

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO DEVELOPMENT REVIEW COMMITTEE MEETING
September 30, 2020**

A meeting of the Louisville Metro Development Review Committee was held on Wednesday, September 30, 2020 at 1:00 p.m. via Cisco Webex Video Conferencing. On the recommendation of the Louisville Metro Department of Health and Wellness regarding congregate events and social distancing, the Development Review Committee meeting set for today was held online.

Commissioners present:

Richard Carlson, Chair
Jim Mims, Vice Char
Marilyn Lewis
Jeff Brown
Pat Seitz

Commissioners absent:

None.

Staff members present:

Emily Liu, Director, Planning & Design Services
Joe Reverman, Assistant Director, Planning & Design Services
Brian Davis, Planning & Design Manager
Julia Williams, Planning & Design Supervisor
Joel Dock, AICP, Planner II
Lacey Gabbard, AICP, Planner I
Travis Fiechter, Legal Counsel
Beth Stuber, Transportation
Rachel Dooley, Management Assistant (minutes)

The following matters were considered

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APPROVAL OF MINUTES

Minutes of the September 16, 2020 Development Review Committee meeting

00:03:38 On a motion by Commissioner Brown, seconded by Commissioner Lewis, the following resolution was adopted:

RESOLVED, that the Louisville Metro Development Review Committee does hereby **APPROVE** the minutes of its meeting conducted on September 16, 2020.

The vote was as follows:

YES: Commissioners Lewis, Brown, and Seitz

NO: No one.

ABSTAIN: Commissioner Mims and Carlson.

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NEW BUSINESS

CASE NUMBER 20-INTERP-0002

Request: Tyler Town Center Guideline Interpretation
Project Name: Tyler Town Center Guideline Interpretation
Location: Taylorsville Road and I-265
Owner: Multiple
Applicant: Planning and Design Services
Representative: Planning and Design Services
Jurisdiction: Louisville Metro
Council District: 20 – Stuart Benson

Case Manager: Joel P. Dock, 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:

00:05:38 Joel Dock presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.) Mr. Dock explained the Plan Development District (PDD) guidelines for the plan approval process for the Tylertown Center Plan Development District. Joel detailed the Through Street Landscape Requirements 4.4.1.C.2, existing Landscape Berm Requirements, concerned citizens comments for this site, and staff findings (see recording for detailed presentation.)

00:10:47 Commissioner Mims asked for clarification regarding staff approval for landscape plans. Joel Dock replied there are citizen comments on berms being an absolute requirement in the Tylertown Center Plan Development District. Mr. Dock detailed an example where staff have not applied berms on development sites due to topographic, grade, etc. issues (see recording for detailed presentation.)

00:12:26 Commissioner Mims and Joel Dock discussed the Plan Development District Area III regarding height requirements and design guidelines (see recording for detailed presentation.)

00:19:33 Commissioner Brown asked if “low impact development” is determined by the Land Development Code or Staff. Joel Dock replied staff has approached the

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leeway in designs on a plan if there are to still fulfill the intent of the Landscape Guide Lines.

00:21:26 Travis Fiechter, Legal Counsel, read into the record the Landscape Content Intent statement section 4.4.1. for "Low Impact Development" (LID) and how it relates with landscape design (see recording for detailed presentation.) Joel Dock and Travis Fiechter discussed the PDD and LID.

00:23:24 Commissioner Mims asked if the LID practices incorporated where the landscaping was modified.

00:24:22 Travis Fiechter asked if berms have fallen out of favor with developers due to landscaping design preferences or the impractical use for berms on a development. Joel Dock replied it has been a combination of both.

00:25:05 Joe Reverman stated berms are not encouraged due to drainage usage and loss of landscape plantings. Mr. Reverman detailed the amended landscape regulations for berm requirements (see recording for detailed presentation.)

00:26:27 Commissioner Carlson asked when staff deviates from standard practices will they make a note in the case file to explain the change in future development. Joel Dock replied there are agency comments recorded into the case file. Commissioner Carlson and Joel Dock discussed the process for development plans and PDD guidelines (see recording for detailed presentation.)

00:32:52 Commissioner Lewis noted the intent for berms in the Landscape Content Intent 4.4.1 should be addressed and clarified.

00:34:12 Commissioner Carlson, Joel Dock, and Joe Reverman discussed the PDD for Area III and language interpretation for berms (see recording for detailed presentation.)

The following spoke in favor of this request:

No one spoke.

The following spoke against of this request:

No one spoke.

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The following spoke in neither for nor against this request:

Lori Lyons, 13807 Stillwater Court, Louisville, Kentucky, 40299

Debra Harder, 12408 Tyler wood Court, Louisville, Kentucky

Summary of testimony of those in neither nor against this proposal:

00:36:00 Lori Lyons stated there is an existing berm abutting her property that faces Taylorsville Road. Lori asked if this berm would it be removed or reserved. Joel Dock replied staff have not been asked if this process will affect existing berms. Joe Reverman noted staff can approve revised landscape plans if the revised plan meets development code requirements (see recording for detailed presentation.)

00:38:44 Commissioner Carlson asked if any existing plans will be affected if committee members determine this interpretation today. Joel Dock replied actions taken today will not affect existing plans.

00:39:18 Debra Harder asked when construction will begin on Area III of the Tylertown Development Center. Joel Dock replied Planning and Design reviews the projects and unsure the timeline of the development. Debra expressed concerns with the construction of berms along the easement. Joel Dock replied the berm requirements discussed today concern Taylorsville Road.

00:44:32 Steve Porter stated berms should be use only when needed to be block street lights from residential properties and would prefer intensive plantings instead.

Commissioner Deliberation

00:45:31 Commissioner Deliberation (see recording for detailed presentation.)

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.

00:50:33 On a motion by Commissioner Brown, seconded by Commissioner Seitz, the following resolution, based on the Standard of Review and Staff Analysis, testimony heard today, was adopted:

RESOLVED, the Louisville Metro Development Review Committee does hereby **CONFIRM** Planning and Design Staff has been applying discretion correctly but limit

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discretion to those that support low impact development and provide documentation on any changes made **AND** Planning and Design Staff look at the Tylertown Center Development District to see if those berm requirements need to be amended.

The vote was as follows:

YES: Commissioners Lewis, Brown, Mims, Seitz, and Carlson.

NO: none.

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NEW BUSINESS

CASE NUMBER 20-WAIVER-0088

Request: Waiver to allow a swimming pool to encroach into a buffer yard
Project Name: LDC Waiver
Location: 14831 Ava Brook Circle
Owner: Keith Lane
Applicant: Keith Lane
Representative: Michael Marks, Wetterer & Clare
Jurisdiction: Louisville Metro
Council District: 19 – Anthony Piagentini

Case Manager: Lacey Gabbard, AICP, Planner I

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:

00:52:13 Lacey Gabbard presented the case via Power Point slide show (see staff report and recording for detailed presentation.) Ms. Gabbard detailed the applicant's proposed plan for a waiver to allow a 14x18 inground swimming pool on a residential lot to encroach on the 15-foot buffer yard area. She asked the committee to discuss with the applicant the proposed placement of the pool in the buffer yard area.

00:56:08 Commissioner Brown noted in the applicant's proposed plan the landscape buffer area (LBA) does not touch the applicant's property line. Lacey Gabbard clarified the pool would encroach in the buffer yard area. Pat Seitz said there is a gas line through the rear of this property and proposed the applicant seek approval from the gas company. Lacey Gabbard stated the applicant received a building permit and a pool permit through Construction Review.

00:57:50 Commissioner Lewis asked if the gas line moved the landscape buffer area. Joe Reverman replied the LBA is allowed to encroach into a utility easement by 50%. Commissioner Lewis, Commissioner Brown, and Joe Reverman discussed the utility easement overlapping the LBA for this site (see recording for detailed presentation.)

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00:59:13 Commissioner Carlson asked for the type of gas line for this property. Commissioner Brown replied this is a high-pressure gas line.

00:59:51 Commissioner Mims asked if the gas company would allow a pool to be constructed close to the gas line easement. Joe Reverman replied the gas line is not in the utility easement.

01:00:06 Commissioner Lewis asked for the dimensions of how far off the property line the pool would be located. Lacey Gabbard replied the it would be more than 20 feet.

The following spoke in favor of this request:

Michael Marks, 2933 Bowman Avenue, Louisville, Kentucky, 40205

Keith Lane, 14831 Ava Brook Circle, Louisville, Kentucky, 40245

Summary of testimony of those in support of the proposal:

01:02:02 Michael Marks, representing the applicant, presented a Power Point slide show (see recording for detailed presentation.) Mr. Marks detailed the history of the site, the home survey with and without pool, and site photos. He noted the 15-foot sewer and drainage easement is different than the gas easement with the encroaching LBA. The proposed pool area will be 12 feet away from the home to not damage the foundation. Michael stated the Keith Lane, homeowner, is available today for questions.

01:07:17 Commissioner Carlson asked the reason for the location for the pool. Keith Lane replied the pool was originally planned to be closer to the home. The excavator and contractor stated it would be better for the house foundation to push the pool away from the home.

01:08:46 Commissioner Brown asked if there are any planting requirements in the LBA. Lacey Gabbard replied there are no planting requirements for the buffer yard easement. Michael Marks stated the applicant plans to plant trees in that area and will ask the gas company for permission before planting vegetation there.

01:10:20 Commissioner Seitz asked how much of the pool will encroach on the easement. Michael Marks replied it the pool will meet the sewer easement line and encroach the LBA by seven feet. Keith Lane and Commissioner Seitz discussed the water runoff from the property (see recording for detailed presentation.)

01:12:52 Commissioner Carlson asked for clarification for the pool encroachment. Michael Marks stated the finished pool with concrete sidewalk will be up to the sewer

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easement line, 7-7 ½ feet total encroachment into the sewer easement and LBA (see recording for detailed presentation.)

01:14:33 Commissioner Mims asked if the pool will encroach on the easement Michael Marks replied the pool with sidewalk and fence will meet the sewer easement line.

**The following spoke in opposition:
No one spoke.**

**The following spoke in neither for nor against:
No one spoke.**

Commissioner Deliberation

01:15:16 Commissioner Deliberation (see recording for detailed presentation.)

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.

01:16:58 On a motion by Commissioner Brown, seconded by Commissioner Seitz, the following resolution, based on the Standard of Review and Staff Analysis, and evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Development Review Committee finds that the waiver will not adversely affect adjacent property owners since the buffer yard at the rear of the property abuts a 22-acre parcel owned by the Future Fund which is not currently developed. Additionally, the applicant is proposing to provide all buffer yard requirements with the exception of the area where the pool is proposed to encroach; and

WHEREAS, the Committee further finds that the waiver will not violate Land Use & Development Goal 1, Policy 10 which calls for the mitigation of 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.

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The waiver request is for a swimming pool on a residential lot, which abuts other residentially zoned lots. The uses are not incompatible and do not differ in intensity or density. Additionally, the proposed swimming pool will only encroach into a portion of the buffer yard, and a majority of it will remain intact; and

WHEREAS, the Committee further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since they would not be able to build the swimming pool otherwise; and

WHEREAS, the Committee 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 because he would otherwise not be able to construct the swimming pool; now, therefore be it:

RESOLVED, the Louisville Metro Development Review Committee does hereby **APPROVE** the requested Waiver of Land Development Code Section 7.3.30.F to allow a swimming pool on a residential lot to encroach into the 15-foot buffer yard at the rear of the property.

The vote was as follows:

YES: Commissioners Lewis, Brown, Mims, Seitz, and Carlson.

NO: none.

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NEW BUSINESS

CASE NUMBER 20-CAT3-0009

Request: Category 3 Development Plan
Project Name: Zoeller Pump Manufacturing Plant Expansion
Location: 3115 Millers Lane
Owner: Bill Zoeller, Zoeller Pump Company
Applicant: Bill Zoeller, Zoeller Pump Company
Representative: Missy Legel, Civil Design, Inc.
Jurisdiction: Louisville Metro
Council District: 3 – Keisha Dorsey
Case Manager: Lacey Gabbard, AICP, Planner I

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:

01:18:13 Lacey Gabbard presented the case via Power Point slide show (see staff report and recording for detailed presentation.) Ms. Gabbard detailed the case summary, phases 8, 8A, and 9 of the development, the partial fee-in-lieu for an Outdoor Amenities/Focal Point for phase 8A, and the applicant's proposed development plan with the outdoor amenity area.

01:24:31 Commissioner Mims asked if the applicant needs to waive the amenity area requirements. Lacey Gabbard replied the applicant is requesting a fee-in-lieu instead.

01:25:10 Commissioner Carlson asked for clarification regarding the fee-in-lieu option process for an amenity area. Joe Reverman replied the fees go to be used by the Commission of Public Art. The Commission of Public Art would determine how the fees will be used.

The following spoke in favor of this request:

Missy Legel, 304 Stony Spring Circle, Louisville, Kentucky, 40220

Summary of testimony of those in support of the proposal:

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01:26:53 Missy Legel, representing the applicant, presented the previous approved plan, current development plan, and detailed the proposed the expansion of the building. Ms. Legel stated they are closing select entrances/exits on Millers Lane, Old Millers Lane, and Cane Run Road (see recording for detailed presentation.) Missy noted the fee-in-lieu for the sidewalks have been approved and they ask for a fee-in-lieu for the outdoor amenity area for Phase 8A.

The following spoke in opposition:
No one spoke.

The following spoke in neither for nor against:
No one spoke.

Commissioner Deliberation

01:32:33 Commissioner Deliberation (see recording for detailed presentation.)

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.

01:39:08 On a motion by Commissioner Brown, seconded by Commissioner Seitz, the following resolution, based on the Standard of Review and Staff Analysis, and evidence and testimony heard today, was adopted:

RESOLVED, the Louisville Metro Development Review Committee does hereby **APPROVE** the requested Category 3 Development Plan.

The vote was as follows:

YES: Commissioners Lewis, Brown, Mims, Seitz, and Carlson.
NO: none.

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ADJOURNMENT

The meeting adjourned at approximately 2:41 p.m.

Chairman

Division Director