

**MINUTES OF THE MEETING  
OF THE  
LOUISVILLE METRO PLANNING COMMISSION MEETING  
January 5, 2023**

A meeting of the Louisville Metro Planning Commission was held on Thursday, January 6, 2023 at the Old Jail Building, located at 514 West Liberty Street, Louisville KY 40202, and via Webex.

**Commissioners present:**

Marilyn Lewis, Chair  
Rich Carlson  
Suzanne Cheek (arrived at approximately 1:13 p.m.)  
Jeff Brown  
Jim Mims  
Lula Howard  
Michelle Pennix  
William Fischer (sworn in today)

**Commissioners absent:**

Patricia Clare  
Te'Andre Sistrunk

**Staff members present:**

Emily Liu, Director, Planning Design Services  
Brian Davis, Assistant Director, Planning & Design Services  
Julia Williams, Planning & Design Manager  
Dante St. Germain, Planner II  
Clara Schweiger, Planner I  
Jay Lockett, Planner II  
Laura Ferguson, Assistant County Attorney  
Chris Cestaro, Management Assistant

**Others Present:**

Beth Stuber, Metro Transportation Planning  
Mark Sites and Brian Selch, MSD

The following matters were considered:

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**Swearing-In of New Commissioner**

00:04:34      Commissioner William Fischer was sworn in.

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DRC Cases from the January 4, 2023 DRC meeting

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**APPROVAL OF MINUTES**

**Approval of the minutes of the December 14, 2022 Development Review Committee.**

00:06:36 On a motion by Commissioner Carlson, seconded by Commissioner Brown, the following resolution was adopted:

**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE** the minutes of the December 14, 2022 Development Review Committee meeting.

**The vote was as follows:**

**YES: Commissioners Pennix, Brown, and Carlson.**

**ABSTAIN: Commissioners Fischer, Mims, Howard, and Lewis.**

**ABSENT: Commissioners Sistrunk, Clare, and Cheek.**

**Approval of the minutes of the December 15, 2022 Planning Commission public hearing.**

00:07:40 On a motion by Commissioner Howard, seconded by Commissioner Mims, the following resolution was adopted:

**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE** the minutes of the December 15, 2022 Planning Commission public hearing.

**The vote was as follows:**

**YES: Commissioners Mims, Brown, Carlson, Howard, and Lewis.**

**ABSTAIN: Commissioner Fischer and Pennix.**

**ABSENT: Commissioners Sistrunk, Clare, and Cheek.**

**PLANNING COMMISSION MINUTES**  
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**PUBLIC HEARING**

**CASE NO. 22-DDP-0078**

Request: Revised Detailed District Development Plan with revisions to Binding Elements  
Project Name: Thieneman E Orell  
Location: 11905 Dixie Hwy  
Owner: 11905 Dixie Hwy LLC  
Applicant: 11905 Dixie Hwy LLC  
Representative: Land Design and Development  
Jurisdiction: Louisville Metro  
Council District: 14 - Cindi Fowler  
**Case Manager: Jay Lockett, AICP, Planner II**

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

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

**Agency Testimony:**

00:08:36 Jay Lockett presented the case, showed a Power Point presentation, and responded to questions from the Commissioners. He noted that this case was originally heard at the December 15, 2022 Planning Commission hearing, and was continued to this date to address questions about gates and fences. Those have now been shown on the plan (see staff report and recording for detailed presentation.)

He also discussed an additional proposed binding element not included in the staff report (would be binding element #17), to read as follows:

The hours of operation for the site shall be limited to 8am to 6pm. The gate on Dixie Hwy shall remain open during operating hours and the gates on site shall remain locked outside of normal operating hours. Security fencing around the site shall be kept in good repair and the site shall be secure at all times when no employees or property owners are on-site.

00:11:58 Commissioner Carlson asked that proposed binding element #16 should read as follows:

No trailers required by USDOT Regulations to display hazardous materials placards shall be parked on the subject site.

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Mr. Lockett said the applicant agreed verbally to this at the last hearing.

00:12:46 Mr. Lockett and the Commissioners discussed traffic turning into the site from Dixie Highway and how the gate would affect this. In response to a question from Commissioner Brown, Mr. Lockett and Beth Stuber, with Louisville Metro Transportation Planning, discussed the KYDOT's response to the gated access on Dixie Highway, which appears to be right on the right-of-way. Ms. Stuber said Metro Transportation had asked the applicant to move the gate inward, but the applicant did not want to. She said she thought a binding element had been proposed that should address some of this (see recording for detailed discussion.)

**The following spoke in support of the request:**

Ted Bernstein, Land Design & Development, 503 Washburn Avenue, Louisville, KY 40222

**Summary of testimony of those in support:**

00:16:58 Ted Bernstein, the applicant's representative, presented the applicant's case, showed a Power Point presentation, and responded to questions from the Commissioners (see recording for detailed presentation and discussion.)

00:19:40 In response to questions from Commissioners Carlson and Brown, Mr. Bernstein discussed the gates' locations (they are close to, but not in, the ROW.)

00:20:52 In response to questions from Commissioner Mims, Ms. Stuber said the Metro Transportation had requested that the gates be at least 20 feet from the property line. Mr. Bernstein said that would affect some of the parking spaces, but that the applicant is willing to work with Metro Transportation Planning to potentially relocate some areas of fencing, and the gates (see recording.)

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

No one spoke.

**Deliberations:**

00:22:57 Commissioners' deliberation.

**An audio/visual recording of the Planning Commission hearing related to this**

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**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.**

00:25:35 On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution, based on the Standard of Review and Staff Analysis, and evidence and testimony heard today and at the December 15, 2022 Planning Commission meeting, was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that there do not appear to be any environmental constraints or historic resources on the subject site; and

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

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

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

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

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

**RESOLVED**, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the requested Revised Detailed District Development plan with Revisions to Binding Elements be **APPROVED ON CONDITION** that the plan is updated to show the gated access from Dixie Highway is a minimum of 20 feet from the property line, and **SUBJECT** to the following binding elements:

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1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
3. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
4. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested:
  - a. The development plan must receive full construction approval from 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 Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
  - d. A minor plat or legal instrument shall be recorded consolidating the property into one lot. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of the approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
  - e. 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. Prior to any site disturbance permit being issued and prior to any clearing,



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grading or issuance of a site disturbance permit, a site inspection shall be conducted by PDS staff to ensure proper placement of required tree protection fencing in accordance with the approved Tree Preservation Plan.

6. 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.
7. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
8. 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.
9. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the November 2, 2017 Planning Commission hearing.
10. The subject property shall only be used for those uses allowed in the C-M zoning district that are otherwise allowed in the C-2 zoning district and for "Warehouse, storage, outdoor storage and sales of trailers" but for no other use permitted in the M-1 zoning district. Any amendment to this binding element shall require approval from the Louisville Metro Planning Commission and from the Louisville Metro Council.
11. There shall be no storage of coal ash/fly ash on the premises.
12. The sidewalks along E. Orell Rd. shall be extended to the Orell Rd. intersection.
13. Any change of use or change to the approved development plan shall require Metro Council review and approval.

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14. Trailer sales on the subject site shall be limited to medium duty utility trailers and recreational vehicle trailers as defined by the Land Development Code.
15. All trailers parked on the subject site shall be in an operable condition.
16. No trailers required by US Department of Transportation Regulations to display hazardous materials placards shall be parked on the subject site.
17. The hours of operation for the site shall be limited to 8am to 6pm. The gate on Dixie Hwy shall be a minimum of 20 feet from the property line, and shall remain open during operating hours and the gates on site shall remain locked outside of normal operating hours. Security fencing around the site shall be kept in good repair and the site shall be secure at all times when no employees or property owners are on-site.

**The vote was as follows:**

**YES: Commissioners Mims, Pennix, Brown, Cheek, Carlson, Howard, and Lewis.**

**ABSTAIN: Commissioner Fischer.**

**ABSENT: Commissioners Sistrunk and Clare.**

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**PUBLIC HEARING**

**CASE NO. 21-ZONE-0105**

Request: Change in zoning from C-1 to C-2, with Conditional Use Permit for outdoor storage, Detailed District Development Plan with Binding Elements, Variances and Waivers

Project Name: Second Nature Lawn Care

Location: 7411 St. Andrews Church Road

Owner: LNB Properties LLC

Applicant: LNB Properties LLC

Representative: Frost Brown Todd

Jurisdiction: Louisville Metro

Council District: 25 - Amy Holton Stewart

**Case Manager: Dante St. Germain, AICP, Planner II**

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

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

**Agency Testimony:**

00:27:48 Dante St. Germain presented the case, showed a Power Point presentation, and responded to questions from the Commissioners. Discussion included paving of the driveway, and striping parking spaces (see staff report and recording for detailed presentation.)

**The following spoke in support of the request:**

Tanner Nichols, Frost Brown Todd, 400 West Market, Louisville, KY 40207

Jeff Ruzanka, 7411 St. Andrews Church Road, Louisville, KY 40214

**Summary of testimony of those in support:**

00:37:08 Tanner Nichols, the applicant's representative, gave a brief history of the site and presented the applicant's case, which included a Power Point presentation (see recording for detailed presentation.)

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00:42:58 Commissioner Carlson and Mr. Nichols discussed what would be stored in the covered storage area (mulch and landscaping materials); concerns from neighbors about auto repair work, which is permitted in a C-2 zone; no power equipment will be operated between certain hours (wood chippers, etc.); Binding element #1 was discussed, which states that “The development shall be in accordance with the approved district development plan”. The development plan states that this is a lawn care business. Therefore, any other use besides a lawn care business would need to come back before the Planning Commission for review.

00:47:51 Commissioner Carlson and Mr. Nichols discussed whether the applicant is licensed to apply pesticides and fertilizers (he is); and whether those substances will be stored on-site. Brian Davis, Assistant Director of Louisville Metro Planning & Design Services, listed the threshold quantities needed to be considered a commercial storage facility. Commissioner Carlson expressed concern about having fertilizers and pesticides next to residential (see recording for detailed discussions.)

01:05:58 Ms. St. Germain discussed how hazardous materials and uses are defined and regulated in the Land Development Code (See recording for detailed discussion.)

01:09:49 Jeff Ruzanka, the applicant, said the pesticides and herbicides he uses are not flammable. He said that part of his license requirement is that the Kentucky Agriculture Department visits his location bi-annually to inspect and determine how he is storing the materials, how much he is storing, and disposal. See recording for detailed discussion.

01:13:37 Laura Ferguson, legal counsel for the Planning Commission, discussed her concerns about enforcement of a binding element related to this (see recording.)

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

No one spoke.

**Rebuttal**

01:17:30 Mr. Nichols delivered rebuttal (see recording.)

**Deliberations:**

01:18:05 Commissioners’ deliberation.

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

**Change in zoning from C-1 Commercial to C-2 Commercial**

01:21:48 On a motion by Commissioner Mims, seconded by Commissioner Howard, 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 the proposal meets Community Form: Goal 1 because the site is already zoned for commercial use and commercial uses are located nearby; the site is located on St. Andrews Church Road, a minor arterial at this location; the proposal is not for industrial zoning; the proposed zoning district would not permit hazardous uses. Uses with air, noise and light emissions will have to comply with LMCO and LDC restrictions; the proposed zoning district would not permit uses with noxious odors, particulates and emissions; the site is located on St. Andrews Church Road, a minor arterial at this location; the applicant will not utilize noise-generating equipment in the early hours. and the proposed zoning district would not permit industries that handle hazardous or flammable materials or are similar to junkyards, landfills or quarries; and

**WHEREAS**, the Commission further finds that the proposal meets Community Form: Goal 2 because the site is located near existing commercial uses and is near an existing activity center. The design and density are compatible with the desired form, adjacent uses, and existing and planned infrastructure; the site has appropriate access and connectivity. St. Andrews Church Road is a minor arterial at this location; the site is located near an existing activity center and other commercial uses are located nearby; the proposed zoning district would encourage more compact development pattern in an existing activity center; the proposed zoning district would permit a mixture of compatible land uses in an existing activity center; the proposal would permit mixed commercial and residential uses; the proposal would permit the use of an existing house as residential and an existing pole barn as commercial; the proposal does not include any underutilized parking lots; and the placement, design and scale of development is compatible with nearby residences; and

**WHEREAS**, the Commission further finds that the proposal meets Community Form: Goal 3 because no natural features are evident on the site; no wet or highly permeable soils, or severe, steep or unstable slopes are evident on the site; the site is not located in the Ohio River Corridor; and the site is not located in a flood-prone area; and

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**WHEREAS**, the Commission further finds that the proposal meets Community Form: Goal 4 because no historic assets are evident on the site; and no distinctive cultural features are evident on the site; and

**WHEREAS**, the Commission further finds that the proposal meets Mobility: Goal 1 because the site is located near an existing activity center; and

**WHEREAS**, the Commission further finds that the proposal meets Mobility: Goal 2 because access to the site is via St. Andrews Church Road, a minor arterial at this location; and

**WHEREAS**, the Commission further finds that the proposal meets Mobility: Goal 3 because the proposal would permit more regional- serving uses compared with the existing C-1 district; the site is easily accessible by car. It is not accessible by bicycle, transit, pedestrians or people with disabilities; the proposed zoning district would permit higher density mixed-use developments in an existing activity center; and Transportation Planning has approved the proposal; and

**WHEREAS**, the Commission further finds that the proposal meets Community Facilities: Goal 2 because the relevant utilities have approved the proposal; Louisville Water Company has approved the proposal; and MSD has approved the proposal; and

**WHEREAS**, the Commission further finds that the proposal meets Economic Development: Goal 1 because the proposal is not for industrial zoning; the site is located on a minor arterial road; the proposal is not for industrial zoning. The site is not located near the airport or the Ohio River; and the proposal is not for industrial zoning; and

**WHEREAS**, the Commission further finds that the proposal meets Livability: Goal 1 because no karst terrain is evident on the site; and the site is not located in the regulatory floodplain; and

**WHEREAS**, the Commission further finds that the proposal meets Housing: Goal 1 because the proposed zoning district would allow more regional-serving uses compared with the current C-1 zoning district, and

**WHEREAS**, the Commission further finds that the proposal meets Housing: Goal 2 because the proposal would permit inter-generational mixed-income and mixed-use development; and the proposal is not for housing; and

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**WHEREAS**, the Commission further finds that the proposal meets Housing: Goal 3 because no existing residents will be displaced by the proposal; and the proposed zoning district would permit innovative methods of housing; now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the requested Change in zoning from C-1 Commercial to C-2 Commercial on property described in the attached legal description be **APPROVED**.

**The vote was as follows:**

**YES: Commissioners Fischer, Mims, Pennix, Brown, Howard, Cheek, and Lewis.**

**NO: Commissioner Carlson.**

**ABSENT: Commissioners Sistrunk and Clare.**

**Conditional Use Permit for a contractor's yard with outdoor storage in the C-2 zoning district (4.2.51) (21-CUP-0131)**

01:23:14 On a motion by Commissioner Mims, seconded by Commissioner Howard, 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 the proposal meets all applicable policies of the Comprehensive Plan. The Comprehensive Plan requires adequate buffering and transitions between uses which are incompatible, and buffering will be provided on the site; and

**WHEREAS**, the Commission further finds that the proposal is compatible with surrounding land uses and the general character of the area, as the proposal is for outdoor storage in conjunction with a contractor's yard. The general character of the neighborhood is residential. The applicant will provide appropriate screening and buffering between the outdoor storage and the adjacent residential uses; and

**WHEREAS**, the Commission further finds that the subject property is served by existing public utilities and facilities. Transportation Planning and MSD have reviewed and approved the proposal; and

**WHEREAS**, the Commission further finds that:

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1. Does the proposal comply with the following specific standards required to obtain the conditional use permit requested?

**Storage Yard and Contractor's Yard may be allowed in the C-2, M-1 and C-M Districts upon the granting of a Conditional Use Permit and compliance with the listed requirements, except that a C.U.P. shall not be permitted within the Traditional Neighborhood and Traditional Marketplace Corridor Form Districts.**

- A. Outdoor storage areas prohibited within form district transition zone.

**STAFF: No form district transition zones are located on the site.**

- B. Stacked materials and equipment shall not exceed a height of five feet.

**STAFF: The applicant shall comply with this requirement.**

- C. Outdoor storage areas shall be screened from adjacent streets and properties.

**STAFF: The applicant proposes a solid 8' privacy fence to screen the outdoor storage.**

- D. Storage of combustible materials shall conform to the requirements of NFPA Pamphlet 30 (information on NFPA pamphlet 30 may be obtained from local fire department).

**STAFF: The applicant shall comply with this requirement.**

Now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Conditional Use Permit for a contractor's yard with outdoor storage in the C-2 zoning district (4.2.51) (21-CUP-0131), **SUBJECT** to the following Conditions of Approval:

**Condition of Approval:**

1. The storage of pesticides, herbicides and other items regulated by the Kentucky Department of Agriculture shall comply with the Kentucky Department of Agriculture requirements and that inspections be maintained on file.



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**The vote was as follows:**

**YES: Commissioners Fischer, Mims, Pennix, Cheek, Brown, Howard, Carlson, and Lewis.**

**ABSENT: Commissioners Sistrunk and Clare.**

**Variance from Table 5.3.2 to permit structures and VUA to encroach into the required side and rear yard setbacks (non-loading) (east property line required 30', requested 4.5', variance of 25.5') (south property line required 30', requested 0', variance of 30') (21-VARIANCE-0118)**

01:26:27 On a motion by Commissioner Mims, seconded by Commissioner Howard, 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 the requested variance will not adversely affect public health, safety or welfare as the necessary buffering and transitions will be provided; and

**WHEREAS**, the Commission further finds that the requested variance will not alter the essential character of the general vicinity as the structure encroaching into the eastern setback was already constructed as a storage unit for seasonal vehicles and already exists. The concrete pad already exists in the rear. The storage canopy will help to screen the concrete pad; and

**WHEREAS**, the Commission further finds that the requested variance will not cause a hazard or nuisance to the public as the affected structures will have to comply with all building codes, including fire codes; and

**WHEREAS**, the Commission further finds that the requested variance will not allow an unreasonable circumvention of zoning regulations as the necessary buffers and transitions will be provided; now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Variance from Table 5.3.2 to permit structures and VUA to encroach into the required side and rear yard setbacks (non-loading) (east property line required 30',

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requested 4.5', variance of 25.5') (south property line required 30', requested 0', variance of 30') (21-VARIANCE-0118).

**The vote was as follows:**

**YES: Commissioners Fischer, Mims, Pennix, Cheek, Brown, Howard, Carlson, and Lewis.**

**ABSENT: Commissioners Sistrunk and Clare.**

**Waiver from 10.2.4.B.1 to permit encroachment into the required property perimeter Landscape Buffer Area (LBA) on the east and south property lines, and to allow a drive aisle to encroach into the required LBA on the west property line and waive plantings along the west property line where the encroachment occurs (21-WAIVER-0111)**

01:27:34 On a motion by Commissioner Mims, seconded by Commissioner Howard, 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 the waiver would not adversely affect adjacent property owners, as landscape buffer areas will be provided between the non-residential use on the site and the residential uses on adjacent sites; and

**WHEREAS**, the Commission further finds that the waiver will not violate the Comprehensive Plan as the Comprehensive Plan encourages mitigation of impacts using buffers. Buffers can consist of screening, and should address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances. Buffers are now proposed to protect adjoining properties; 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. The pole barn on the site already exists and was originally proposed to be used to store seasonal vehicles; now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Waiver from 10.2.4.B.1 to permit encroachment into the required property

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perimeter Landscape Buffer Area (LBA) on the east and south property lines, and to allow a drive aisle to encroach into the required LBA on the west property line and waive plantings along the west property line where the encroachment occurs (21-WAIVER-0111).

**The vote was as follows:**

**YES: Commissioners Fischer, Mims, Pennix, Cheek, Brown, Howard, Carlson, and Lewis.**

**ABSENT: Commissioners Sistrunk and Clare.**

**Detailed District Development Plan with Binding Elements**

01:28:57 On a motion by Commissioner Mims, seconded by Commissioner Howard, 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 no natural resources appear to exist on the site. Tree canopy has already been removed. New tree canopy will be provided; and

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

**WHEREAS**, the Commission further finds that no open space requirements are pertinent to the request; and

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

**WHEREAS**, the Commission further finds that the overall site design is in compliance with existing and planned future development in the area. The proposal would permit a contractor's yard in a largely residential neighborhood. Appropriate buffers and transitions will be provided; and

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**WHEREAS** the Commission further finds that the development plan conforms to applicable requirements of the Land Development Code and Plan 2040; now, therefore be it

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

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

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be maintained thereafter. The plan shall include, at a minimum, the landscaping shown at the Planning Commission public hearing on January 5, 2023 and located in the case file as Exhibit 1.

- c. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
5. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
6. No idling of trucks shall take place within 200 feet of residential structures. No overnight idling of trucks shall be permitted on-site.
7. All outdoor storage must be screened from adjoining properties and from the right-of-way.
8. 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.
9. 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.
10. No power equipment that will cause a noise disturbance will be run between the hours of 10 p.m. and 6 a.m.

**The vote was as follows:**

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**YES: Commissioners Fischer, Mims, Pennix, Cheek, Brown, Howard, Carlson, and Lewis.**

**ABSENT: Commissioners Sistrunk and Clare.**

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**CASE NO. 22-ZONE-0150**

Request: Change in Zoning from R-6 to C-1 with a District Development Plan and a Waiver  
Project Name: 1008 E Washington Rezoning  
Location: 1008 E Washington St  
Owner: James Bowling  
Applicant: James Bowling  
Representative: Bardenwarper, Talbott and Roberts  
Jurisdiction: Louisville Metro  
Council District: 4 - Jecorey Arthur  
**Case Manager: Jay Luckett, AICP, Planner II**

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

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

**Agency Testimony:**

01:30:26 Jay Luckett presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.)

**The following spoke in support of the request:**

Christian Miller, Bardenwerper Talbott & Roberts PLLC, 1000 North Hurstbourne Parkway, Louisville, KY 40223

Kathy Linares and Kent Gootee, Mindel Scott & Associates, 5151 Jefferson Boulevard, Louisville, KY 40219

**Summary of testimony of those in support:**

01:32:53 Christian Miller, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.)

01:38:45 Kathy Lianres explained how the bicycle parking would work and not impact the greenspace (see recording.) After Mr. Miller concluded his portion of the presentation, Ms. Linares responded to questions from the Commissioners.

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

No one spoke.

**Deliberations:**

01:44:33 Commissioners' deliberation.

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

**Change in zoning from R-6 multifamily residential to C-1 Commercial**

01:45:16 On a motion by Commissioner Howard, seconded by Commissioner Cheek, 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 the proposal meets Community Form: Goal 1 because the proposal would not be a non-residential expansion into a residential area. There are a variety of non-residential uses and mixed use sites within the vicinity of the subject site; the site is adequately served by existing transportation networks and is within proximity to a variety of services, amenities and employment opportunities. Transit is available approximately 325 feet away at E Main Street; the proposed zoning would not permit industrial uses; the proposed zoning would permit a variety of commercial and residential uses. The site will be subject to all lighting and noise standards of the Land Development Code and the Louisville Metro Code of Ordinances; the proposed zoning would permit a variety of commercial and residential. Future site changes would be evaluated to ensure compatibility with nearby residential properties; the proposed change is unlikely to generate significant additional traffic impacts; the proposal does not appear to add any significant additional noise-generating uses. The site is subject to the metro noise ordinance. Outdoor alcohol sales permitted via a Conditional Use Permit per LDC 4.2.41 have limited hours to ensure compatibility with the surrounding neighborhood; and the proposed zoning would not permit industrial development or the storage or handling of hazardous materials; and



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**WHEREAS**, the Commission further finds that the proposal meets Community Form: Goal 2 because the site is located within a mixed-use area containing a variety of residential, commercial and industrial uses; appropriate access and connectivity exists to allow the development within the context of the Traditional Neighborhood form district; the proposed zoning would permit a variety of neighborhood serving uses in an area with adequate population to support them; the proposed zoning district will result in a compact development pattern and efficient land use that utilizes existing infrastructure; the proposed zoning district would allow a variety of land uses that encourage walkability and alternative modes of travel; the zoning district would allow for a wide variety of uses, including mixed residential and commercial uses; the development would allow a previously developed site to provide a mix of residential units and commercial uses. The renovation and reuse of the existing structure is in keeping with the Land Use policies found in the neighborhood plans for the area; the subject site is not an outlot on a larger commercial development; and the zoning district would allow for a wide variety of uses, including mixed residential and commercial uses. The proposal is in keeping with the scale and design of the Traditional Neighborhood form; and

**WHEREAS**, the Commission further finds that the proposal meets Community Form: Goal 3 because the site is previously developed and does not contain distinctive natural features; the site is previously developed and does not have potential hydric soils or erosion concerns; the subject site is not along the Ohio River; and the subject site is not in the flood plain; and

**WHEREAS**, the Commission further finds that the proposal meets Community Form: Goal 4 because the proposal includes preservation of the existing structure on the subject site, which is a contributing structure within the Butchertown National Register Historic District. Any changes to the exterior areas of the site shall require a Certificate of Appropriateness per the guidelines of the Butchertown Architectural Review Committee; and the proposal includes preservation of the existing structure on the subject site, which is a contributing structure within the Butchertown National Register Historic District; and

**WHEREAS**, the Commission further finds that the proposal meets Mobility: Goal 1 because the site is within a neighborhood scale mixed- use area and is well served by existing transportation networks. Transit is available approximately 325 feet to the south along E Main Street; and

**WHEREAS**, the Commission further finds that the proposal meets Mobility: Goal 2 because the site is served by existing public roadways and would not create additional access through areas of lower intensity; and

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**WHEREAS**, the Commission further finds that the proposal meets Mobility: Goal 3 because the proposed zoning would allow a mix of neighborhood serving uses that encourage walking and biking; the proposed zoning would allow a mix of neighborhood serving uses that encourage walking and biking. The proposed development would include a mix of residential dwelling and neighborhood scale commercial uses that encourage a reduction in vehicle miles traveled; the subject site is well served by existing transportation networks; and the applicant may need repair or improve sidewalks adjacent to the site as needed; and

**WHEREAS**, the Commission further finds that the proposal meets Community Facilities: Goal 2 because utility service will be coordinated; water service will be coordinated with Louisville Water Company; and sewer service will be coordinated with MSD; and

**WHEREAS**, the Commission further finds that the proposal meets Economic Development: Goal 1 because the proposed zoning would not permit industrial uses; the subject site is located on a local class road but is not anticipated to generate significant additional traffic. The site is approximately 325 feet from E Main Street, a Major Arterial. Future development would be evaluated for potential impact on adjacent roadways; the site is not near the river or the airport; and the proposed zoning would not permit industrial development; and

**WHEREAS**, the Commission further finds that the proposal meets Livability: Goal 1 because the site does not have potential for erosion or other environmental concerns; the subject site is not within the floodplain; and the proposed zoning would not allow for hazardous materials to be stored onsite; and

**WHEREAS**, the Commission further finds that the proposal meets Housing: Goal 1 because the proposed zoning district would allow for a variety of housing types and densities. The site is near a variety of services that support aging in place. The site is served by transit; and

**WHEREAS**, the Commission further finds that the proposal meets Housing: Goal 2 because the proposed zoning district would allow for a variety of housing types and densities. The site is near a variety of services that support mixed income households; and the subject site is within an established neighborhood scale mixed use area. The site is near a wide variety of services, amenities and employment opportunities; and

**WHEREAS**, the Commission further finds that the proposal meets Housing: Goal 3 because the proposed zoning district would bring the existing density of the site into compliance with the Land Development Code, which is currently nonconforming to the

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permitted 17.42 DU/Ac of the R-6 zoning district; and the proposed zoning allows for mixed uses and a variety of housing options that promotes the provisioning of fair and affordable housing; now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the requested change in zoning from R-6 multifamily residential to C-1 Commercial on property described in the attached legal description be **APPROVED**.

**The vote was as follows:**

**YES: Commissioners Fischer, Mims, Pennix, Brown, Cheek, Howard, Carlson, and Lewis.**

**ABSENT: Commissioners Sistrunk and Clare.**

**Waiver of Land Development Code section 10.2.4 to omit the 15-foot Property Perimeter Landscape Buffer Area.**

01:46:01 On a motion by Commissioner Howard, seconded by Commissioner Cheek, 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 the waiver will not adversely affect adjacent property owners, as the applicant will still provide required screening around the subject site via existing fencing; and

**WHEREAS**, the Commission further finds that the waiver will not violate the Comprehensive Plan. The development will be in keeping with the pattern of the area and the encroachment allows the existing structure to remain; 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; 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 structures would need to be partially or fully demolished to comply with the buffer. The site is very narrow and could not be developed while providing the full buffer; now, therefore be it

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**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Waiver of Land Development Code section 10.2.4 to omit the 15-foot Property Perimeter Landscape Buffer Area.

**The vote was as follows:**

**YES: Commissioners Fischer, Mims, Pennix, Brown, Cheek, Howard, Carlson, and Lewis.**

**ABSENT: Commissioners Sistrunk and Clare.**

**Detailed District Development Plan**

01:46:43 On a motion by Commissioner Howard, seconded by Commissioner Cheek, 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 there do not appear to be any environmental constraints or historic resources on the subject 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 has been provided, and Metro Public Works has approved the preliminary development plan; and

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

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

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

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

**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Detailed District Development Plan, **ON CONDITION** that the applicant will obtain a license agreement from Louisville Metro Public Works for any encroachments within the public right of way (such as the bike racks), and **SUBJECT** to the following binding elements:

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. 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.
3. 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 Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.
4. 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.
5. 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

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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.

6. Prior to any exterior alterations on the subject site, a Certificate of Appropriateness must be approved to ensure compliance with the regulations of the Butchertown Historic Preservation District.

**The vote was as follows:**

**YES: Commissioners Carlson, Fischer, Mims, Pennix, Brown, Cheek, Howard, and Lewis.**

**ABSENT: Commissioners Sistrunk and Clare.**

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**CASE NO. 22-ZONE-0132**

Request: Change in Zoning from R-5 to OR-1 with a District Development Plan and a Waiver  
Project Name: Rutledge Rezoning  
Location: 1325 Texas Ave  
Owner: Daniel and Gina Rutledge  
Applicant: Daniel and Gina Rutledge  
Representative: Blomquist Design Group LLC  
Jurisdiction: Louisville Metro  
Council District: 15 - Kevin Triplett  
**Case Manager: Jay Luckett, AICP, Planner II**

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

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

**Agency Testimony:**

01:47:41 Jay Luckett presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.) In response to a question from Commissioner Mims, Mr. Luckett said the building has a long history of non-residential use.

**The following spoke in support of the request:**

Marv Blomquist, 10529 Timberwood Circle Suite D, Louisville, KY 40223

Daniel Rutledge, 1050 Eastern Parkway, Louisville, KY 40217 (signed in but did not speak)

**Summary of testimony of those in support:**

01:50:50 Mr. Blomquist, the applicant's representative, presented the case (see recording for detailed presentation.)

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

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No one spoke.

**Deliberations:**

01:53:29 Commissioners' deliberation.

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

**Change in zoning from R-5 single family residential to OR-1 Office/Residential**

01:53:40 On a motion by Commissioner Carlson, seconded by Commissioner Howard, 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 the proposal meets Community Form: Goal 1 because the zoning change would not represent an expansion of non-residential use into a residential area. The site has historically been used non-residentially. The proposed zoning district allows appropriate neighborhood- serving non-residential uses; the site is served directly by transit with a stop at the intersection of Texas Ave and Ash Street; the site is well served by existing transportation networks in a walkable neighborhood; the proposed zoning would not permit industrial development; the proposed zoning would not permit industrial development or other hazardous uses. The site will be subject to all lighting and noise standards of the Land Development Code and the Louisville Metro Code of Ordinances; the proposed zoning would not permit industrial development or other hazardous uses; the change in zoning is unlikely to contribute significant additional traffic to the area; the proposal does not appear to add any significant additional noise-generating uses; and the proposed zoning would not permit industrial development; and

**WHEREAS**, the Commission further finds that the proposal meets Community Form: Goal 2 because the site is located in proximity to a variety of commercial and office zoning districts, especially along Goss Ave which is approximately 330 feet from the site; appropriate access and connectivity exists to allow the development within the context of the Traditional Neighborhood form district; the proposed zoning would permit a variety of neighborhood serving uses in an area with adequate population to support them; the proposed zoning district will result in a compact development pattern and efficient land use that utilizes existing infrastructure; the proposed zoning district would



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allow a variety of land uses that encourage walkability and alternative modes of travel. The subject site has historically been used as a mix of residential and commercial use; the zoning district would allow for a variety of uses, including mixed residential, office and commercial uses; the development would allow a previously developed site to provide a mix of residential units and commercial uses; the subject site is not an outlot on a larger commercial development; and the site is located in proximity to a mixed use area along the Goss Ave corridor. The general vicinity has a variety of neighborhood-serving corner commercial uses; and

**WHEREAS**, the Commission further finds that the proposal meets Community Form: Goal 3 because the site is previously developed and does not contain distinctive natural features; the site is previously developed and does not have potential hydric soils or erosion concerns; and the subject site is not along the Ohio River and it is not in the flood plain; and

**WHEREAS**, the Commission further finds that the proposal meets Community Form: Goal 4 because this development will allow continued use of a structure that fits well into the context of the Traditional Neighborhood; and the proposal would maintain the structure on site; and

**WHEREAS**, the Commission further finds that the proposal meets Mobility: Goal 1 because the site fits within the context of the traditional neighborhood. The site is in proximity to a variety of commercial uses and employment opportunities. The proposed zoning district supports transit-oriented development patterns; and

**WHEREAS**, the Commission further finds that the proposal meets Mobility: Goal 2 because the site is served by existing public roadways and would not create additional access through areas of lower intensity; and

**WHEREAS**, the Commission further finds that the proposal meets Mobility: Goal 3 because the proposed zoning would allow a mix of neighborhood serving uses that encourage walking and biking; the proposed zoning would allow a mix of neighborhood serving uses that encourage walking and biking. The proposed development would include a mix of residential dwelling and neighborhood scale office and commercial uses that encourage a reduction in vehicle miles traveled; the subject site is well served by existing transportation networks; and the applicant will repair or improve sidewalks adjacent to the site as needed; and

**WHEREAS**, the Commission further finds that the proposal meets Community Facilities: Goal 2 because utility service will be coordinated; water service will be coordinated with Louisville Water Company; and sewer service will be coordinated with MSD; and

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**WHEREAS**, the Commission further finds that the proposal meets Economic Development: Goal 1 because the proposed zoning would not allow industrial development; and the site is at the corner of 2 local roads and approximately 330 feet from Goss Ave, a Minor Arterial roadway; and

**WHEREAS**, the Commission further finds that the proposal meets Livability: Goal 1 because the site does not have potential for erosion or other environmental concerns; the subject site is not within the floodplain; and the proposed zoning would not allow for hazardous materials to be stored onsite; and

**WHEREAS**, the Commission further finds that the proposal meets Housing: Goal 1 because the proposed zoning district would allow for a variety of housing types and densities. The site is near a variety of services that support aging in place. Transit is available along Texas Avenue; and

**WHEREAS**, the Commission further finds that the proposal meets Housing: Goal 2 because the proposed zoning district would allow for a variety of housing types and densities. The site is near a variety of services that support mixed income households; and the site is near a wide variety of services, amenities and employment opportunities; and

**WHEREAS**, the Commission further finds that the proposal meets Housing: Goal 3 because residents would not be displaced by the proposal; and the proposed zoning allows for mixed uses and a variety of housing options that promotes the provisioning of fair and affordable housing; now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the requested change in zoning from R-5 single family residential to OR-1 Office/Residential on property described in the attached legal description be **APPROVED**.

**The vote was as follows:**

**YES: Commissioners Fischer, Mims, Pennix, Brown, Cheek, Howard, Carlson, and Lewis.**

**ABSENT: Commissioners Sistrunk and Clare.**

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**CASE NO. 22-ZONE-0132**

**Waiver of Land Development Code section 10.2.4 to allow the existing structure to encroach into the 10-foot Property Perimeter Landscape Buffer Area along the side and the rear of the site.**

01:54:26 On a motion by Commissioner Carlson, seconded by Commissioner Howard, 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 the waiver will not adversely affect adjacent property owners, as the applicant will still provide required planting and screening around the subject site; and

**WHEREAS**, the Commission further finds that the waiver will not violate the Comprehensive Plan, as all required planting and screening will be provided around the site. The development will be in keeping with the pattern of the area and the encroachment allows the existing structure to remain; 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; 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 structure would need to be partially or fully demolished to comply with the buffer; now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Waiver of Land Development Code section 10.2.4 to allow the existing structure to encroach into the 10-foot Property Perimeter Landscape Buffer Area along the side and the rear of the site.

**The vote was as follows:**

**YES: Commissioners Fischer, Mims, Pennix, Brown, Cheek, Howard, Carlson, and Lewis.**

**ABSENT: Commissioners Sistrunk and Clare.**

**Detailed District Development plan**

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01:55:11 On a motion by Commissioner Carlson, seconded by Commissioner Howard, 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 there do not appear to be any environmental constraints or historic resources on the subject 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 has been provided, and Metro Public Works has approved the preliminary development plan; and

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

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

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

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

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

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.

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2. 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.
3. 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 Construction Review, 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.
4. 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.
5. 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 Fischer, Mims, Pennix, Brown, Cheek, Howard, Carlson, and Lewis.**

**ABSENT: Commissioners Sistrunk and Clare.**

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**BUSINESS SESSION – DRC CASES FROM JANUARY 4, 2023**

01:55:51 PLEASE NOTE: Due to a lack of quorum for the DRC meeting held on January 4, 2023, presentations and testimony were heard at that meeting, but NO ACTIONS were taken at that time.

Actions will be taken on each case from that meeting at today's Planning Commission hearing.

Testimony and presentations were heard and recorded at the DRC meeting on January 4, 2023 and are already part of the official record.

Each case will be called and the Planning Commission will hear from the hearing officers who were present at yesterday's DRC meeting. Staff will be available today to answer questions if necessary.

Votes will then be taken for each individual case.

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**BUSINESS SESSION – DRC CASES FROM JANUARY 4, 2023**

**CASE NO. 22-WAIVER-0230**

Request: Waiver to Permit Parking in Front of a Structure and to Not Provide Access via the Alley  
Project Name: Gateway on Broadway  
Location: 1404 Magazine Street; 1401, 1403, 1405, and 1421 West Broadway  
Owner: Housing Partnership Inc.  
Applicant: Housing Partnership Inc.  
Jurisdiction: Louisville Metro  
Council District: 4 – Jecorey Arthur  
**Case Manager: Jay Luckett, AICP, Planner II**

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

The staff report prepared for this case was incorporated into the record. This report was available to any interested party prior to the DRC meeting. (The staff report is part of the case file maintained in Planning and Design Services offices, 444 South 5<sup>th</sup> Street.)

**Hearing Officer Testimony:**

01:56:35 Commissioners Carlson and Brown discussed what they heard at the January 4, 2023 DRC meeting. In response to questions from Commissioner Howard, the Commissioners and Laura Ferguson, legal counsel for the Planning Commission, discussed the location and some prior uses of the structure (see recording for detailed discussion.)

**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.**

**Waivers:**

**(Waiver #1) – Waiver of Land Development Code sections 5.9.2.C.4 and 5.5.1.A.3.a to permit parking and circulation in front of the structures on 1404 Magazine Street (22-WAIVER-0230).**

**(Waiver #2) – Waiver of Land Development Code section 5.5.1.A.3.b to not provide access via the alley for 1404 Magazine Street (22-WAIVER-0231).**

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**BUSINESS SESSION – DRC CASES FROM JANUARY 4, 2023**

**CASE NO. 22-WAIVER-0230**

01:58:36 On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution, based on the Staff Analysis and Standard of Review and evidence and testimony heard today and at the January 4, 2023 DRC meeting, was adopted:

**(Waiver #1) WHEREAS**, the Louisville Metro Planning Commission finds that the waiver will not adversely affect adjacent property owners, as the site has existing structures and parking similar to what is proposed; and

**WHEREAS**, the Commission further finds that the waiver will not violate the comprehensive plan, as the redevelopment of this existing site is compatible with the variety of uses and intensities in the area. The applicant will improve the existing parking area on site, adding landscaping and stormwater detention; 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; and

**WHEREAS**, the Commission further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant, as the site would need to be cleared and new buildings constructed to comply with the regulation. The applicant is seeking to reuse existing structures on the site; and

**(Waiver #2) WHEREAS**, the Commission further finds that the waiver will not adversely affect adjacent property owners, as the site will be access as it has been historically via Magazine Street; and

**WHEREAS**, the Commission further finds that the waiver will not violate the comprehensive plan, as the redevelopment of this existing site is compatible with the variety of uses and intensities in the area. The applicant will improve the existing parking area on site, adding landscaping and stormwater detention; 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; and

**WHEREAS**, the Commission further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant, as the site would need to be cleared and new buildings constructed to comply with the regulation. The applicant is seeking to reuse existing structures on the site.

**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE** the requested **(Waiver #1)** of Land Development Code sections 5.9.2.C.4 and 5.5.1.A.3.a to



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**CASE NO. 22-WAIVER-0230**

permit parking and circulation in front of the structures on 1404 Magazine Street (22-WAIVER-0230) **AND** the requested (**Waiver #2**) of Land Development Code section 5.5.1.A.3.b to not provide access via the alley for 1404 Magazine Street (22-WAIVER-0231).

**The vote was as follows:**

**YES: Commissioners Mims, Pennix, Brown, Cheek, Carlson, Howard, and Lewis.**

**ABSTAIN: Commissioner Fischer.**

**ABSENT: Commissioners Sistrunk and Clare.**

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**BUSINESS SESSION – DRC CASES FROM JANUARY 4, 2023**

**CASE NO. 22-WAIVER-0229**

Request: Waiver to Permit Changing Image Sign within 300 Feet of Residential Zone and Changing Image Sign Area Waiver  
Project Name: Changing Image Sign Waiver  
Location: 5101 US Highway 42  
Owner: The Temple  
Applicant: Golden Rule Signs  
Jurisdiction: Louisville Metro  
Council District: 16 – Scott Reed  
**Case Manager: Beth Jones, AICP, Planner II**

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

The staff report prepared for this case was incorporated into the record. This report was available to any interested party prior to the DRC meeting. (The staff report is part of the case file maintained in Planning and Design Services offices, 444 South 5<sup>th</sup> Street.)

**Agency Testimony:**

01:59:59 Brian Davis, Assistant Director of Metro Planning & Design Services, said this case will need to be continued due to a notification error. The date of continuance will be to the **DRC meeting to be held on January 18 2023.**

**An audio/visual recording of the Development Review Committee meeting 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.**

02:00:33 On a motion by Commissioner Carlson, seconded by Commissioner Howard, the following resolution was adopted:

**RESOLVED**, the Louisville Metro Planning Commission does hereby **CONTINUE** this case to the **January 18, 2023 Development Review Committee meeting.**

**The vote was as follows:**

**YES: Commissioners Fischer, Mims, Pennix, Brown, Cheek, Carlson, Howard, and Lewis.**

**ABSENT: Commissioners Sistrunk and Clare.**

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**CASE NO. 22-CAT3-0004**

Request:	Category 3 Plan with a Building Façade Waiver
Project Name:	West Muhammad Ali Commercial/Multi-Family Development
Location:	720 West Muhammad Ali Boulevard
Owner:	LDG Land Holdings, LLC.
Applicant:	Sabak Wilson & Lingo, Inc. Dinsmore & Shohl, LLP
Jurisdiction:	Louisville Metro
Council District:	4 – Jecorey Arthur
Case Manager:	Molly Clark, Planner II

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

The staff report prepared for this case was incorporated into the record. This report was available to any interested party prior to the DRC meeting. (The staff report is part of the case file maintained in Planning and Design Services offices, 444 South 5<sup>th</sup> Street.)

**Hearing Officer Testimony:**

02:01:08 Commissioners Carlson and Brown discussed what they heard at the January 4, 2023 DRC meeting. They said that the Downtown District Review Overlay had reviewed this case and added a Condition of Approval which addressed the facades (mitigated the absence of glazing.) See recording for detailed presentation and discussion.

02:03:20 Molly Clark, the case manager, noted that the Condition of Approval should be part of any motion for approval.

**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.**

**Waiver:**

**Waiver from section 5.6.2.B to permit the structure to have less than 50% clear windows and doors at the street level for Downtown Form District lower façade requirements on 7th and 8th street facing facades (22-WAIVER-0247).**

02:03:56 On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution, based on the Staff Analysis and Standard of Review

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**CASE NO. 22-CAT3-0004**

and evidence and testimony heard today and at the January 4, 2023 DRC meeting, was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that the requested waiver will not adversely affect adjacent property owners as the building provides enough articulation along the facades to compensate for not having all clear windows and doors. The facades on 7th and 8th street are also creating screening of the proposed ground floor level parking area; and

**WHEREAS**, the Commission further finds that the Community Form Goal 1, Policy 4 calls for the proposal to ensure new development and redevelopment are compatible with the scale and site design of nearby existing development and with the desired pattern of development within the Form District. Quality design and building materials should be promoted to enhance compatibility of development and redevelopment projects. Community Form Goal 1, Policy 12 calls for the proposal to Design parking, loading and delivery areas located adjacent to residential areas to minimize adverse impacts from noise, lights, and other potential impacts. Ensure that parking, loading and delivery is adequate and convenient for motorists and does not negatively impact nearby residents or pedestrians. Parking and circulation areas adjacent to the street shall be screened or buffered. Use landscaping, trees, walls, colonnades or other design features to fill gaps along the street and sidewalk created by surface parking lots. Encourage the placement of parking lots and garage doors behind or beside the building rather than facing the street. The use of alleys for access to parking lots is encouraged, especially in Downtown Louisville, Urban Center Neighborhoods, Traditional Neighborhoods and Traditional Marketplace Corridors. Encourage elimination or reduction of parking minimums in areas readily accessible to transit routes. Community Form Goal 2, Policy 11 calls for ensuring appropriate placement, design and scale of centers in Traditional Neighborhood, Neighborhood and Village Form Districts to ensure compatibility with nearby residences. Community Form Goal 2, Policy 15 calls for parking in activity centers should reflect the area's associated Form District standards to balance safety, traffic, transit, pedestrian, environmental and aesthetic considerations. There are some variations in materials and some clear glass at the street level but not enough to meet the 50% requirement. The street trees, as required, can be used to mitigate the request; 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 since the parking area for the multi-family use is being placed within the building and below the building. The street trees, as required, can be used to mitigate the request; 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 since the proposed parking is affecting the building façade on the first floor along 7th and 8th street. The street trees, as required, can be used to mitigate the request.

**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE** the requested **Waiver** from section 5.6.2.B to permit the structure to have less than 50% clear windows and doors at the street level for Downtown Form District lower façade requirements on 7th and 8th street facing facades. (22-WAIVER-0247).

**The vote was as follows:**

**YES: Commissioners Fischer, Mims, Pennix, Brown, Cheek, Carlson, Howard, and Lewis.**

**ABSENT: Commissioners Sistrunk and Clare.**

**Category 3 Development Plan**

02:04:49 On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution, based on the Staff Analysis and Standard of Review and evidence and testimony heard at the January 4, 2023 DRC meeting, was adopted:

**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Category 3 Development Plan, **SUBJECT** to the following Condition of Approval:

**Condition of Approval**

1. The applicant shall dedicate right-of-way at the intersections to accommodate ADA-compliant handicap ramps if necessary, as determined by the construction design.

**The vote was as follows:**

**YES: Commissioners Fischer, Mims, Pennix, Brown, Cheek, Carlson, Howard, and Lewis.**

**ABSENT: Commissioners Sistrunk and Clare.**

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**BUSINESS SESSION – DRC CASES FROM JANUARY 4, 2023**

**CASE NO. 22-DDP-0055**

Request:	A Revised Detailed District Development Plan with Amendment to Binding Elements
Project Name:	Warehouse Expansion
Location:	2700 Chestnut Station Court
Owner:	Chestnut Station, LLC
Applicant:	Mindel Scott & Associates, Inc.
Jurisdiction:	Louisville Metro
Council District:	11 – Kevin Kramer
Case Manager:	Molly Clark, Planner II

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

The staff report prepared for this case was incorporated into the record. This report was available to any interested party prior to the DRC meeting. (The staff report is part of the case file maintained in Planning and Design Services offices, 444 South 5<sup>th</sup> Street.)

**Hearing Officer Testimony:**

02:05:52 Commissioners Carlson and Brown discussed what they heard at the January 4, 2023 DRC meeting. See recording for detailed presentation and discussion.

**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.**

**Revised Detailed District Development Plan and Amendment to Binding Elements**

02:06:35 On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution, based on the Staff Analysis and Standard of Review and evidence and testimony heard today and at the January 4, 2023 DRC meeting, was adopted:

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

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

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**WHEREAS**, the Commission further finds that there are no open space requirements pertinent to the current proposal. Future multi-family development proposed on the subject site will be required to meet Land Development Code requirements; and

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

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

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

**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Revised Detailed District Development Plan with Amendment to Binding Elements, **SUBJECT** to the following binding elements:

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. The development shall not exceed 160,757 square feet of gross floor area for Lot 1. The development shall not exceed 56,450 square feet of gross floor area for Lot 5. The development shall not exceed 43,050 square feet of gross floor area for Lot 6.
3. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
4. 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

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- until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
5. 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 Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
  6. 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.
  7. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
  8. No idling of trucks shall take place within 200 feet of residences. No overnight idling of trucks shall be permitted on-site.

**The vote was as follows:**

**YES: Commissioners Fischer, Mims, Pennix, Brown, Cheek, Carlson, Howard, and Lewis.**

**ABSENT: Commissioners Sistrunk and Clare.**



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**CASE NO. 22-DDP-0099**

Request:	Revised Detailed District Development Plan
Project Name:	Scooter's Coffee
Location:	10515 Taylorsville Road
Owner/Applicant:	DVSJ Holdings, LLC
Jurisdiction:	City of Jeffersontown
Council District:	20 – Stuart Benson
<b>Case Manager:</b>	<b>Clara Schweiger, Planner I</b>

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. This report was available to any interested party prior to the DRC meeting. (The staff report is part of the case file maintained in Planning and Design Services offices, 444 South 5<sup>th</sup> Street.)

**Hearing Officer Testimony:**

02:07:15 Commissioners Carlson and Brown discussed what they heard at the January 4, 2023 DRC meeting. See recording for detailed presentation and discussion.

02:08:45 Commissioner Brown noted that there were some proposed changes to some binding elements, but he said he would not recommend changes to binding elements other than the changes to the hours of operation (change to 5:00 a.m. to 8:00 p.m.) There were some requirements for orientation of the signage and some landscaping, which the applicant was asking to be struck. Commissioner Carlson said he was in favor of accepting the applicant's proposed changes (see recording for detailed discussion.)

02:10:28 Clara Schweiger, the case manager, showed the document from Alex Rosenberg (the applicant's representative), which lists the applicant's requests for changes to the binding elements (see recording.)

**An audio/visual recording of the Development Review Committee meeting 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.**

**Revised Detailed District Development Plan and Amendment to Binding Elements**

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**CASE NO. 22-DDP-0099**

02:13:00 On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today and at the January 4, 2023 DRC meeting, was adopted:

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

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

**WHEREAS**, the Commission further finds that there are no open space requirements pertinent to the current proposal. Future multi-family development proposed on the subject site will be required to meet Land Development Code requirements; and

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

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

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

**RESOLVED**, the Louisville Metro Development Review Committee does hereby **RECOMMEND** to the City of Jeffersontown that the requested Revised Detailed District Development Plan be approved, **SUBJECT** to the following binding elements:

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the

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Planning Commission's designee and to the City of Jeffersontown for review and approval; any changes/additions/alterations not so referred shall not be valid. **A Detailed District Development Plan for the future development of Lot 2 shall be submitted to the Planning Commission or the Planning Commission's designee and to the City of Jeffersontown for review and approval.**

2. The size and location of any proposed freestanding sign(s) must be in compliance with the City of Jeffersontown Sign Ordinance.
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 system 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 the City of Jeffersontown and the Metropolitan Sewer District.
  - b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
  - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
  - d. A minor plat shall be recorded **creating 2 lots from 6, as shown on the development plan**. 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.
  - e. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for the 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 or City of Jeffersontown.

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6. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
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 to the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
- ~~8. Prior to obtaining a certificate of occupancy for the development, the applicant shall have: (i) installed the landscaping as shown on the Enhanced Landscape Buffer Exhibit presented at the January 4, 2018 Planning Commission public hearing with the Serbian Spruce and Green Giant Arborvitae shown thereon being a minimum height of 8-10 feet tall at time of installation; and (ii) installed the 9 foot wood privacy fence as shown on the Enhanced Landscape Plan.~~
8. The hours of operation are limited to **5** a.m. to **8** p.m. for all 7 days a week.
9. In addition to the Land Development Code lighting requirements, half of the lights on the property shall be turned off after normal store hours from **8** p.m. to **5** a.m.
- ~~11. There shall be no signage on the Candlewood Way (East) side of the building other than a directional sign for the drive thru.~~
10. The applicant shall install trash cans along Taylorsville Road and Ruckriegel Parkway (working with the City of Jeffersontown as to the style and design).
11. Prior to obtaining a building permit, the applicant shall obtain approval from the Planning Commission and City of Jeffersontown for the proposed building elevations and renderings.

**The vote was as follows:**

**YES: Commissioners Fischer, Mims, Pennix, Brown, Cheek, Carlson, Howard, and Lewis.**

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**ABSENT: Commissioners Sistrunk and Clare.**

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**CASE NO. 22-DDP-0117**

Request:	Revised Detailed District Development Plan
Project Name:	Zoom Group
Location:	4545 Taylorsville Road
Owner/Applicant:	Zoom Group, Inc.
Jurisdiction:	Louisville Metro
Council District:	11 – Kevin Kramer
<b>Case Manager:</b>	<b>Clara Schweiger, Planner I</b>

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. This report was available to any interested party prior to the DRC meeting. (The staff report is part of the case file maintained in Planning and Design Services offices, 444 South 5<sup>th</sup> Street.)

**Hearing Officer Testimony:**

02:13:56 Commissioners Carlson and Brown discussed what they heard at the January 4, 2023 DRC meeting. See recording for detailed presentation and discussion.

**An audio/visual recording of the Development Review Committee meeting 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.**

**Revised Detailed District Development Plan and Amendment to Binding Elements**

02:14:50 On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today and at the January 4, 2023 DRC meeting, was adopted:

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

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

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

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

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

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

**RESOLVED**, the Louisville Metro Development Review Committee does hereby **APPROVE** the requested Revised Detailed District Development Plan, **SUBJECT** to the following binding elements:

1. The development will be in accordance with the approved district development plan. No further development will occur without prior approval from the Planning Commission.
2. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in article 12.
3. The only permitted freestanding sign shall be located as shown on the approved district development plan. The sign shall not exceed 35 square feet in area and shall be no higher than the existing sign.
4. No outdoor advertising signs (billboards) or small freestanding (temporary) signs shall be permitted on the site.

**The vote was as follows:**

**YES: Commissioners Fischer, Mims, Pennix, Brown, Cheek, Carlson, Howard, and Lewis.**

**ABSENT: Commissioners Sistrunk and Clare.**

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**CASE NO. 22-DDP-0032**

Request: Revised Detailed District Development Plan with Waivers  
Project Name: Speckman Retail Addition  
Location: 719 & 721 Speckman Road  
Owner/Applicant: Speckman Commercial LLC  
Jurisdiction: City of Middletown  
Council District: 19 – Anthony Piagentini  
**Case Manager: Julia Williams, AICP, Planning Manager**

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. This report was available to any interested party prior to the DRC meeting. (The staff report is part of the case file maintained in Planning and Design Services offices, 444 South 5<sup>th</sup> Street.)

**Hearing Officer Testimony:**

02:15:30 Commissioners Carlson and Brown discussed what they heard at the January 4, 2023 DRC meeting. Ms. Williams noted that the applicant will provide the 3-foot required screening for the parking that was triggering the first waiver. See recording for detailed presentation and discussion.

**An audio/visual recording of the Development Review Committee meeting 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.**

**Waiver from 10.2.9 to not provide the 10' VUA LBA or the screening and planting along Speckman Road (22-WAIVER-0043)**

02:16:35 On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today and at the January 4, 2023 DRC meeting, was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that the waiver will not adversely affect adjacent property because the situation is existing. There is no space on either side of the roadways to provide the plantings; and



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**WHEREAS**, the Commission further finds that Community Form Goal 1, Policy 4 calls for the proposal to ensure new development and redevelopment are compatible with the scale and site design of nearby existing development and with the desired pattern of development within the Form District. Quality design and building materials should be promoted to enhance compatibility of development and redevelopment projects. Community Form Goal 1, Policy 10 calls to mitigate the impacts caused when incompatible developments unavoidably occur adjacent to one another. Buffers should be used between uses that are substantially different in intensity or density. Buffers should be variable in design and may include landscaping, vegetative berms and/or walls and should address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances. Residential uses that develop adjacent to agricultural land uses may be required to provide screening and buffering to protect both the farmer and homeowners. Community Form Goal 1, Policy 12 calls for the proposal to Design parking, loading and delivery areas located adjacent to residential areas to minimize adverse impacts from noise, lights, and other potential impacts. Ensure that parking, loading and delivery is adequate and convenient for motorists and does not negatively impact nearby residents or pedestrians. Parking and circulation areas adjacent to the street shall be screened or buffered. Use landscaping, trees, walls, colonnades or other design features to fill gaps along the street and sidewalk created by surface parking lots. Encourage the placement of parking lots and garage doors behind or beside the building rather than facing the street. The use of alleys for access to parking lots is encouraged, especially in Downtown Louisville, Urban Center Neighborhoods, Traditional Neighborhoods and Traditional Marketplace Corridors. Encourage elimination or reduction of parking minimums in areas readily accessible to transit routes. Community Form Goal 1, Policy 20 calls to mitigate adverse visual intrusions when there are impacts to residential areas, roadway corridors, and public spaces. The comprehensive plan is being met because the situation is existing. There is no space on either side of the roadways to provide the plantings; and

**WHEREAS**, the Commission further finds that the extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because the situation is existing. There is no space on either side of the roadways to provide the plantings; and

**WHEREAS**, the Commission further finds that strict application of the provisions of the regulation will deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant because the situation is existing. There is no space on either side of the roadways to provide the plantings; now, therefore be it

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**RESOLVED**, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the City of Middletown that the requested Waiver from 10.2.9 to not provide the 10' VUA LBA or the screening and planting along Speckman Road (22-WAIVER-0043) be **APPROVED, on condition that the applicant provide the 3-foot screen.**

The vote was as follows:

**YES: Commissioners Fischer, Mims, Pennix, Brown, Cheek, Carlson, Howard, and Lewis.**

**ABSENT: Commissioners Sistrunk and Clare**

**Waiver from 10.2.4 to not provide the 25'/35' LBA or the screening and planting along the northeast property line adjacent to the R-6 property**

02:17:51 On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today and at the January 4, 2023 DRC meeting, was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that the waiver will not adversely affect adjacent property because the situation is existing. There is no space on either side of the roadways to provide the plantings; and

**WHEREAS**, the Commission further finds that Community Form Goal 1, Policy 4 calls for the proposal to ensure new development and redevelopment are compatible with the scale and site design of nearby existing development and with the desired pattern of development within the Form District. Quality design and building materials should be promoted to enhance compatibility of development and redevelopment projects. Community Form Goal 1, Policy 10 calls to mitigate the impacts caused when incompatible developments unavoidably occur adjacent to one another. Buffers should be used between uses that are substantially different in intensity or density. Buffers should be variable in design and may include landscaping, vegetative berms and/or walls and should address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances. Residential uses that develop adjacent to agricultural land uses may be required to provide screening and buffering to protect both the farmer and homeowners. Community Form Goal 1, Policy 12 calls for the proposal to Design parking, loading and delivery areas located adjacent to residential areas to minimize adverse impacts from noise, lights, and

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other potential impacts. Ensure that parking, loading and delivery is adequate and convenient for motorists and does not negatively impact nearby residents or pedestrians. Parking and circulation areas adjacent to the street shall be screened or buffered. Use landscaping, trees, walls, colonnades or other design features to fill gaps along the street and sidewalk created by surface parking lots. Encourage the placement of parking lots and garage doors behind or beside the building rather than facing the street. The use of alleys for access to parking lots is encouraged, especially in Downtown Louisville, Urban Center Neighborhoods, Traditional Neighborhoods and Traditional Marketplace Corridors. Encourage elimination or reduction of parking minimums in areas readily accessible to transit routes. Community Form Goal 1, Policy 20 calls to mitigate adverse visual intrusions when there are impacts to residential areas, roadway corridors, and public spaces. The comprehensive plan is being met because the situation is existing. There is no space on either side of the roadways to provide the plantings; and

**WHEREAS**, the Commission further finds that the extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because the situation is existing. There is no space on either side of the roadways to provide the plantings; and

**WHEREAS**, the Commission further finds that strict application of the provisions of the regulation will deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant because the situation is existing. There is no space on either side of the roadways to provide the plantings; now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the City of Middletown that the requested Waiver from 10.2.4 to not provide the 25'/35' LBA or the screening and planting along the northeast property line adjacent to the R-6 property be **APPROVED**.

**The vote was as follows:**

**YES: Commissioners Fischer, Mims, Pennix, Brown, Cheek, Carlson, Howard, and Lewis.**

**ABSENT: Commissioners Sistrunk and Clare**

**Revised Detailed District Development Plan and Amendment to Binding Elements**

02:18:37 On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution, based on the Standard of Review and Staff Analysis

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and evidence and testimony heard today and at the January 4, 2023 DRC meeting, was adopted:

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

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

**WHEREAS**, the Commission further finds that there are no open space requirements pertinent to the current proposal. Future multi-family development proposed on the subject site will be required to meet Land Development Code requirements; and

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

**WHEREAS**, the Commission further finds that the overall site design and land uses are compatible with the existing and future development of the area. Buildings and parking lots will meet all required setbacks; and

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

**RESOLVED**, the Louisville Metro Development Review Committee does hereby **RECOMMEND APPROVAL** of the requested Revised Detailed District Development Plan with binding elements, **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 and to the City of Middletown for review and approval; any changes/additions/alterations not so referred shall not be valid.

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- 1a. Prior to development of each site or phase of this project, the applicant, developer, or property owner shall obtain approval of a detailed district development plan from the Planning Commission. Each plan shall be in adequate detail and subject to additional binding elements. The additional binding elements may relate, but not be limited, to the following items:
  - a. screening, buffering, landscaping, tree preservation
  - b. density, floor area, size and height of buildings
  - c. points of access and site layout with respect to on-site circulation
  - d. land uses
  - e. signage
  - f. loading berths
  - g. parking
  - h. sidewalks
  - i. site design elements relating to alternative transportation modes
  - j. outdoor lighting
  - k. minor subdivision plat approval
  - l. air pollution
  - m. the timing of construction to coincide with the availability of flood protection measures, municipal sewer and water service, and adequate fire protection
  - n. dumpsters
2. The density of the development shall not exceed 15.94 dwelling units per acre (176 units on 11.04 acres).
3. There shall be no direct vehicular access to Blankenbaker Parkway.
4. The only permitted freestanding signs shall be monument style signs, located as shown on the approved detailed district development plan. Each commercial out lot is permitted one, 60 square foot and six feet tall monument sign. Except as permitted under Section 9.1 of the Development Code regarding signature entrance walks. The apartment lot is allowed one, six square foot and six feet tall monument sign. The signs shall not be closer than five feet to the front property lines. No sign shall have more than two sides.
5. No outdoor advertising signs, small free-standing signs, pennants, balloons, or banners shall be permitted on the site.
6. There shall be no outdoor storage on the site.

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7. 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. Light levels due to lighting on the subject site shall not exceed two foot candles measured at the property line. The applicant shall obtain certification by a qualified expert in measurement of lighting levels prior to requesting a certificate of occupancy. Such certification shall be maintained on site at all times thereafter. Lighting fixtures shall be bollard style fixtures only, not to exceed four feet in height.
8. 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.
9. 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 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 major subdivision plat creating the lots and roadways as shown on the approved district development plan shall be recorded prior to issuance of any building permits.
  - e. A **joint parking** and access/crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be secured from the adjoining property owner and recorded. A copy of the recorded instrument shall be submitted to the Division of Planning and Development Services; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
10. 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

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implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission and City of Middletown.

11. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
12. 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.
13. If work is required within the easements causing removal or damage of landscape materials, the property owner shall be responsible for replacement of materials according to the approved landscape plan.
14. The dumpster shall not be emptied between the hours of 11 p.m. and 7 a.m.
15. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the **April 4, 2012 Development Review Committee meeting for the Bank site and the January 4, 2023 Development Review Committee for the commercial building**. City of Middletown shall make the final determination as to conformity with structure design elements set forth in this binding element.
16. The above binding elements may be amended as provided for in the Zoning District Regulations, upon approval of the City Commission.

**The vote was as follows:**

**YES: Commissioners Fischer, Mims, Pennix, Brown, Cheek, Carlson, Howard, and Lewis.**

**ABSENT: Commissioners Sistrunk and Clare**

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**ADJOURNMENT**

**The meeting adjourned at approximately 3:38 p.m.**

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**Chairman**

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**Division Director**