieneman property and said the applicant has offered to buy it; also, the applicant will be doing road public road improvements at his expense. He reiterated that, if anything is built on that property, they would have access through the center per binding element.

04:10:37 Commissioner Carlson and Mr. Dock discussed binding element #14 and how it should read. Mr. Bardenwerper agreed to the revised binding element. The agreed-upon binding element should read:

14. The property owner shall provide a crossover access easement if any adjacent property is ever re-developed for a non-residential use. A copy of the signed easement agreement shall be provided to Planning Commission staff upon request.

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.

04:11:57 Commissioners' Deliberation

Change in Zoning

04:14:24 On a motion by Commissioner Carlson, seconded by Commissioner Robinson, the following resolution based on the Cornerstone 2020 Checklist, the applicant's justification, and evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the intents of Guideline 1: Community Form because the proposal integrates into the pattern of development as nearby users are non-residential and the layout of the site is similar to these existing uses; landscape areas are being provided adjacent to the public road and throughout the site; the proposal integrates into a mixture of related uses with cross-connectivity being provided and the layout being similar to these existing uses; the proposal incorporates connected roads; the proposal encourages access to public

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transportation, and provides for pedestrians as walks from public ways for pedestrians and vehicular cross connectivity between the adjacent sites will be provided; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 3: Compatibility because the proposed building materials will be consistent with existing development; the proposal does not constitute a non-residential expansion into an existing residential area the site abuts non-residential zoning districts and a vacant parcel of residentially zoned property abutting the public right-of-way and the site; the proposed land use would not appear to generate any greater adverse impact from odor or emissions than found among for adjacent users; the location supports the potential traffic demand of the use as the site is located within a cluster of similar uses and within close proximity to an interstate which may reduce travel on other roadways; lighting will be in compliance with the LDC; the intensity of the proposed use is appropriately located with immediate access to an arterial level roadway and the interstate from a collector level road; uses abutting the site are not substantially different in scale and appropriate landscaping will be provided; the proposal is compatible with surrounding developments and provides for appropriate transitions between these similar uses with landscaping and common design; setbacks, lot dimensions and building heights are compatible with those of nearby developments that meet form district standards as all landscaping material will provided and setbacks are consistent with current abutting development; parking, loading, and delivery areas do not impact views from residential areas as they do not immediately abut or face residential properties; the proposal includes screening and buffering of parking and circulation areas adjacent to the street; no parking garages are proposed; and signs will be in conformance with Chapter 8 of the Land Development Code; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 4: Open Space because the proposal does not require the provision of open space; the proposal does not require the provision of open space and is located in the workplace form; and there do not appear to be any natural features of significance and landscaping will be provided adjacent to the Gene Snyder freeway; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 5: Natural Areas and Scenic and Historic Resources because there do not appear to be any natural features of significance and landscaping will be provided adjacent to the Gene Snyder freeway; the demolition of the structures could have an adverse effect on sites potentially eligible for the National Register. Guideline #5 under Community Form/Land Use (Table #3) in the Cornerstone 2020 Comprehensive Plan stresses the protection of historic resources. Historic Preservation staff recommends adaptive re-use of the structure instead of demolition; the structures are over 65 years, if determined eligible for the National Register as per Wrecking Ordinance Section 150.110 - there will be a required 30-day hold on the issuance of the permit; historic

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resource documentation should be provided to preserve a record of the community's past; and the proposed development site does not appear to contain wet or highly permeable soils, or other features of concerns; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 6: Economic Growth and Sustainability because the subject site is located in an area containing a mixtures of commercial, office, and industrial uses, and proposes the same; the subject site is not downtown and is not an industrial use; and the subject site is conveniently located within close proximity to Interstate-265, nearby industrial or employment centers, and along an intersection with a major arterial roadway; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 7: Circulation because the proposal will contribute its proportional share of the cost of roadway improvements and other services and public facilities made necessary by the development through physical improvements to these facilities, contribution of money, or other means; sidewalks and pedestrian connections, as well as increased pavement width will be provided; the proposal promotes mass transit, bicycle and pedestrian use and provides amenities to support these modes of transportation as pedestrian ways have been provided to connect with public walks; the proposal's transportation facilities are compatible with and support access to surrounding land uses, and contribute to the appropriate development of adjacent lands Cross-connectivity is provided and future cross connectivity will be provided to the East; 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; and the proposal provides for joint and cross access through the development and to connect to adjacent development sites as cross-connectivity is provided and future cross connectivity will be provided to the East; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 8: Transportation Facility Design because adequate stub streets are provided for future roadway connections that support and contribute to appropriate development of adjacent land as connectivity with "Old factory Lane" will be maintained and access to adjacent lands will be facilitated as needed; access to the subject site is through areas of similar intensity; and the development provides for an appropriate functional hierarchy of streets and appropriate linkages between activity areas in and adjacent to the development; and

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

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intensity as pedestrian ways and connections have been provided, bike parking is available, and the site is within proximity of TARC service; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 10: Flooding and Stormwater because the proposal's drainage plans have been approved by MSD; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 12: Air Quality because the proposal has been reviewed by APCD and found to not have a negative impact on air quality; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 13: Landscape Character because no natural corridors are present on site. Landscaping will be provided adjacent to the Gene Snyder Freeway; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 14: Infrastructure because utilities would appear to be available or will be provided as the site is in an area of existing development; the proposal has access to an adequate supply of potable water and water for fire- fighting purposes; and the proposal has adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 1 – Community Form because the subject property is located in the Suburban Workplace Form District and, although this may seem a bit of an oddity for this retail activity center interchange outside the Snyder Freeway at LaGrange Rd. at its intersection with Factory Lane and Chamberlain Lane, the Suburban Workplace Form District designation exists because of the Snyder Freeway and the large Eastpointe Business Center to the south; even though what is proposed is a retail center, there is no reason to change the form district designation because what exists works here and because furthermore other non-workplace uses are also located within this particular Suburban Workplace Form District within this retail activity center area outside the Snyder Freeway; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 2 – Centers because the application complies with the Intents and applicable Policies 1, 2, 3, 4, 5, 7, 8, 9, 10, 11, 12, 13, 14 and 15 of this Guideline because this site is within an existing activity center; it also exists along corridors where major support population exists; as an add-on to an existing small retail center, the two together are compact and will contain a mixture of acceptable/desirable retail and office uses, complimentary to what exists in the area; there is no other practical use of this property than what is proposed; the users in these two, essentially combined centers will share

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parking; utilities already exist for extension into this site; and they will also share points of access, such that traffic can better enter and exit utilizing both Lagrange Rd. and Factory Lane; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 3 – Compatibility because the application complies with the Intents and applicable Policies 1, 2, 5, 6, 7, 8, 9, 12, 20, 21, 22, 23, 24, 28 and 29 of this Guideline because the design of this small addition to the existing retail center will be compatible with that one and the larger one that exists across Factory Lane from this site because of its location at the Snyder Freeway interchange with LaGrange Rd.; issues of noise, odors and other nuisances are not a question at this high traffic interchange location; lighting will comply with Land Development Code (LDC) standards; accessibility and access will be in accordance with the law and specific Metro Public Works requirements; transitions, buffers, setbacks and landscaping will comply with LDC standards for, where appropriate, LDC waiver provisions; as said, parking will be shared, and loading and delivery will be appropriately located; signs will comply with the LDC; and much of this is evident on the Detailed District Development Plan (DDDP) and related Revised Detailed District Development Plan (RDDDP) accompanying this application; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 6 – Marketplace because the application complies with the Intents and applicable Policies 1, 2 and 6 of this Guideline because this location is essentially an infill activity center location where a large support population exists and thus, it represents a good opportunity for continued economic development for the area; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guidelines 7, 8, and 9 – Circulation, Transportation Facility Design and Bicycle, Pedestrian and Transit because the application complies with the Intents and applicable Policies 1, 2, 3, 9, 10, 11, 13, 14 and 15 of Guideline 7, Policies 5, 8, 9, 10 and 11 of Guideline 8 and Policies 1, 2, 3 and 4 of Guideline 9 because the DDDP and RDDDP accompanying this application provides for good access off Factory Lane and LaGrange Rd. to the proposed combined retail centers with good cross connections and internal circulation as well; parking will be shared; access at Factory Lane will be wide enough to satisfy Metro Public Works requirements; site distances for ingress and egress will be sufficient; bike racks will be provided in conformance with LDC requirements; sidewalks and other pedestrian accommodations will be made as necessary; TARC service is available along LaGrange Rd; and old Factory Lane will be improved as shown on the DDDP to comply with Metro Public Works design standards; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guidelines 10 and 11 – Flooding, Stormwater and Water Quality because the

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application complies with the Intents and applicable Policies 1, 3, 6, 7, 10 and 11 of Guideline 10 and Policies 1 and 5 of Guideline 11 because a detention basin is shown on the accompanying DDDP; other than that, all MSD regulatory requirements for stormwater and water quality will be satisfied on the construction plans following DDDP and RDDDP approvals; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 13 – Landscape Character because the application complies with the Intents and applicable Policies 1, 2, 4, 5 and 6 of this Guideline because all tree canopy and landscape regulatory requirements of the LDC will be complied with, except to the extent that certain waivers accompanying this approval are also granted because landscape buffers can be enhanced to mitigate same; and

WHEREAS, the Commission further finds that the proposal meets the intents of all other applicable Guidelines and Policies of the Cornerstone 2020 Comprehensive Plan; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the proposed Change-in-Zoning from R-4, Single-Family Residential to C-1, Commercial as described in the attached legal description, be **APPROVED**.

The vote was as follows:

YES: Commissioners Peterson, Robinson, Tomes, Daniels, Carlson, Lewis, Brown, Howard, and Jarboe.

NOT PRESENT: Commissioner Smith.

Street Closure – 18STREETS1013

04:15:31 On a motion by Commissioner Carlson, seconded by Commissioner Robinson, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that adequate public facilities are available to serve existing and future needs of the community. Easements will be provided prior to recording the street closure plat for each utility agency requesting the retention of their services within the area of the closure; and

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WHEREAS, the Commission further finds that easements will be provided prior to recording the street closure plat for each utility agency requesting the retention of their services within the area of the closure; and

WHEREAS, the Commission further finds that any cost associated with the rights-of-way to be closed will be the responsibility of the applicant or developer, including the cost of improvements to those rights-of-way and adjacent rights-of-way, or the relocation of utilities; and

WHEREAS, the Commission further finds that the request to close multiple rights-of-way is in compliance the Goals, Objectives and Plan Elements of the Comprehensive Plan as Guideline 7, Policy 1 provides that those who propose new developments bear or reasonably share in the costs of the public facilities and services made necessary by development; Guideline 7, Policy 6 strives to ensure that transportation facilities of new developments are compatible with and support access to surrounding land uses, and contribute to the appropriate development of adjacent lands; Guideline 7, Policy 9 provides that the Planning Commission or legislative body may require the developer to dedicate rights-of-way for street, transit corridors, bikeway and walkway facilities within or abutting the development as set forth in the Land Development Code and/or an adopted urban mobility plan; Guideline 8, Policy 8 states that adequate street stubs for future roadway connections that support access and contribute to appropriate development of adjacent lands should be provided by new development and redevelopment; and Guideline 14, Policy 7 provides that the design and location of utility easements provide access for maintenance and repair and to minimize negative visual impacts. The roadway is being repurposed to serve a private development in a similar fashion to its current purpose. Improvements will be made along sections of the roadway to remain open and access to developed lands and future development will be provided. Requested easements will be provided; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the proposed Street Closure be **APPROVED**.

The vote was as follows:

YES: Commissioners Peterson, Robinson, Tomes, Daniels, Carlson, Lewis, Brown, Howard, and Jarboe.

NOT PRESENT: Commissioner Smith.

Waivers

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1. Waiver of Land Development Code, section 5.8.1.B to not provide sidewalks along Old Factory Lane (un-named in LOJIC)
2. Waiver of Land Development Code, section 10.2.4 to allow encroachments for parking and maneuvering in 15' LBA (East property line)
3. Waiver of Land Development Code, section 10.2.12 to reduce 10' VUA LBA to 5'
4. Waiver of Land Development Code, section 10.3.7.A to allow encroachments for building and parking in 50' Gene Snyder Freeway buffer

04:16:29 On a motion by Commissioner Carlson, seconded by Commissioner Robinson, the following resolution, based on the Standard of Review and Staff Analysis, and the applicant's justification, and evidence and testimony heard today, was adopted:

(Waiver #1) WHEREAS, the Louisville Metro Planning Commission finds that the waiver will not adversely affect adjacent property owners as "Old Factory Lane" does not serve a significant public purpose in providing access to adjoining development or the subject site. Factory Lane is the primary roadway providing primary access to multiple sites and the development plan demonstrates pedestrian connectivity to this roadway from existing segments of public sidewalks having frontage along the development. Any future sidewalk construction would be most appropriate to occur on Factory Lane which does not directly adjoin the site; and

WHEREAS, the Commission further finds that the waiver will not violate specific guidelines of Cornerstone 2020. Guideline 7 calls for the proposal to include the dedication of rights-of-way for street, transit corridors, bikeway and walkway facilities within or abutting the development. It also calls for transportation facilities to be compatible with and support access to surrounding land uses, and contributes to the appropriate development of adjacent lands Guideline 9, Policy 1 calls for the provision of 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. The proposed waiver does not reduce pedestrian or transit connectivity as pedestrian ways are shown through the development and transit connectivity is provided nearest to the route along La Grange Road. The requirements for pedestrian connectivity are met through these connections. The site does not immediately adjoin Factory Lane where a sidewalk would be most appropriate; 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 "Old factory Lane" does not serve a significant public purpose in providing access to adjoining development or the subject site and the location where a future sidewalk is most needed does not immediate adjoin the development site; and

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WHEREAS, the Commission further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as "Old factory Lane" does not serve a significant public purpose in providing access to adjoining development or the subject site and pedestrian connections to meet the minimums of the district have been provided; and

WHEREAS, the Commission further finds that the waiver will not adversely affect adjacent property owners because internal sidewalks are mostly provided where practically important; and

WHEREAS, 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 application and in the findings of fact relating thereto; and

WHEREAS, the extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because not all of the sidewalks are being eliminated; and

WHEREAS, 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 constructing sidewalks where not shown on this plan add nothing of practical convenience or necessity; and

(Waiver #2) WHEREAS, the Commission further finds that the waiver will not adversely affect adjacent property owners as all required planting and screening material will be provided; and

WHEREAS, the Commission further finds that the waiver will not violate specific guidelines of Cornerstone 2020. Guideline 3, Policy 9 of Cornerstone 2020 calls for the protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigate when appropriate. Guideline 13, Policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. All required planting and screening material will be provided and the adjacent property is zoned for office-residential uses; and

WHEREAS, the Commission further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the encroachments are minimal and all required planting and screening material will be provided; 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

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encroachments are minimal and all required planting and screening material will be provided; and

WHEREAS, the Commission further finds that the waiver will not adversely affect adjacent property owners because the sites to the east and west adjoining this one next to the Snyder Freeway are related commercial and office sites; the encroachments are minimal and have no aesthetic or other negative impacts on anyone because of the nature of the adjoin uses; and the stairwell is needed for safety purposes; 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 application and in the findings of fact relating thereto; 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 most of the required setback and perimeter landscaping is still provided, and these encroachments allow this site to be productively developed in something other than an impractical manner; 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 otherwise have a very difficult time developing this property in a practical manner; and

(Waiver #3) WHEREAS, the Commission further finds that the waiver will not adversely affect adjacent property owners as there are no abutting properties that will be adversely affected and sufficient landscape spacing is provided between the parking areas and pavement; and

WHEREAS, the Commission further finds that the waiver will not violate specific guidelines of Cornerstone 2020. Guideline 3, Policy 9 of Cornerstone 2020 calls for the protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigate when appropriate. Guideline 13, Policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. There are no abutting properties that will be adversely affected and sufficient landscape spacing is provided between the parking areas and pavement. All planting material will be provided; 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 additional right-of-way has

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been requested and landscaped areas will still be provided, including all planting material; 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 additional right-of-way has been requested and landscaped areas will still be provided, including all planting material; and

WHEREAS, the Commission further finds that the waiver will not adversely affect adjacent property owners because enhanced landscaping can be provided both within the LBA and within the ROW along the old Factory Lane to mitigate any potential aesthetic impacts, which don't appear to exist here anyway because of the proposed improvements to this property; 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 application and in the findings of fact relating thereto; 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 most of the required setback and perimeter landscaping is still provided, and this encroachment allow this site to be productively developed in something other than an impractical manner; 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 otherwise have a very difficult time developing this property in a practical manner; and

(Waiver #4) WHEREAS, the Commission further finds that the waiver will not adversely affect adjacent property owners as the landscape buffer request does not impact abutting property owners and allows for consistent building setbacks along the interstate; and

WHEREAS, the Commission further finds that the waiver will not violate specific guidelines of Cornerstone 2020. Guideline 3, Policy 9 of Cornerstone 2020 calls for the protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigate when appropriate. Guideline 13, Policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. All required planting material and screening will be provided. The setback requested is consistent with existing development and the

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area of encroachment is located adjacent to instate ramp and not the primary drive lanes of the interstate. Detention/retention facilities are necessary to serve 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 as the request is a result of the proposed development and the shape and size of the existing lots. Further the encroachments are located along an exit ramp and the setback is consistent with existing development; 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 detention/retention facilities are necessary for storm water management, the shape and size of the lots limits full compliance for the proposed development, and the setback is consistent with existing development; and

WHEREAS, the Commission further finds that the waiver will not adversely affect adjacent property owners because the sites to the east and west adjoining this one next to the Snyder Freeway are related commercial and office sites; and other properties along the Snyder Freeway have been approved for development with waiver encroachments into the Snyder Freeway setback where added landscape screening can be provided; 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 application and in the findings of fact relating thereto; 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 about two-thirds of the required setback is still provided, as is enhanced and deeper buffer landscaping in some areas, and this encroachment allows this site to be productively developed in something other than an impractical manner; 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 otherwise have a very difficult time developing this property in a practical manner; now, therefore be it

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RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Waivers as follows:

1. **Waiver of Land Development Code, section 5.8.1.B** to not provide sidewalks along Old Factory Lane (un-named in LOJIC)
2. **Waiver of Land Development Code, section 10.2.4** to allow encroachments for parking and maneuvering in 15' LBA (East property line)
3. **Waiver of Land Development Code, section 10.2.12** to reduce 10' VUA LBA to 5 feet
4. **Waiver of Land Development Code, section 10.3.7.A** to allow encroachments for building and parking in 50' Gene Snyder Freeway buffer

The vote was as follows:

YES: Commissioners Peterson, Robinson, Tomes, Daniels, Carlson, Lewis, Brown, Howard, and Jarboe.

NOT PRESENT: Commissioner Smith.

Revised Detailed District Development Plan AND Detailed District Development Plan and Binding Elements

04:18:11 On a motion by Commissioner Carlson, seconded by Commissioner Robinson, the following resolution, based on the Standard of Review and Staff Analysis, and the applicant's justification, and evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the conservation of natural resources on the property proposed for development, including: trees and other living vegetation, steep slopes, water courses, flood plains, soils, air quality, scenic views, and historic sites will be provided. All landscape material required will be provided and adequate buffering has been established between uses. The subject site contains a structure that is potentially eligible for National Register. Documentation of this structure and a 30-day hold will be placed upon this structure prior to demolition; and

WHEREAS, the Commission further finds that provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community are provided as the proposal incorporates connected roads, encourages access to public transportation, and provides for pedestrians. Pedestrian ways and connections have been provided, bike parking is available, and the site is within proximity of TARC service. The Subject site is conveniently located within close proximity to Interstate-265,

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nearby industrial or employment centers, and near an intersection with a major arterial roadway; and

WHEREAS, the Commission further finds that the proposed development does not require the provision of open space. All landscape material is provided and adequate buffering has been demonstrated; and

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

WHEREAS, the Commission further finds that setbacks, lot dimensions and building heights are compatible with the existing and projected future development of the area as Landscape areas are being provided adjacent to the public road and throughout the site and setbacks are consistent with current abutting development; and

WHEREAS, the Commission further finds that the proposed development plan conforms to the Comprehensive Plan and all relief requested from the Land Development Code appears to be adequately justified. The proposal integrates into the existing pattern of development as nearby users are non-residential and the layout of the site is similar to these existing uses. Landscape areas are being provided adjacent to the public road and throughout the site. Setbacks, lot dimensions and building heights are compatible with those of nearby developments that meet form district standards. All landscaping material will be provided and setbacks are consistent with current abutting development. The proposal incorporates connected roads, encourages access to public transportation, and provides for pedestrians as pedestrian ways and connections have been provided, bike parking is available, and the site is within proximity of TARC service. The Subject site is also conveniently located within close proximity to Interstate-265, nearby industrial and employment centers, and near an intersection with a major arterial roadway; now, therefore be it

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

1. The development shall be in accordance with the approved district development plan and agreed upon binding elements unless amended pursuant to the Zoning District Regulations. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission for review and approval; any changes/additions/alterations not so referred shall not be valid.

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2. An Individual Historic Resource Survey Form shall be completed for any historic resources (structures over 65 years old) 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.
- 3.. Signs shall be in compliance with Ch. 8 of the Land Development Code.
4. No outdoor advertising signs, small free-standing signs, pennants, balloons, or banners shall be permitted on the site.
5. There shall be no outdoor storage sales, or display on the site.
6. Outdoor lighting shall be directed down and away from surrounding residential properties. Lighting fixtures shall have a 90 degree cutoff and height of the light standard shall be set so that no light source is visible off-site.
7. 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.
8. Before any permit (including but not limited to building, parking lot, change of use or alteration permit) is requested:
 - a. The development plan must receive full construction approval from Louisville Metro Department of Inspections, Permits and Licenses, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
 - c.. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Land Development Code, Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - d. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site

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disturbance.

- e. A minor plat or legal instrument creating the lots as shown on the approved district development plan shall be recorded. A copy of the recorded instrument shall be submitted to the Division of Planning and Development Services; transmittal of the approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
 - f. A reciprocal access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be created between the adjoining property owners and recorded. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
 - g. A road closure for a portion of "Old Factory Lane" as shown on the development plan shall be recorded prior to requesting a building permit. Easements will be provided prior to recording of the street closure for each utility agency requesting the retention of their services within the area of the closure
 - h. Building renderings for all new structures and additions shall be approved by Planning Commission staff
9. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
10. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system.
11. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.

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12. A soil erosion and sedimentation control plan shall be developed and implemented in accordance with the Metropolitan Sewer District and the USDA Natural Resources Conservation Service recommendations. A copy of said plan shall be provided to Planning and Design Services for incorporation into the record.
13. The materials and design of proposed structures shall be substantially the same as depicted in the renderings as presented at the November 2, 2000 & October 18, 2018 public hearings of the Planning Commission.
14. The property owner shall provide a crossover access easement if any adjacent property is ever re-developed for a non-residential use. A copy of the signed access easement agreement shall be provided to Planning Commission staff upon request.

The vote was as follows:

YES: Commissioners Peterson, Robinson, Tomes, Daniels, Carlson, Lewis, Brown, Howard, and Jarboe.

NOT PRESENT: Commissioner Smith.