

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO PLANNING COMMISSION
September 7, 2017**

A meeting of the Louisville Metro Planning Commission was held on Thursday, September 7, 2017 at 1:00 p.m. at the Old Jail Building, located at 514 West Liberty Street, Louisville, Kentucky.

Commission members present:

Rich Carlson – Acting Chair
Jeff Brown
Emma Smith
Lula Howard
Ramona Lindsey
Laura Ferguson
Rob Peterson

Commission members absent:

Vince Jarboe – Chair
Marilyn Lewis – Vice Chair
David Tomes

Staff Members present:

Emily Liu, Director, Planning & Design Services
Joseph Reverman, Assistant Director, Planning & Design Services
Brian Davis, Planning & Design Manager
Laura Mattingly, AICP, Planner II
Joel Dock, Planner II
Tammy Markert, Transportation
John Carroll, Legal Counsel
James Carey, Legal Counsel
Chris Cestaro, Management Assistant (meeting)
Kristen Padron (minutes)

The following matters were considered:

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Approval of Minutes

Approval of the minutes of the August 29, 2017 Planning Commission public hearing

00:11:56 On a motion by Commissioner Howard, seconded by Commissioner Lindsey, the following resolution was adopted:

RESOLVED, that the Planning Commission does hereby **APPROVE** the minutes for the August 29, 2017 Planning Commission public hearing.

The vote was as follows:

YES: Commissioners Howard, Lindsey, Brown, and Peterson.

NO: No one

NOT PRESENT: Commissioners Jarboe, Lewis, and Tomes.

ABSTAIN: Commissioners Ferguson, Smith, and Carlson.

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Business Session

Private Institution CUP Fee

Request: Private Institution CUP Fee

Case Manager: Emily Liu, Director, Planning & Design Services

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

Agency Testimony:

00:13:43 Planning & Design Director Emily Liu presented the request to lower the fee for Conditional Use Permits and Appeals for Private Institutional Uses in a Single Family Zoning District. Since the text amendment to the Land Development Code for Private Institutional Uses was approved by Metro Council, there have been an increasing number of inquiries regarding this type of use. The fees are currently \$130 for pre-applications and \$1,000 for formal applications for new developments as well as expansions. This could place undue burden on applicants. Ms. Liu proposed that the Fee Schedule be amended so that the fee for Private Institutional Uses in a Single Family Zoning District is \$215. This will not have any negative impact on our budget or our revenue because this is a new use.

Deliberation:

00:17:17 Commissioners' deliberation

00:18:35 On a motion by Commissioner Peterson, seconded by Commissioner Howard, the following resolution was adopted:

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the requested change to the Louisville Metro Planning & Design Fee Schedule as presented today by Planning & Design Director Emily Liu.

The vote was as follows:

YES: Commissioners Brown, Howard, Smith, Carlson, Ferguson, Peterson, and Lindsey.

NO: No one

NOT PRESENT: Commissioners Jarboe, Lewis, and Tomes.

ABSTAIN: No one

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Public Hearing

Case No. 17DEVPLAN1140

Request:	RDDDP, amendment to binding element, and landscape plan
Project Name:	Primrose School
Location:	14801 Bush Farm Road
Owner:	Papa Oreo DS, LLC
Applicant:	Primrose School Franchising Co.
Representative:	Land Design & Development, Inc.
Jurisdiction:	Louisville Metro
Council District:	19 – Julie Denton

Case Manager: Joel Dock, Planner II

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

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

Agency Testimony:

00:19:54 Joel Dock presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.)

00:24:29 In response to Acting Chair Carlson, Mr. Dock stated that the Planning Commission approved a variance for the building to exceed the maximum setback on Bush Farm Road, which remains intact. Now that the building has moved closer to Bush Farm Road, there is a need for a variance to exceed the setback on Hamilton Springs Drive. This will go to the Board of Zoning Adjustment.

00:25:08 Commissioner Brown asked if the landscape plan addresses the concerns of Hamilton Springs residents. Mr. Dock stated that the PDS Staff Landscape Architect found the landscape plan to be in compliance with the binding elements.

The following spoke in favor of the request:

Kevin Young, 503 Washburn Avenue, Louisville, KY 40222

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Summary of testimony of those in favor of the request:

00:26:10 Kevin Young presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.)

00:32:43 In response to Commissioner Lindsey, Mr. Young stated that in years past, they would limit the maximum square footage in a binding element on the plan. But more recently, they have stopped adding the maximum square footage as a binding element on plans. The buildings in this development have changed slightly between the time they began with a preliminary plan and the time they completed the development plan, so the square footage needed to be changed.

00:33:44 Brian Davis and Mr. Dock stated that this was an oversight and that Staff is getting away from including this type of binding element on development plans.

The following spoke in opposition to the request:

Donna Cahill, 2505 Hamilton Springs Drive, Louisville, KY 40245

Summary of testimony of those in opposition to the request:

00:36:12 Donna Cahill, a homeowner in Hamilton Springs, asked for the case to be continued so that the homeowners and developers could have an opportunity to speak with Land Design & Development, Inc. regarding the fence. They are no longer working with their previous attorney and have not received any correspondence from LD&D. Ms. Cahill stated she would prefer a masonry wall to a wooden fence.

The following spoke neither for nor against:

No one spoke.

Rebuttal:

00:41:58 Mr. Young stated that they did reach out to the neighbors early on in the development process and showed them an example of the vinyl wall that they have used in other developments and discussed a wooden fence. He does not believe that there was ever a uniform agreement with the neighbors of what type of fence to construct. A masonry wall was never proposed. The fence will be maintained by Primrose School.

00:45:22 Commissioner Ferguson asked if the applicant would be willing to consider a continuance to allow the opposition an opportunity to review and discuss the landscape plan. Mr. Young stated that this was at the discretion of

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the Commission, but they would like to see action taken today because this has been going on for months.

00:45:50 Commissioner Lindsey pointed out that the trees and bushes that will be planted along the fence will act as sound barriers as they mature. Mr. Young provided details about the plantings that will be included in the landscape plan.

00:47:45 Ms. Cahill requested that a binding element be written to say that all landscaping must be planted at the same time, and she expressed concern that a wooden fence would look cheap compared to the rest of the neighborhood. Acting Chair Carlson stated that he understood, but a wooden fence was agreed upon at the last meeting. Ms. Cahill stated that it was not made clear to the audience at the last meeting that a wooden fence had been decided on and they were not given an opportunity to oppose this.

00:50:58 Mr. Young feels like they have come up with the best fencing possible for this project. He stated that he will make a commitment to put all the landscaping in at once.

00:52:26 The Commissioners discussed the grading plan.

00:53:14 In response to Commissioner Peterson regarding the communication with the opposition, Mr. Young stated that the applicant reached out to the opposition's attorney, not the clients themselves, which is his understanding of standard practices.

00:53:55 The Commissioners further discussed the fence materials and binding elements.

Deliberation:

01:00:07 Commissioners' deliberation

01:15:41 On a motion by Commissioner Peterson, seconded by Commissioner Howard, the following resolution was adopted:

Revised Detailed District Development Plan

WHEREAS, the Louisville Metro Planning Commission finds that there do not appear to be any natural resources or significant historic features on the site, and

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WHEREAS, the Commission further finds that provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community have been provided as shared access is being created to Bush Farm Road, sidewalks and pedestrians connections will be provided, and Metro Public Works has approved the preliminary development plan, and

WHEREAS, the Commission further finds that while there are no open space requirements for the proposal, the plan indicates outdoor recreation for students and undisturbed land beyond that which is required to meet the minimum landscape buffers along Hamilton Springs Drive, 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 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, based on the staff report and the evidence and testimony presented today, that all of the applicable guidelines of Cornerstone 2020 are being met; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the revised detailed district development plan for 12,300 square foot daycare center, **SUBJECT** to the following binding elements:

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

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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. 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.
 - c. A minor plat shall be recorded. 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.
5. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
6. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
7. The site shall be developed in strict compliance with the approved development plan (including all notes thereon). No further development shall occur on the site without prior review and approval by a committee of the Planning Commission.
8. An 8-foot tall wood wall shall be built along the top of the berm along the side of the property adjoining Hamilton Springs Drive and McKinley Ridge Drive and

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extending all the way to Bush Farm Road. The wall and landscape plans shall be submitted to Development Review Committee or Land Development & Transportation Committee for review and approval.

9. Enhanced perimeter landscaping beyond normal LDC requirements shall be planted on the side of the wall facing Hamilton Springs Drive and McKinley Ridge Drive.
10. Operating hours for any building, excluding the proposed daycare on Tract B, shall be limited to the hours between 7:00 a.m. and 10:00 p.m.
11. No deliveries, garbage collection, exterior site work or construction, or parking lot cleaning (except for ice or snow) shall occur between the hours of 9:00 p.m. and 7:00 a.m.
12. No changes to any binding elements in this case shall be made unless approved by the full Planning Commission after a public hearing.
13. Improvements on the proposed Tract B shall be restricted to one story.
14. The materials and design of proposed structures shall be substantially the same as depicted in renderings presented at the time of detailed district development plan approval for each parcel. The building materials (excluding glass for windows) for the exterior structures shall be predominantly (at least 75%) composed of brick, stone, stucco or wood.
15. All exterior lighting, whether freestanding or attached, including accent lighting, shall be fully shielded, shall utilize flat or hidden lenses, and shall be pointed directly to the ground. Pole lighting for the parking areas on the proposed C-N lots shall be limited to 12 feet in height from ground level.

The vote was as follows:

YES: Commissioners Brown, Howard, Smith, Carlson, Ferguson, Peterson, and Lindsey.

NO: No one

NOT PRESENT: Commissioners Jarboe, Lewis, and Tomes.

ABSTAIN: No one

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Amendment to Binding Elements

01:16:48 On a motion by Commissioner Peterson, seconded by Commissioner Howard, the following resolution was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that there do not appear to be any natural resources or significant historic features on the site, and

WHEREAS, the Commission further finds that provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community have been provided as shared access is being created to Bush Farm Road, sidewalks and pedestrians connections will be provided, and Metro Public Works has approved the preliminary development plan, and

WHEREAS, the Commission further finds that while there are no open space requirements for the proposal, the plan indicates outdoor recreation for students and undisturbed land beyond that which is required to meet the minimum landscape buffers along Hamilton Springs Drive, 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 the overall site design and land uses are compatible with the existing and future development of the area. The deletion of this binding element allows for deviations from the maximum square footage indicated in the binding element without full review by the Planning Commission. This is consistent with review and approval of nearby Plan Certain development and with the policies and procedures of the Land Development Code and the Planning Commission, with the exception that staff level approval will still be prohibited in accordance with binding element #8, 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. The deletion of this binding element will not allow for a circumvention of any zoning regulation or policy, and will require compliance and review in accordance with approved policies against the Land Development Code upon future revisions to the sites as shown on the district development plan, and

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WHEREAS, the Commission further finds that, based on the staff report and the evidence and testimony presented today, that all of the applicable guidelines of Cornerstone 2020 and the Land Development Code are being met; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the amendment to the binding elements of the district development plan to eliminate binding element #2 related to maximum square footage.

The vote was as follows:

YES: Commissioners Brown, Howard, Smith, Carlson, Ferguson, Peterson, and Lindsey.

NO: No one

NOT PRESENT: Commissioners Jarboe, Lewis, and Tomes.

ABSTAIN: No one

Landscape Plan

01:17:37 On a motion by Commissioner Peterson, seconded by Commissioner Howard, the following resolution was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that, based on the staff report and the evidence and testimony presented today, that all of the applicable guidelines of Cornerstone 2020 and the Land Development Code are being met; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the landscape plan and wall per the binding elements.

The vote was as follows:

YES: Commissioners Brown, Howard, Smith, Carlson, Ferguson, Peterson, and Lindsey.

NO: No one

NOT PRESENT: Commissioners Jarboe, Lewis, and Tomes.

ABSTAIN: No one

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Case No. 16ZONE1059

Request:	Change in zoning from R-7 to C-2 and a Detailed District Development Plan with Waivers
Project Name:	Eta Omega Chapter of AKA
Location:	1049 Dixie Highway
Owner:	Hortense B. Perry Foundation
Applicant:	Christie McCravy, Hortense B. Perry Foundation, AKA Eta Omega Chapter
Representative:	Mohammad Nouri – Concepts 21
Jurisdiction:	Louisville Metro
Council District:	6 – David James

Case Manager: Laura Mattingly, AICP, Planner II

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

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

Agency Testimony:

01:19:44 Laura Mattingly presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.)

The following spoke in favor of the request:

Mohammad Nouri, 1119 Rostrevor Cir, Louisville, KY 40205
Dr. Mary Stoddard, 1002 Springside Way, Louisville, KY 40223
Christie McCravy, 2902 Wade Lee Court, Louisville, KY 40216
Pastor Tamicka Copridge, 1042 Dixie Highway, Louisville, KY 40210
Darnell Farris, 3104 Teal Avenue, Louisville, KY 40213

Summary of testimony of those in favor of the request:

01:31:16 Mohammad Nouri spoke on behalf of the design team and stated that he was available to answer any questions. He introduced the next speaker, Dr. Mary Stoddard.

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01:32:19 Dr. Mary Stoddard spoke on behalf of the Eta Omega Chapter of the Alpha Kappa Alpha Sorority. The Alpha Kappa Alpha Sorority is the oldest historically black organization that was designed to address the needs of the community and its membership. The Eta Omega Chapter of Louisville is 95 years old and has over 250 members of educated women. The Hortense B. Perry Foundation is designed to provide scholarships for students and has awarded over \$250,000 in scholarships to students in Louisville.

01:37:16 Christie McCravy also spoke regarding Eta Omega. Many of its members grew up in West Louisville and many of its programs and events take place here. This site was chosen because of its size and location within the community.

01:40:07 Mr. Nouri spoke again and showed a presentation. He provided more details about the site design and development plan.

01:47:30 Pastor Tamicka Copridge stated she is in support of the project as long as they stick to the vision that they currently have to help the community. She is the Pastor of the Dixie Highway House of Prayer which is located across the street from the subject property. She wants to ensure that what is developed at this address will be positive for the community, particularly in an area with such a high crime rate. She would like the AKA to have programs for young men as well. She would like to see something in writing that says that this property will not eventually be home to a liquor store or nightclub.

01:52:45 Mr. Nouri corrected a previous statement and said that the official transfer of property has been postponed until September 21, 2017.

01:53:43 Dr. Stoddard stated that the AKA does not deal with liquor sales. Their programs are designed to help the people of the community. She stated that the AKA does work in conjunction with organizations that have programs for young males in the community.

01:56:16 Darnell Farris stated that AKA wants to create a multipurpose structure that is inviting to the community, and he spoke in detail about the urban design aspect of the project.

02:00:21 Commissioner Lindsey asked about adding a binding element to restrict uses of this site. Dr. Stoddard responded and stated that the AKA would not be selling alcohol and would not have a problem adding a binding element like this, however, it is possible that the site would be used in the future for wedding receptions and other such events that would have alcohol on site. She

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noted a lack of affordable venues in the area for minorities to gather for baby showers, wedding receptions, etc. Commissioner Lindsey stated that a binding element could protect the community in case the property is sold in the future.

02:03:58 Ms. Mattingly spoke further about adding a binding element to restrict certain uses on the property.

The following spoke in opposition to the request:

No one spoke.

The following spoke neither for nor against:

No one spoke.

Deliberation:

02:07:20 Commissioners' deliberation

Zoning Change

02:16:05 On a motion by Commissioner Brown, seconded by Commissioner Howard, the following resolution was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that based on the staff report and the evidence and testimony presented today, that all of the applicable guidelines of Cornerstone 2020 and the Land Development Code are being met; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** that the Louisville Metro Council **APPROVE** the change in zoning from R-7 to C-2.

The vote was as follows:

YES: Commissioners Brown, Howard, Carlson, Ferguson, Peterson, and Lindsey.

NO: No one

NOT PRESENT: Commissioners Jarboe, Lewis, and Tomes.

ABSTAIN: No one

RECUSE: Commissioner Smith.

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Waivers

02:17:43 On a motion by Commissioner Brown, seconded by Commissioner Lindsey, the following resolution was adopted:

Waiver of Section 10.2.4 to not provide 5' vehicle use area landscape buffer along north property line

WHEREAS, the Louisville Metro Planning Commission finds that the waiver will not adversely affect adjacent property owners as a fence will be provided and the property to the north will be acquired for a future phase of the development, 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 parking areas adjacent to streets to be screened and buffered. The waiver will not violate Guideline 13, Landscape Character, which calls for the protection of roadways through standards for buffers, landscape treatment, lighting and signs. This waiver will not violate either of these guidelines, as there will be a fence in place and the majority of the encroachment is not directly adjacent to the single family residence, 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 all other Landscape Buffers have been met, 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 and would create an unnecessary hardship on the applicant as the site design would have to be changed in order to accommodate the required width of buffer yard, especially with the anticipation of future phases of the project, and

Waiver of Section 10.2.12 to provide Interior Landscape Areas less than 290 square feet in area

WHEREAS, the Louisville Metro Planning Commission finds that the waiver will not adversely affect adjacent property owners as the total interior landscape requirement will still be met, meeting the intent of the requirement, and

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WHEREAS, the Commission further finds that Guideline 13, Policy 5 calls for standards to ensure the creation and/or preservation of tree canopy as a valuable community resource. The purpose of interior landscape areas is to break up large impervious areas and allow for a greater distribution of tree canopy coverage. This policy is not violated, as the total Interior Landscape Area requirement is met and the proposal still includes ILAs that break up the impervious surface and meet the intent of the requirement, 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 total square footage requirement is met and increasing the square footage to 290 for each would require design changes to the parking layout and a possible decrease in the needed parking, 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 and would create an unnecessary hardship on the applicant as meeting the 290 square foot requirement would require the parking layout to be changed substantially in light of the future phases of the project, and

Waiver of Section 5.5.1.A.3.b to not provide alley access from Salem Avenue

WHEREAS, the Louisville Metro Planning Commission finds that the waiver will not adversely affect adjacent property owners as adequate access is provided that will not cause an increase in traffic through a lower intensity area, and

WHEREAS, the Commission further finds that Guideline 8, Policy 9 encourages avoiding access to development through areas of significantly lower intensity or density if such access would create a significant nuisance. Guideline 8, Policy 11 states that the development provides for an appropriate functional hierarchy of streets and appropriate linkages between activity areas in and adjacent to the development site. These guidelines are not violated as providing access from the alley would encourage traffic that may cause a nuisance to single family residences on the east side of the alley and all appropriate linkages between the site and adjacent areas are 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 adequate access is provided from West St. Catherine Street, and

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WHEREAS, the Commission further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant as providing alley access would increase security concerns for the project and affect parking design, and

WHEREAS, the Louisville Metro Planning Commission finds that based on the staff report and the evidence and testimony presented today, that all of the applicable guidelines of Cornerstone 2020 and the Land Development Code are being met; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the three waivers as referenced above.

The vote was as follows:

YES: Commissioners Brown, Howard, Carlson, Ferguson, Peterson, and Lindsey.

NO: No one

NOT PRESENT: Commissioners Jarboe, Lewis, and Tomes.

ABSTAIN: No one

RECUSE: Commissioner Smith.

Detailed District Development Plan

02:18:37 On a motion by Commissioner Brown, seconded by Commissioner Howard, the following resolution was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that while existing trees will be removed with this development, the proposal meets the tree canopy requirement, and

WHEREAS, the Commission further finds that provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community have been provided through the proposed improved vehicular access and right of way dedication. Transportation has given their preliminary approvals, and

WHEREAS, the Commission further finds that this development does not have an open space requirement but will be providing landscaping improvements that will increase the scenic value of the site, and

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WHEREAS, the Commission further finds that the Metropolitan Sewer District has approved the preliminary development plan and will ensure the 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 this use is proposed along a major corridor that is comprised of a mix of uses. The building design, location of parking and land use provide an enhancement to the area, and

WHEREAS, the Commission further finds that this development generally conforms to the Land Development Code, with the exception of the requested waivers which appear to be adequately justified, and

WHEREAS, the Louisville Metro Planning Commission finds that based on the staff report and the evidence and testimony presented today, that all of the applicable guidelines of Cornerstone 2020 and the Land Development Code are being met; now, therefore be it

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

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.

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4. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration 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. A minor subdivision plat or legal instrument shall be recorded consolidating and creating the lot lines as shown on the development plan. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services prior to issuance of a building permit.
 - d. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
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 audible beyond the property line between the hours of 11 pm and 9 am.
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.

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8. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the September 7, 2017 Planning Commission meeting.
9. The following uses would be prohibited on the subject site:
- Bars
 - Dancehalls
 - Micro-breweries
 - Micro-distilleries
 - Package liquor stores
 - Saloons
 - Taverns

The vote was as follows:

YES: Commissioners Brown, Howard, Carlson, Ferguson, Peterson, and Lindsey.

NO: No one

NOT PRESENT: Commissioners Jarboe, Lewis, and Tomes.

ABSTAIN: No one

RECUSE: Commissioner Smith.

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Public Hearing

Case No. 17ZONE1007

Request:	Change in zoning from C-1 Commercial to C-2 Commercial
Project Name:	JPAT Investments
Location:	4213 Bardstown Road
Owner:	Convenience Stores Leasing & Management
Applicant:	JPAT Investments
Representative:	AL Engineering Inc.
Jurisdiction:	Louisville Metro
Council District:	10 – Pat Mulvihill

Case Manager: Laura Mattingly, AICP, Planner II

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

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

Agency Testimony:

02:21:43 Laura Mattingly presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.)

The following spoke in favor of the request:

Alex Rosenberg, 13000 Middletown Industrial Blvd., Louisville, KY 40223

Summary of testimony of those in favor of the request:

02:26:49 Alex Rosenberg spoke on behalf of the applicant. They feel this is an appropriate reuse of the existing facility, and the developer has agreed to make some improvements to the roadway frontage on both sides, some of which are not required. The owner is not affiliated with another dealership.

The following spoke in opposition to the request:

No one spoke.

The following spoke neither for nor against:

No one spoke.

Deliberation:

02:28:45 Commissioners' deliberation

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Zoning Change

02:32:05 On a motion by Commissioner Brown, seconded by Commissioner Lindsey, the following resolution was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that, based on the staff report and the evidence and testimony presented today, that all of the applicable guidelines of Cornerstone 2020 and the Land Development Code are being met; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** that the Louisville Metro Council **APPROVE** the change in zoning from C-1 to C-2.

The vote was as follows:

YES: Commissioners Brown, Howard, Carlson, Ferguson, Peterson, Smith, and Lindsey.

NO: No one

NOT PRESENT: Commissioners Jarboe, Lewis, and Tomes.

ABSTAIN: No one

Detailed District Development Plan

02:33:07 On a motion by Commissioner Brown, seconded by Commissioner Smith, the following resolution was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that this site has been previously developed and is almost entirely paved. The proposed streetscape improvements will add trees and vegetation to the site along Bardstown Road and Buechel Terrace Road, and

WHEREAS, the Commission further finds that provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community have been provided through the proposed improved vehicular access. Transportation has given their preliminary approvals, and

WHEREAS, the Commission further finds that this development does not have any open space or amenity area requirements, and

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WHEREAS, the Commission further finds that the Metropolitan Sewer District has approved the preliminary development plan and will ensure the 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 this use is proposed along a commercial corridor that is comprised of a mix of commercial uses similar to auto sales. The addition of trees along the street frontage will improve site aesthetics and overall compatibility, and

WHEREAS, the Commission further finds that this development conforms to the Land Development Code and the Comprehensive Plan and meets the intent of the Suburban Marketplace Form District, and

WHEREAS, the Commission further finds that, based on the staff report, the applicant's justification statement and the evidence and testimony presented today, that all of the applicable guidelines of Cornerstone 2020 and the Land Development Code are being met; now, therefore be it

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

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.

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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 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.

The vote was as follows:

YES: Commissioners Brown, Howard, Carlson, Ferguson, Peterson, Smith, and Lindsey.

NO: No one

NOT PRESENT: Commissioners Jarboe, Lewis, and Tomes.

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ABSTAIN: No one

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Case No. 17ZONE1013

Request:	Change in zoning from PRO - Planned Research Office to PEC – Planned Employment Center, with Waivers
Project Name:	FW Owens Company, LLC
Location:	4011 Shepherdsville Road
Owner:	The Williams Group, LLC
Applicant:	FW Owens Company LLC
Representative:	William Bardenwerper – Bardenwerper Talbott & Roberts PLLC
Jurisdiction:	Louisville Metro
Council District:	10 – Pat Mulvihill

Case Manager: **Laura Mattingly, AICP, Planner II**

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

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

Agency Testimony:

02:34:37 Laura Mattingly presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.)

The following spoke in favor of the request:

John Talbott, 1000 N Hurstbourne Parkway, Louisville, KY 40223
David Garber, 2249 Commerce Parkway, La Grange, KY 40031

Summary of testimony of those in favor of the request:

02:40:55 John Talbott spoke on behalf of the applicant and showed a presentation. F.W. Owens is a Louisville-based company that has been in business for 80 years. It is now owned by Mark Heckman. He discussed the details of the project.

02:53:00 David Garber offered to answer any questions about drainage. Commissioner Brown commented that all parking spaces designated on the plan

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would need to be on a hard, durable surface. Mr. Garber stated that they would use blacktop or concrete for parking.

02:55:43 Acting Chair Carlson suggested the addition of stone columns or some other detailing in place of actual window openings along the Shepherdsville Road side. Mr. Talbott stated that cost was one consideration for the waiver request, and that the structure will be far more aesthetically pleasing than other warehouses in this area. Mr. Garber stated that they were looking into options for different color schemes and "faux windows."

The following spoke in opposition to the request:

No one spoke.

The following spoke neither for nor against:

No one spoke.

Deliberation:

03:00:10 Commissioners' deliberation

Zoning Change

03:12:00 On a motion by Commissioner Brown, seconded by Commissioner Lindsey, the following resolution was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the request meets the intents of **GUIDELINE 1: COMMUNITY FORM**. The application complies with the Suburban Workplace Form District which is a form characterized by predominately industrial and office uses where the buildings are set back from the street in a landscaped setting; this application and the Detailed District Development Plan (DDDP) accompanying this application demonstrate compliance with the Suburban Workplace Form District given how the site will be utilized and will satisfy the Land Development Code (LDC) requirements of the PEC zoning and the Suburban Workplace Form District requirements, and

WHEREAS, the Commission further finds that the request meets the intents of **GUIDELINE 2: ACTIVITY CENTERS**. The application complies with the applicable Intents and Policies 1, 2, 4, 5, 14, 15 and 16 of this Guideline because the Intents and applicable Policies of this Guideline seem to pertain more to commercial and mixed uses, the concepts of planned, efficient and compact development along or near transit routes all pertain to this site and area; it matters not so much what the specific zoning is for a given property in this area

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as matters the relationship of uses on properties and their proximities to uses of similar and compatible kinds; and the application complies with this Guideline because of the fact that, as stated above, this and all of the nearby properties are similarly intense workplaces dependent upon good transportation systems for the kinds of truck traffic that utilize them and employees that generally work during the peak traffic hours, and

WHEREAS, the Commission further finds that the request meets the intents of **GUIDELINE 3: COMPATIBILITY**. The application complies with the applicable Intents and Policies 1, 2, 5, 6, 7, 8, 9, 12, 17, 21, 22, 23, 24, and 29 of this Guideline because the Intents and applicable Policies all pertain to the issues of impact mitigation; sometimes this can be through building design and materials; given that the adjoining and nearby properties as referenced above encompass a wide variety of relatively intense industrial, commercial and office users, the land and building design for this site is, compatible with all these others; as a contractor's shop, its main impact will be occasional, not continuous, traffic in and out of the site; and apart from that it should not have any negative odor, noise, lighting or visual impacts on nearby like kind users, and

WHEREAS, the Commission further finds that the request meets the intents of **GUIDELINE 6: ECONOMIC GROWTH AND SUSTAINABILITY**. The application complies with the applicable Intents and Policies 1, 2, 4, 6, 8, 10 and 11 of this Guideline because the Intents and applicable Policies of this Guideline all pertain to the issues of assuring availability of adequate usable land for such uses as these, to reduce public and private costs for land development, to preserve workplaces, to provide for appropriate access, to invest in developing and redeveloping industrial areas, to locate industries where other industries already exist and in the activity centers in and around those industrial areas, to assure that transportation is adequate in and out of industrial areas and properties such as this, and to continue to redevelop and adaptively reuse vacant properties like this, and

WHEREAS, the Commission further finds that this property is available to accommodate an essential use to a community that needs contractors to continue to build and develop in order to grow; and the applicant plans to redevelop and utilize this property in a manner compatible with adjoining and surrounding uses, and

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WHEREAS, the Commission further finds that the request meets the intents of **GUIDELINES 7, 8 and 9: CIRCULATION, TRANSPORTATION FACILITIES AND ALTERNATIVE TRANSPORTATION MODES**. The application complies with the applicable Intents and Policies 1, 2, 3, 4, 10, 11, 12 and 15 of Guideline 7, Policies 5, 7, 9, 10, and 11 of Guideline 8, and Policies 1, 2, 3 and 4 of Guideline 9 of these Guidelines because this application will comply with the multiplicity of issues that are typically reviewed by Metro Transportation Planning and Public Works in connection with those agencies' reviews of DDDPs such as the one submitted with this application; in that regard, Garber-Chilton Engineers, a professional land planning and engineering firm that has worked on this DDDP, has already taken into account in its design such issues as appropriate access, internal circulation, adequate parking, adequacy of street access, appropriate site distances and even whether sidewalks and bicycles need to be provided/accommodated; all of these things have been addressed on the DDDP accompanying this application, which has received the preliminary stamp of approval, prior to docketing for Planning Commission consideration, and

WHEREAS, the Commission further finds that the request meets the intents of **GUIDELINES 10 & 11: FLOODING, STORMWATER AND WATER QUALITY**. The application complies with the applicable Intents and Policies 1, 3, 6, 7, 10 and 11 of Guideline 10 and Policies 3 and 5 of Guideline 11 of these Guidelines because the Intents and applicable Policies of these Guidelines raise issues that are already regulated by MSD; it received the preliminary stamp of approval from MSD demonstrating compliance with all of these Policies; that is to say that storm water will be accommodated at the nearby regional detention basin; further, at construction stage, work done on this property must be performed in compliance with the soil erosion and sediment control regulations of MSD; and provisions for water quality must also be addressed on construction plans, pursuant to MSD regulations, and

WHEREAS, the Commission further finds that the request meets the intents of **GUIDELINE 12: AIR QUALITY**. The application complies with the applicable Intents and Policies 1, 2, 3, 4, 6, 8 and 9 of this Guideline because this is a Suburban Workplace Form District to and from which employees and truck traffic already commute for employment and business purposes and because nearby road systems are adequate to accommodate all of this traffic, this proposal has a positive impact on air quality by not increasing vehicle miles traveled or further congesting already congested roads, and

WHEREAS, the Commission further finds that the request meets the intents of **GUIDELINE 13: LANDSCAPE CHARACTER**. The application complies with the applicable Intents and Policies 1, 2, 4, and 6 of this Guideline because the

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landscape plan discussed at LD&T and at the Public Hearing and eventually to be filed post DDDP approval, will comply with the LDC subject to the waivers requested, and

WHEREAS, the Commission further finds that the request meets the intents of **GUIDELINES 14 & 15: INFRASTRUCTURE AND COMMUNITY FACILITIES**. The application complies with the applicable Intents and Policies 2, 3, 4, 6 and 7 of Guideline 14 and Policies 3, 4, and 9 of Guideline 15 of these Guidelines because adequate water supply, sewage treatment, other utility services and public services are available to serve this site, and

WHEREAS, the Commission further finds that, based on the staff report, the applicant's findings of fact, and the evidence and testimony presented today, that all of the applicable guidelines of Cornerstone 2020 and the Land Development Code are being met; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** that the Louisville Metro Council **APPROVE** the change in zoning from PRO, Planned Research Office to PEC, Planned Employment Center.

The vote was as follows:

YES: Commissioners Brown, Howard, Carlson, Ferguson, Peterson, Smith, and Lindsey.

NO: No one

NOT PRESENT: Commissioners Jarboe, Lewis, and Tomes.

ABSTAIN: No one

Waivers

03:12:48 On a motion by Commissioner Brown, seconded by Commissioner Lindsey, the following resolution was adopted:

Waiver of Sections 5.5.2.A.1 and 5.6.1.B.1 to omit the requirement to provide animating features on the building façade along Shepherdsville Road

WHEREAS, the Louisville Metro Planning Commission finds that the requested waiver will not adversely affect adjacent property owners as the street view will

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be enhanced with landscaping that will mitigate for the lack of animating features along the façade, and

WHEREAS, the Commission further finds that Guideline 3, Policies 1 and 2 call for the compatibility of all new development and redevelopment with the scale and site design of nearby existing development and with the pattern of development within the form district. The type of building materials may be considered as a mitigation measure and may also be considered in circumstances specified in the Land Development Code. When assessing compatibility, it is appropriate to consider the choice of building materials in the following circumstances: (1) projects involving residential infill; (2) projects involving non-residential uses; and (3) when specified in the Land Development Code. The proposal is for a non-residential use. The Land Development Code provides building design standards for non-residential and mixed use buildings. The purpose of the regulation is to provide visual interest and a human scale that are representative of the form district through the use of windows, columns, pilasters, piers, variation of material, entrances, storefront windows, and other animating features along no less than 60% of the façade. These guidelines are not violated, as the building materials are compatible with surrounding development, the building is setback off of Shepherdsville Road, and landscaping is being used to enhance the development's frontage, 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 new building is setback farther than the existing building, the materials are consistent with the existing building and new landscaping will mitigate for the lack of animating features, 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 animating features to this extent are impractical for this development, and

WHEREAS, the Commission further finds that, based on the staff report and the evidence and testimony presented today, that all of the applicable guidelines of Cornerstone 2020 and the Land Development Code are being met; now, therefore be it

Waiver of Section 10.2.12 to provide Interior Landscape Areas less than 290 square feet in area

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WHEREAS, the Commission further finds that the waiver will not adversely affect adjacent property owners as the total interior landscape requirement will still be met, meeting the intent of the requirement, and

WHEREAS, the Commission further finds that Guideline 13, Policy 5 calls for standards to ensure the creation and/or preservation of tree canopy as a valuable community resource. The purpose of interior landscape areas is to break up large impervious areas and allow for a greater distribution of tree canopy coverage. This policy is not violated, as the total Interior Landscape Area requirement is met and the proposal still includes ILAs that break up the impervious surface and meet the intent of the requirement, 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 total square footage requirement is met and increasing the square footage to 290 for each would require design changes to the parking layout and a possible decrease in the needed parking, 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 and would create an unnecessary hardship on the applicant as meeting the 290 square foot requirement would require the parking layout to be changed that would require significant site design changes and possible loss of needed parking, and

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the waivers as referenced above.

The vote was as follows:

YES: Commissioners Brown, Howard, Carlson, Ferguson, Peterson, Smith, and Lindsey.

NO: No one

NOT PRESENT: Commissioners Jarboe, Lewis, and Tomes.

ABSTAIN: No one

Detailed District Development Plan

03:14:00 On a motion by Commissioner Brown, seconded by Commissioner Lindsey, the following resolution was adopted:

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WHEREAS, the Louisville Metro Planning Commission finds that while the proposal will be removing some tree canopy, they are also preserving 6% of the total site area in tree canopy and planting additional trees to meet the 12% requirement, and

WHEREAS, the Commission further finds that provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community have been provided through the proposed improved vehicular access and right of way dedication. Transportation has given their preliminary approvals, and

WHEREAS, the Commission further finds that this proposal does not require open space or amenity area, 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 this use is proposed in an industrial area with a mix of similar office and industrial uses. Building materials and site design are similar to those in the area, and

WHEREAS, the Commission further finds that this development generally conforms to the Land Development Code, with the exception of the requested waivers which appear to be adequately justified, and

WHEREAS, the Commission further finds that, based on the staff report and the evidence and testimony presented today, that all of the applicable guidelines of Cornerstone 2020 and the Land Development Code are being met; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the detailed district development plan **ON CONDITION** that the plan will be revised to show that it meets the ILA requirements and all parking requirements, **SUBJECT** to the following binding elements:

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

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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 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. 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

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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.

7. No overnight idling or idling of trucks while loading or unloading equipment shall be permitted on-site.
8. Applicant shall submit a revised rendering of the proposed building to Staff that illustrates the mitigation of the waiver of animating features as discussed at the Planning Commission hearing held on September 7, 2017.

The vote was as follows:

YES: Commissioners Brown, Howard, Carlson, Ferguson, Peterson, Smith, and Lindsey.

NO: No one

NOT PRESENT: Commissioners Jarboe, Lewis, and Tomes.

ABSTAIN: No one

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STANDING COMMITTEE REPORTS

Land Development and Transportation Committee

No report given.

Legal Review Committee

No report given.

Planning Committee

No report given.

Policy and Procedures Committee

No report given

Site Inspection Committee

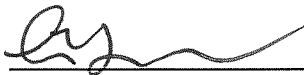
No report given.

ADJOURNMENT

The meeting adjourned at approximately 4:30 p.m.



Chairman



Division Director