PROPOSED FINDINGS OF FACT FOR VARIANCE
Walmart Supercenter – Newbridge Crossing Towne Center
14VARIANCE1025
Revised February 5, 2015

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WHEREAS, the Louisville Metro Board of Zoning Adjustment (the "Board") finds, based on the staff report, evidence and testimony presented at the public hearing, and the applicant's proposed findings of fact, that the requested variance of Section 5.2.5.C.3.a. of the Land Development Code to allow the building to exceed the 25-foot maximum setback along W. Broadway and Dixie Highway will not adversely affect the public health, safety or welfare because the former Phillip Morris building on the subject property was set back significantly more from W. Broadway and Dixie Highway than proposed Walmart building; the entire area where the Walmart is proposed was previously the parking lot for the Phillip Morris plant; the immediate area contains a variety of site designs, including those where the building is set back behind parking or surrounded by parking, and while there are some nearby properties with rear parking, they are the exception, not the rule, in the area;

WHEREAS, the Board further finds the proposed variance will not alter the essential character of the general vicinity because the surrounding area contains a mixture of uses and site designs following no predominant pattern; the subject property, being one of the largest open properties in the area, presents an opportunity to allow for retail development on a scale that is not otherwise available in the urban core of Louisville; and allowing the proposed development to be consistent with the layout of the former Philip Morris plant site will ensure that the character of the area is changed as little as possible while allowing for the redevelopment of the subject property;

WHEREAS, the variance will not cause a hazard or nuisance to the public because the proposed development is not directly surrounded by other buildings that are designed within the LDC's maximum setback requirement; the proposed site design also eliminates an access point on W. Broadway and accommodates the future realignment of the W. Broadway/Dixie Highway intersection, improving traffic safety in the area;

WHEREAS, the variance will not allow an unreasonable circumvention of the requirements of the Land Development Code because the Comprehensive Plan encourages flexible and creative site design along with a respect for the traditional pattern of development in the surrounding area in order to encourage reinvestment, rehabilitation and redevelopment in Traditional Workplaces; the proposed development represents a significant in the redevelopment and rehabilitation of an older and declining neighborhood in a manner that is consistent with the Traditional Workplace Form District; the proposed development is consistent with the historical development pattern on the subject property, and is compatible with development in the surrounding area, which does not follow a predominant pattern; the subject property is adequately served by public transportation, incorporates sidewalks and walkways throughout the proposed development, and bicycle parking will be provided in accordance with the Land Development Code requirements and, therefore, the proposed development accommodates all modes of transportation; and

the stormwater detention design is required to receive approval from MSD prior to construction of the proposed development, and an Erosion Prevention and Sediment Control Plan utilizing best management practices as recommended by MSD will be implemented prior to commencing construction of the development;

WHEREAS, the Board further finds the variance arises from special circumstances which do not generally apply to land in the general vicinity because the subject property is located in the Traditional Workplace Form District and, in order to encourage reinvestment, rehabilitation and redevelopment in Traditional Workplaces, the Comprehensive Plan encourages flexible and creative site design along with a respect for the traditional pattern of development in the surrounding area; the proposed development represents a significant investment in the redevelopment and rehabilitation of an older and declining neighborhood in a manner that is consistent with the Traditional Workplace Form District; there is an historic pattern of development on the subject property with the parking area in front of the building; putting any parking in front of the building will exceed the maximum setback in the Traditional Workplace Form District; an additional special circumstance is the size of the subject property, there being few opportunities inside the Watterson Expressway to construct a large retail outlet; such outlets require easy truck access and maneuvering on all sides of the proposed building; should the proposed variance be denied, then it is unlikely that a large retail outlet would be constructed on the site;

WHEREAS, the Board further finds the strict application of the maximum setback requirement would deprive the applicant of the reasonable use of the land and create an unnecessary hardship on the applicant because the subject property was previously developed in the pattern proposed; there are several properties in the area that do not meet the maximum setback requirements, and placing such a burden on the subject property would complicate and potentially prevent the redevelopment of the subject property for many years; requiring the building to be located within 25 feet of Dixie Highway and Broadway would not allow for adequate tractor-trailer maneuvering and delivery, and would create conflicts between delivery vehicles and customers; and if the building were shifted toward Dixie Highway, the throat length of the entrance drive would be shortened, causing vehicles exiting the site to stack in front of the building, increasing the potential of conflicts between vehicles and pedestrians;

WHEREAS, the Board further finds the circumstances are not the result of actions taken by the applicant subsequent to the adoption of the Land Development Code; the circumstances of the subject property's previous development pattern and those of surrounding properties existed for many years before the applicant decided to develop the subject property;

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