

ORDINANCE No. 187, SERIES 2014

**AN ORDINANCE AMENDING THE FOLLOWING SECTIONS OF CHAPTER 11 OF THE LAND DEVELOPMENT CODE AS PART OF A CONTINUING EFFORT TO UPDATE THE ZONING REGULATIONS FOR LOUISVILLE METRO (CASE NO. 14AMEND1003).**

**SPONSORED BY: Councilman James Peden  
Councilwoman Madonna Flood**

WHEREAS, the Planning Commission held a public hearing on August 11, 2014 to consider a large number of amendments to various sections of the Land Development Code ("LDC") for the purposes of updating and improving the LDC, resolving potential conflicts in the application of various LDC provisions and clarifying language that was determined to be potentially confusing on its face or in its application; and

WHEREAS, the Planning Commission has recommended approval of the amendments itemized in each of the six reports as stated in the Planning Commission's minutes of August 11, 2014 and contained in the attachments for this Ordinance and as summarized in the Round Two LDC Text Amendments Index also contained in the attachments; and

WHEREAS, the Metro Council concurs in and adopts the findings and recommendations of the Planning Commission in Case No. 14AMEND1003 as reflected in the Planning Commission's minutes and records, and as more specifically set forth in Exhibit A attached hereto;

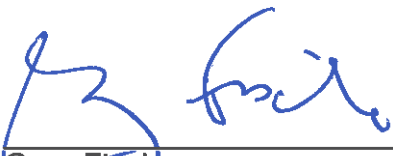
**Now THEREFORE BE IT ORDAINED BY THE LEGISLATIVE COUNCIL OF THE LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT AS FOLLOWS:**

**Section I:** The Metro Council hereby adopts the amendments to the Land Development Code as contained in the minutes and records of the Planning Commission in Case No. 14AMEND1003, dated August 11, 2014, and as more specifically set forth in Exhibit A attached hereto.

**Section II:** This Ordinance shall take effect upon its passage and approval.

  
\_\_\_\_\_  
H. Stephen Ott  
Metro Council Clerk

  
\_\_\_\_\_  
Jim King  
President of the Council

  
\_\_\_\_\_  
Greg Fischer  
Mayor

  
\_\_\_\_\_  
Approval Date

**APPROVED AS TO FORM AND LEGALITY:**

Michael J. O'Connell  
Jefferson County Attorney

By:   
\_\_\_\_\_



## EXHIBIT A

### DRP ITEM #1

#### 11.1.1 Planning Director

##### A. Designation of Planning Director as Administrative Official

Pursuant to KRS 100.271, the Director of ~~Jefferson County~~ **Louisville Metro** Planning and Design Services (or successor agency) is designated as the principal administrative official for the implementation and enforcement of regulations contained in this Code. Unless specifically stated to the contrary, the term "Director" or "Planning Director" shall include his or her designees. In the event the Planning Director position is vacant, the Mayor of Louisville/Jefferson County Metro Government may appoint an Administrative Official within 30 days of the Planning Director position being vacated. If an Administrative Official is not named by the Mayor in accordance with this section, then the Planning Commission will be authorized to appoint the interim Administrative Official. When appointed by the Planning Commission the interim Administrative Official shall be a current member of Planning & Design Services staff.

### DRP ITEM #2

#### 11.1.2 Technical Review Committee

##### A. Establishment of Technical Review Committee

There is hereby established a Technical Review Committee. The word "Committee" when used in this Part shall be construed to mean the Technical Review Committee. The structure, membership, and duties may be modified by the Planning Commission.

##### B. Committee Membership and Officers

The Committee shall be composed of members representing departments and agencies (and their successor agencies) responsible for reviewing land development proposals. The Planning Commission, at the request of the Planning Director, may modify the makeup of the Committee. Membership includes but is not limited to the following:

1. Core Members
  - a. Louisville Metro Planning and Design Services
  - b. Louisville and Jefferson County Metropolitan Sewer District

- c. Louisville Metro Departments of Public Works
- d. Louisville Metro Department of Inspections, Permits and Licenses Louisville Metro Construction Review, Department of Develop Louisville

2. Full Members

- a. Kentucky Department of Transportation
- b. Louisville Metro Historic Landmarks and Preservation District
- c. Metropolitan Development Authority
- d. ~~Jefferson County Environmental Health and Protection~~ Louisville Metro Public Health & Wellness
- e. Louisville Metro Air Pollution Control District
- f. Fire Department having jurisdiction

3. Advisory Members

- a. Louisville Gas and Electric
- b. Louisville Water Company
- c. Cable Utilities
- d. Kentucky Division of Water
- e. ~~Bell South~~ AT&T
- f. Natural Resources Conservation Service (NRCS)
- g. Transit Authority of River City (TARC)

C. Officers and Committees

The Chairman of the Committee shall be the Planning Director. Other offices and subcommittees to carry out the purposes of this Chapter, may be appointed by the Planning Director as needed.

D. General Functions, Powers and Duties

1. Application Review

The Committee may review applications and make recommendations to appropriate approval authorities regarding approval, denial and, where applicable, conditions and safeguards to be placed upon the approval of applications required by this Chapter including, but not limited to the following:

- a. Subdivisions
- b. Conditional Uses
- c. Zoning Map and Form District Map Amendments
- d. Development Plans
- e. Street Closings and Street Name Changes
- f. Other Applications referred by the Planning Commission, Board of Zoning Adjustment or their Committees for review and resolution of technical issues

g. Other Applications referred to the Committee by the Planning Director

2. Other Duties

The Committee shall carry out such other duties as may be assigned to it ~~from time to time.~~ by the Planning Commission or Planning Director.

**DRP ITEM #3**

**~~11.3.3 Relationship to Form District Design Standards~~**

~~In addition to the standards established in the Planned Development District, development must also comply with the standards established in the applicable Form District. In the event of a conflict of standards, the standards of the Planned Development District shall apply.~~

**2.8.4 Applicability of Land Development Code (LDC)**

A. PD-Development Plan. The provisions of the LDC shall apply to PD-Development Plan, unless otherwise specified in the approved PD Development Plan. The PD- Development\_Plan approved by the legislative body may contain provisions that differ with or are less-restrictive than the LDC.

EXCEPTION 1: Footprint caps listed within the applicable form district shall be observed.

EXCEPTION 2: Perimeter landscape buffer requirements at the edges of the Planned Development District may not be less restrictive than the requirements of the LDC, and may be altered on a case-by-case basis only in accordance with LDC waiver provisions.

B. In the event of a conflict between the provisions of this Chapter 2 Part 8 or the approved PD-Development Plan and the provisions of the LDC, the provisions of this Chapter 2 Part 8 or the approved PD-Development Plan shall prevail.

C. Specific dimensional requirements of the Planned Development District shall be outlined within the PD – Development Plan Design Guidelines and may refer to specific setbacks outlined within the applicable form district. Proposed dimensional standards shall be consistent with the intent of the applicable form district.

**D. Relationship to Form District Design Standards. In addition to the standards established in the Planned Development District, development must also comply with the standards established in the applicable Form District. In the event of a conflict of standards, the standards of the Planned Development District shall apply.**

## DRP ITEM #4

### 11.4.2 Pre-Application

Prior to formal application for Zoning District Map Amendments or Form District Map Amendments the applicant or applicant's agent shall file a plan and supporting materials with the Planning Director. The materials to be submitted shall be determined by the Planning Director, **or designee, and shall be identified on a checklist that is made available to the applicant. Planning Director's designee(s) shall be appointed in compliance with current Planning & Design Services administrative policies.** The Planning Director shall review the materials submitted and provide the applicant with a report addressing, as appropriate, the following issues:

- A. Comprehensive Plan Compliance
- B. Zoning and Form District and Subdivision Regulation impacts
- C. Site characteristics that may have a significant impact on the proposed development

No formal pre-application conference is required unless specifically requested by the applicant or Planning Director.

*B. **NOTE:** Pre-application required but conference is optional.*

## DRP ITEM #5

### 11.4.3 Neighborhood Meeting Requirement

Prior to **formally** filing a change in zoning request ~~and after the pre-application conference (if one was conducted)~~ a letter shall be sent from the developer/owner stating that a pre-application has been filed with PDS and announcing a public meeting held by developer/owner to discuss the proposed project. The letter shall be mailed no less than ~~40~~ **14 calendar** days prior to the neighborhood meeting. The letter shall be sent to:

- ~~1<sup>st</sup> and 2<sup>nd</sup> tier property owners~~ **1st Tier Property Owners - The owner(s) of every parcel of property adjoining at any point, and every parcel directly across the street, from the property that is the subject of the application,**
- **2nd Tier Property Owners - The owner(s) of every parcel of property that adjoins the adjoining property or the property directly across the street from said adjoining property within 500 feet of the property that is the subject of the application,**
- **The mayor and city clerk of** any 2<sup>nd</sup> through 6<sup>th</sup> class city if the development is located within such a municipality,
- Metro Council district representative; and
- PDS staff.
- ~~neighborhood groups individuals who have registered with PDS to receive notice of development actions,~~ **Any person listed in**

**the applicable Planning and Design Services Electronic Notification for Development Proposals List for the appropriate Council District will receive be sent an email notification.**

The neighborhood meeting shall be held ~~no less than seven (7) days and~~ no more than 90 **calendar** days prior to the filing of an **formal** application. At time of filing a change in zoning request, the applicant shall provide a summary of a public meeting **between the applicant and the parties listed above.** The summary shall include a list of those invited, those in attendance and a summary of the issues discussed.

**DRP ITEM #6**

**11.4.5 Public Hearing**

- A. Hearing Required – The Planning Commission shall hold at least one public hearing on each application for a Zoning or Form District Map Amendment. Notice of the hearing shall be given as specified in KRS100. In addition, staff shall endeavor to assure that notice is given to all neighborhood groups who have registered to receive notice of development applications.
- B. Submission of Materials – No less than fourteen (14) calendar days prior to an original or **Planning Commission hearing, or seven (7) calendar days prior to a** continued hearing date set by the Commission, the applicant shall submit original or revised development plans, traffic and air quality, market studies, proposed binding elements, noise studies, lighting studies, geotechnical or other environmental studies, and any other studies or reports prepared by an expert and the findings of which the applicant intends to present at the which have been prepared in response to comments received during the review process. ~~Failure to submit these items within the required time frame shall be considered grounds for postponing the hearing or deferring action on the proposal.~~ The applicant shall be responsible for the cost of additional notice resulting from failure to submit items within the required time frame. Other interested parties (including but not limited to neighborhood organizations, adjoining property owners, etc.) submitting studies or reports prepared by an expert and proposed binding elements for review by the applicant and Planning Commission shall submit these materials no less than fourteen (14) calendar days prior to an original or **Planning Commission hearing, or seven (7) calendar days prior to a** continued hearing date set by the Commission. This section does not preclude the applicant **or other interested parties** from presenting, at the hearing, changes to the plan **including changed or revised binding elements** in response to concerns of the neighbors or Commission, **or rebuttal to submitted studies.** ~~Failure to~~

**submit these items within the required time frame shall may be considered grounds for postponing the hearing or deferring action on the proposal.**

- C. Hearings shall follow the procedures established in the Planning Commission By-Laws and Procedures.
- D. Following the public hearing, the Planning Commission shall make a recommendation regarding the appropriateness of the Zoning District or Form District Map Amendment to the legislative body with zoning authority over the property in question. In addition, the Planning Commission shall by separate vote, approve, reject or defer action on the development plan submitted and considered in conjunction with the proposed Zoning or Form District Map Amendment.

#### **DRP ITEM #7**

##### **11.4.6 Legislative Action**

- A. The legislative body having zoning authority over the property in question shall make a determination regarding the proposed Zoning or Form District Map amendment.
- B. Additional Requirements by Legislative Body – The legislative body, at its discretion, may include additional binding elements on the development plan that the legislative body deems appropriate for the welfare of the public. If the legislative body requires development plan or binding element changes, the applicant shall submit to the Planning Director a development plan showing the changes required by the legislative body, ~~within 14 days of final action by the legislative body.~~ No permits shall be requested for any land disturbing activity until such **revised** plan is submitted.
- C. The legislative body shall notify the Planning Commission of its action relative to the Zoning or Form District Map amendment; associated binding elements; and, the accompanying development plan.

#### **DRP ITEM #8**

##### **11.4.7 Plan Certain Development**

- E. Amendments to Binding Elements and ~~Revised District~~ **Plan Certain** Development Plans
  1. Review Procedure  
Amendment to any **plan certain development plan or** binding element of an approved development plan, including any development plan expiration date, shall require Planning Commission approval. Review of amendments to **plan certain development**



**plans and** binding elements shall follow Category 3 Review Procedures (Section 11.6.64), except notice also shall be given to those who spoke at a Planning Commission public hearing.

2. **Scope of Planning Commission Review**

The Planning Commission shall consider, but not be limited to, the following factors in review of a request to amend a **plan certain development plan or** binding element:

- a. The conservation of natural resources on the property proposed for development, including: trees and other living vegetation, steep slopes, water courses, flood plains, soils, air quality, scenic views, and historic sites;
- b. The provisions for safe and efficient vehicular and pedestrian transportation both within the development and the community;
- c. The provision of sufficient open space (scenic and recreational) to meet the needs of the proposed development;
- d. 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;
- e. The compatibility of the overall site design (location of buildings, parking lots, screening, landscaping) and land use or uses with the existing and projected future development of the area;
- f. Conformance of the development plan with the Comprehensive Plan and Land Development Code. Revised plan certain development plans shall be evaluated for conformance with the non-residential and mixed-use intent of the form districts and comprehensive plan.

**11.7.5 Legislative Body Review of Commission Action on Development Plans**

- A. Applicability – Planning Commission approval or denial of any plan certain development plan or amendment to any plan certain development plan, including an amendment to a binding element of a plan certain development plan may be reviewed by the legislative body having zoning authority over the property in question if ~~the legislative body determines that such a review is warranted~~ **in accordance with the provisions of this Section.** Any such review may be, but is not required to be, conducted as a public hearing.
- B. Initiation of Review – ~~The owner(s) of the subject property or an aggrieved party may request a review by the legislative body by submitting a written letter to the appropriate legislative body~~

~~stating the reason(s) why such a review is warranted. **Upon request of the applicant or any interested party made to the legislative body within fifteen (15) calendar days after the date the Planning Commission took action to approve or deny the binding element or plan certain development plan (or amendment thereto) or without such a request.** The legislative body with zoning authority over the subject site may initiate the review **a binding element or plan certain development plan by introducing a resolution at a meeting of the legislative body** on its own resolution. Such letter shall be filed with the appropriate legislative body or resolution adopted within thirty (30) **forty-five (45)** calendar days after the date **of** the Planning Commission took action, to approve or deny said development plan or amendment to **a plan certain development plan or binding element amendment.** The legislative body shall forward a copy of said letter or resolution to the **applicant, the owner of the subject property and to any interested party who requested review, and to the Planning Commission,** if the owner is not the applicant for the review. A copy of said letter or resolution shall also be forwarded by the legislative body to the Planning Commission.~~

- C. ~~Determination of Whether Review is Warranted. If a letter requesting legislative body review is timely submitted by the owner(s) of the subject property or any aggrieved party, the legislative body shall determine whether a review of the Planning Commission's action is warranted within thirty (30) days of the date the legislative body receives the letter requesting review. If the legislative body fails to **introduce a resolution** make a decision on whether to review the Planning Commission's action within said thirty-day period, the legislative body shall be deemed to have determined not to review the Planning Commission's action, and no further review by the legislative body may occur.~~
- D. Notice – If the legislative body **timely introduces a resolution to** determines that a review **the Planning Commission's action on an amendment to a plan certain** regarding the development plan **or binding element** is warranted, it shall, by letter, notify the following in writing of the date, time, and place that the review will be conducted, and of the right of the public to inspect the subject plans in the office of Planning and Design Services, and, if a public hearing will be held, the right of the public to comment at the public hearing on the proposed development:
1. The Planning Commission
  2. All parties of record to any Planning Commission or Committee hearing or meeting previously held regarding the subject plan **or binding element**; and

3. All first and second tier adjoining property owners and registered neighborhood groups.
- E. Public Hearing – If the legislative body decides to conduct a public hearing on the **plan certain development plan or binding element amendment**, the public hearing shall **follow procedures established by the legislative body and may be conducted by a committee of the legislative body.** ~~Include a presentation by a staff member of the Planning Commission stating the reason(s) for action. In addition, any applicant for review of the Planning Commission's action pertaining to the plan shall state why he/she believes the Planning Commission's action was not justified. The legislative body may hear any other such witnesses and review any other evidence at the hearing it deems appropriate. If a public hearing is not held by the legislative body, the legislative body shall confine its review to the information that was presented to the Planning Commission or Committee thereof.~~
- F. Legislative Action – The legislative body shall **take final action on the plan certain development plan or binding element amendment within sixty (60)** ~~complete its review within ninety (90) days after it~~ **introduces** ~~adopts the resolution~~ **initiating** ~~granting the review. The legislative body may uphold, modify, or overturn the Planning Commission's decision, and may place conditions or binding elements the legislative body deems appropriate. Alternatively, the legislative body may remand the matter to the Planning Commission for further review. All resolutions and ordinances adopted by the legislative body on the matter shall be forwarded by the legislative body to the Planning Commission.~~ **If the legislative body fails to take final action on the plan certain development plan or binding element amendment within said sixty-day time frame, the action of the Planning Commission shall be deemed final and effective and shall not be subject to further review by the legislative body.**

## **DRP ITEM #10**

### **11.5A.3 Neighborhood Meeting Requirement**

Prior to **formally** filing a conditional use permit request ~~and after the pre-application conference (if one was conducted)~~ a letter shall be sent from the developer/owner stating that a pre-application has been filed with PDS and announcing a public meeting held by developer/owner to discuss the proposed project. The letter shall be mailed no less than ~~10~~ **14 calendar** days prior to the neighborhood meeting. The letter shall be sent to:

- ~~1<sup>st</sup> and 2<sup>nd</sup> tier property owners~~ **1st Tier Property Owners - The owner(s) of every parcel of property adjoining at any point, and every parcel directly across the street, from the property that is the subject of the application,**
- **2nd Tier Property Owners - The owner(s) of every parcel of property that adjoins the adjoining property or the property directly across the street from said adjoining property within 500 feet of the property that is the subject of the application,**
- **The mayor and city clerk of** any 2<sup>nd</sup> through 6<sup>th</sup> class city if the development is located within such a municipality,
- Metro Council district representative; and
- PDS staff
- ~~neighborhood groups individuals who have registered with PDS to receive notice of development actions,~~ **Any person listed in the applicable Planning and Design Services Electronic Notification for Development Proposals List for the appropriate Council District will receive be sent an email notification.-**

The neighborhood meeting shall be held ~~no less than seven (7) days and no more than 90~~ **calendar** days prior to the filing of an **formal** application. At time of filing a change in zoning request, the applicant shall provide a summary of a public meeting between the applicant and the parties listed above. The summary shall include a list of those invited, those in attendance and a summary of the issues discussed.

## **DRP ITEM #11**

### **11.5A.5 Public Hearing**

- A. Hearing Required – The Board shall hold at least one public hearing on each application for a Conditional Use Permit as required by KRS 100. Notice of the hearing shall be given as specified in KRS 100. **Second tier adjoining property owners, as defined in Section 11.5A.3, shall also be notified of the hearing.** In addition, ~~staff shall endeavor to assure that notice is given to all neighborhood groups individuals who have registered to receive notice of development applications,~~ **any person listed in the applicable Planning and Design Services Electronic Notification for Development Proposals List for the appropriate Council District will receive be sent an email notification.**

## **DRP ITEM #12**

### **11.5A.5 Public Hearing**

- B. Submission of Materials – In addition to those materials required at the time of application submission, no less than fourteen (14) calendar days prior to an original **hearing**, or **seven (7) calendar days prior to a continued** hearing date before the Board, the applicant shall submit original or revised development plans, studies, reports, etc. which have been prepared in response to comments received during the review process. Failure to submit these items within the required time frame shall **may** be considered grounds for postponing the hearing or deferring action on the proposal. This section does not preclude the applicant from presenting, at the hearing, changes to the plan in response to concerns of the neighbors or Board.

## **DRP ITEM #13**

### **11.5A.5 Public Hearing**

- D. Based on the application, the requirements of this Chapter and the recommendations of the staff and testimony at the hearing, the Board shall prepare findings of fact and issue **an approval or a denial** ~~or an authorization~~, with or without conditions as it deems necessary to assure that the proposed conditional use will not adversely affect the use of surrounding properties or unreasonably interfere with the use and enjoyment of such properties.

## **DRP ITEM #14**

### **11.5B.1 General Provisions**

- A. Variances requested in Conjunction with Zoning or Form District Map Amendments  
Applicants for Subdivisions ~~and~~ **or** Zoning or Form District map amendments may elect, at the time of application, to have the Variance(s) for the same development heard and decided by the Planning Commission. In such cases, the Planning Commission shall assume all powers and duties otherwise exercised by the Board of Adjustments pursuant to KRS 100.231, 100.233, 100.237, 100.241, 100.243, 100.247, and 100.251. For purposes of this section only, the time of application for the map amendment shall correspond to the time of legal notice for the hearing on map amendment.

Hereafter, references to the Board of Zoning Adjustment shall also include the Planning Commission when the Commission is considering Variance(s)

B. Considerations for Variances

Determinations on the granting of Variances(s) shall be made in accordance with KRS 100.241 through 100.251. In its review of Variance applications, the Board shall consider the following factors:

1. The purpose and intent and all other requirements of this code;
2. Whether the requested variance will adversely affect the public health, safety or welfare, will alter the essential character of the general vicinity, will cause a hazard or a nuisance to the public, or will allow an unreasonable circumvention of the requirements of the zoning regulations.
3. Whether the requested variance arises from special circumstances which do not generally apply to land in the general vicinity, or in the same zone;
4. Whether the strict application of the provision of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant; and,
5. Whether the circumstances are the result of action of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.  
The Board shall deny any request for a variance arising from circumstances that are the result of willful violations of the zoning regulation by the applicant subsequent to the adoption of the zoning regulation from which relief is sought.

C. Requirement to follow approved ~~Development~~ Plan

A variance shall be approved only on the basis of the ~~development~~ plan approved by the Board and shall be valid only for the location and area shown on the approved ~~development~~ plan which shall include a floor plan if applicable. All construction and operations must be conducted in accordance with the approved ~~development~~ plan and conditions attached to the Variance. The Director shall ~~specific~~ **specify** the contents and format of the ~~development~~ plan. Such specifications shall be available through Planning and Design Services.

## DRP ITEM #15

### **11.5B.2 Application**

- A. Applications for Variance shall be submitted on forms supplied by the department. Applications shall be signed by the property owner or his/her agent and filed Planning and Design Services in accordance with these regulations and the Board of Zoning Adjustment By-Laws and Rules of Procedure. Applications shall be accompanied by supporting material determined appropriate by the Planning Director and by the appropriate fee. The list of required supporting materials shall be available from the offices of Planning and Design Services. Failure to submit all required material may result in delay of the application review. At a minimum, the following materials shall be submitted with all applications for Variance;
1. A "Demonstration of Appropriateness" document which addresses as applicable the items listed in Section 11.5B.1B above. To the extent that the items in 11.5B.1 are adequately addressed on the application, they do not have to be addressed in a separate document.
  2. A development plan of sufficient detail to demonstrate to the Board the character and objectives of the proposed development and the potential impacts of the development on the community and its environs.

## DRP ITEM #16

### **11.5B.3 Public Hearing**

- B. Submission of Materials – In addition to those materials required at the time of application submission, no less than fourteen (14) calendar days prior to an original hearing, or seven (7) calendar days prior to a continued ~~or continued~~ hearing date before the Board, the applicant shall submit original or revised ~~development~~ plans, studies, reports, etc. which have been prepared in response to comments received during the review process. Failure to submit these items within the required time frame shall may be considered grounds for postponing the hearing or deferring action on the proposal. The cost for additional notice shall be borne by the applicant. This section does not preclude the applicant from presenting, at the hearing, changes to the plan in response to concerns of the neighbors or Board.

## DRP ITEM #17

### 11.6.1 Development Plan Categories

For purposes of review procedure, developments are divided into three distinct categories based upon the size thresholds established in the **Chapter 5** Form District regulations applicable to the location of the proposed development. The categories are:

- A. Category 1 - Development proposals which do not meet the size threshold for applicability of Form District design standards.
- B. Category 2 - Development proposals which meet the minimum size threshold for applicability of Form District design standards but do not meet the size threshold for completing the Community Design Review process.
- C. Category 3 - Development proposals which meet the size threshold for completing the Community Design Review Process.

The review process for each category of development is outlined in the sections below. Initial or revised submissions shall follow the procedure determined by the size of the new or additional development proposed unless a higher level of review is required by another section of this code.

## DRP ITEM #18

### 11.7.1 Planning Commission Review of Staff Determinations

- A. Applicability – When the Planning Director, Director of Works or Local Building Official is authorized by this Land Development Code to take action on a proposal on behalf of the Planning Commission, such action may be appealed to the Planning Commission by filing an **administrative** appeal no later than fourteen (14) calendar days after the date of the action. All actions which have not been appealed to the Planning Commission within fourteen (14) calendar days shall not be subject to further ~~administrative review or~~ **administrative** appeal.
- B. Notice – Notice of the **administrative** appeal shall be given to the applicant (if not the appellant) and all first tier property owners at least ~~seven (7)~~ **fourteen (14)** calendar days prior to the meeting at which the Planning Commission will consider the **administrative** appeal.
- C. ~~Delegation to Committee – The Planning Commission may delegate the authority to consider and take final actions on appeals to its Land Development and Transportation Committee~~



~~or other such Committee of the Commission duly created under the By-Laws of the Commission.~~

## DRP ITEM #19

### 11.7.2 Planning Commission Review of Committee Determinations

- A. Applicability – When a committee of the Planning Commission takes action on a proposal on behalf of the Planning Commission, such action may be appealed to the Planning Commission by filing an **administrative** appeal with the Department of Planning and Design Services no later than fourteen (14) calendar days after the date of the action. All committee actions which have not been appealed to the Planning Commission within fourteen (14) calendar days shall not be subject to further ~~administrative review or~~ **administrative** appeal.
- B. Notice – Notice of the **administrative** appeal shall be given to the applicant (if not the appellant) and all first tier adjoining property owners at least ~~ten (10)~~ **fourteen (14)** calendar days prior to the meeting at which the Planning Commission will consider the **administrative** appeal.

## DRP ITEM #20

### 11.8.2 Application

#### A. Submission Requirements

Applications for waiver shall be signed by the property owner or his/her agent and filed with the Planning Director in accordance with these regulations and the Planning Commission By-Laws and Rules of Procedure. Applications shall be accompanied by supporting material determined appropriate by the Planning Director and by the appropriate fee. The list of required supporting materials shall be available from the offices of the Commission. Failure to submit all required material may result in delay of the application review. At a minimum, the following materials shall be submitted with all applications for waiver:

1. A justification document which addresses as applicable the following items:
  - a. ~~How the proposed waiver conforms to the Comprehensive Plan and the intent of this Land Development Code;~~
  - b. ~~Why compliance with the regulation is not appropriate and granting of the waiver will result in a development more in keeping with the Comprehensive Plan and this overall intent of this Land Development Code;~~

- ~~c. What impacts granting of the waiver may have on adjacent property owners;~~
  - ~~d. Why strict application of the provision of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant.~~
  - a. The waiver will not adversely affect adjacent property owners; and,**
  - b. The waiver will not violate the Comprehensive Plan; and,**
  - c. The extent of waiver of the regulation is the minimum necessary to afford relief to the applicant; and,**
  - d. Either:**
    - 1. The applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect); or**
    - 2. 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.**
2. Unless determined by the Planning Director to be unnecessary, a general or detailed development plan of sufficient detail to demonstrate to the Planning Commission the character and objectives of the proposed waiver and the potential impacts of the waiver on the community and its environs.

**DRP ITEM #21**

**11.9.1 Authority to Set Fees**

The fee schedule shall be set **by the Planning Commission upon recommendation of the Planning Director.** ~~by ordinance of the legislative body providing principal funding to Planning and Design Services.~~

**11.9.2 Authority to Establish Interim Fees**

In the circumstance where no fee exists on the official fee schedule, the Planning Director is authorized to establish a review fee until such time as the ~~legislative body~~ **Planning Commission** adopts a revised fee schedule.

**11.9.3 Fee Exemption**

Applications from legislative bodies, state agencies and local government agencies shall be considered fee exempt.

## **DRP ITEM #22**

### **11.10.1 Right of Entry**

Upon representation of official credentials, any zoning enforcement officer may enter during reasonable hours any premises covered by these regulations for the purposes of determining compliance with the provisions of this ordinance or conditions established at the time of development approval.

### **11.10.2 Notice of Violation and Stop Use Order**

Upon determining that use of property is being maintained contrary to the provisions of these regulations, the zoning enforcement officer may issue a notice of violation and order requiring such use to stop immediately. Upon receipt of a notice of violation and stop use order, the property owner or his agent, or the person so using the property shall immediately stop the use. The notice of violation and stop use order shall be given to the owner of the property or his agent, or to the person using the property. The notice shall state specifically the regulation or ordinance being violated **and details related to how the activities observed on the property are specifically violating the regulation or ordinance being referenced.** Notice may be given by hand delivery or by registered mail to the owner, his agent or the person using the property.

#### **Citations**

Zoning enforcement officers may issue citations in accordance with KRS 100.991 & **KRS 431.015** to any person or entity who fails to stop use or otherwise remedy the violation immediately as required by Part 11.10.2.

#### **Penalties**

Any person or entity who violates any provision of this Code shall be fined not less than \$10.00 nor more than \$500.00 for each violation. Each day of violation constitutes a separate offense.

### **11.10.3 Enforcement of Binding Elements**

Enforcement of binding elements and conditions of approval shall occur in accordance with KRS 100.401 through KRS 100.419; applicable local ordinances; and applicable Planning Commission Policies and Procedures.

## DRP ITEM #31

### 11.5A.4 Application

A. Applications for Conditional Use Permit shall be submitted on forms supplied by the department. Applications shall be signed by the property owner or his/her agent and filed with Planning and Design Services in accordance with these regulations and the Board of Zoning Adjustment By-Laws and Rules of Procedure. Applications shall be accompanied by supporting material determined appropriate by the Planning Director and by the appropriate fee. The list of required supporting materials shall be available from the offices of Planning and Design Services. Failure to submit all required material may result in delay of the application review. At a minimum, the following materials shall be submitted with all applications for Conditional Use Permit:

1. A "Demonstration of Appropriateness" document which addresses as applicable the items listed in Section 11.5A.1.B above.
2. A development plan of sufficient detail to demonstrate to the Board the character and objectives of the proposed development and the potential impacts of the development on the community and its environs.
3. **Not all Waivers, Variances and Conditional Use Permits require engineered surveys. However, where dimensional information is determined to be essential for consideration of such waivers, variances or Conditional Use Permits by staff, the applicant shall provide a survey prepared by a licensed Land Surveyor in the Commonwealth of KY. Only those property boundaries that are contiguous with the dimension(s) in question need to be provided. The cost of the required survey shall be borne by the applicant. In cases where staff determines a survey is not required the applicant shall not be responsible for the cost of any survey submitted by any party.**

### 11.5B.2 Application

A. Applications for Variance shall be submitted on forms supplied by the department. Applications shall be signed by the property owner or his/her agent and filed Planning and Design Services in accordance with these regulations and the Board of Zoning Adjustment By-Laws and Rules of Procedure. Applications shall be accompanied by supporting material determined appropriate by the Planning Director and by the appropriate fee. The list of required supporting materials shall be available from the offices of Planning and Design Services. Failure to submit all required material may result in delay of the application review. At a minimum, the following materials shall be submitted with all applications for Variance;

1. A "Demonstration of Appropriateness" document which addresses as applicable the items listed in Section 11.5B.1B above. To the extent that the items in 11.5B.1 are adequately addressed on the application, they do not have to be addressed in a separate document.
2. A development plan of sufficient detail to demonstrate to the Board the character and objectives of the proposed development and the potential impacts of the development on the community and its environs.
3. **Not all Waivers, Variances and Conditional Use Permits require engineered surveys. However, where dimensional information is determined to be essential for consideration of such waivers, variances or Conditional Use Permits by staff, the applicant shall provide a survey prepared by a licensed Land Surveyor in the Commonwealth of KY. Only those property boundaries that are contiguous with the dimension(s) in question need to be provided. The cost of the required survey shall be borne by the applicant. In cases where staff determines a survey is not required the applicant shall not be responsible for the cost of any survey submitted by any party.**

## 11.8.2 Application

A. Submission Requirements

Applications for waiver shall be signed by the property owner or his/her agent and filed with the Planning Director in accordance with these regulations and the Planning Commission By-Laws and Rules of Procedure. Applications shall be accompanied by supporting material determined appropriate by the Planning Director and by the appropriate fee. The list of required supporting materials shall be available from the offices of the Commission. Failure to submit all required material may result in delay of the application review. At a minimum, the following materials shall be submitted with all applications for waiver:

2. Unless determined by the Planning Director to be unnecessary, a general or detailed development plan of sufficient detail to demonstrate to the Planning Commission the character and objectives of the proposed waiver and the potential impacts of the waiver on the community and its environs.

**Not all Waivers, Variances and Conditional Use Permits require engineered surveys. However, where dimensional information is determined to be essential for consideration of such waivers, variances or Conditional Use Permits by staff, the applicant shall provide a survey prepared by a licensed Land Surveyor in the Commonwealth of KY. Only those property boundaries that are contiguous with the dimension(s) in question need to be provided. The cost of the required survey shall be borne by the applicant. In cases where staff determines a survey is not required the applicant shall not be responsible for the cost of any survey submitted by any party.**

## **DRP STAFF ITEM B**

### **11.5A.1 General Provisions (Conditional Use Permits)**

#### **C. Term of Permit Approval**

The Permit must be exercised within one **two** years of the date of issuance, or other time frame as may be specified by the Board. However, upon written application, filed at least thirty calendar days prior to said expiration date, the Board may, for cause shown, renew such Conditional Use Permit for one period of up to one year. No less than fourteen (14) calendar days prior to Board consideration of an application for extension, staff of Planning and Design Services shall cause notice of the application to be given to those persons who appeared at the hearing at which the current expiration date was set. If the Permit expires, no new or renewal permit shall be issued except through a new original application in compliance with all requirements for such applications.