

**MINUTES OF THE MEETING  
OF THE  
DEVELOPMENT REVIEW COMMITTEE  
January 3, 2018**

A meeting of the Development Review Committee was held on, January 3, 2018 at 1:00 p.m. in the Old Jail Building, located at 514 W. Liberty Street, Louisville, Kentucky.

**Committee Members present were:**

Rich Carlson, Vice Chair  
Laura Ferguson  
Jeffrey Brown  
Emma Smith

**Committee Members absent were:**

David Tomes, Chairman

**Staff Members present were:**

Emily Liu, Planning Director  
Brian Davis, AICP, Planning Manager  
Laura Mattingly, Planner II  
Jay Lockett, Planner I  
Paul Whitty, Legal Counsel  
Travis Fiechter, Legal Counsel  
Pamela M. Brashear, Management Assistant

The following matters were considered:

**DEVELOPMENT REVIEW COMMITTEE**  
**January 3, 2018**

**APPROVAL OF MINUTES**

**DECEMBER 20, 2017 DRC MEETING MINUTES**

On a motion by Commissioner Brown, seconded by Commissioner Ferguson, the following resolution was adopted.

**RESOLVED**, that the Development Review Committee does hereby **APPROVE** the minutes of its meeting conducted on December 20, 2017.

**The vote was as follows:**

**YES: Commissioners Brown and Carlson**

**NOT PRESENT FOR THIS CASE: Commissioner Tomes**

**ABSTAINING: Commissioners Ferguson and Smith**

**DEVELOPMENT REVIEW COMMITTEE**  
**January 3, 2018**

**CONSENT AGENDA**

**CASE NO. 17MOD1011**

Request: Binding Element Modification – Continued from the  
December 21, 2017 PC Meeting  
Project Name: Mango's Event Space  
Location: 4600 Hendrick Drive  
Owner: Hendrick Properties, LLC  
Applicant: Spink General Contracting  
Representative: Spink General Contracting  
Jurisdiction: Louisville Metro  
Council District: 11 – Kevin Kramer  
**Case Manager: Jay Lockett, Planner I**

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. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5<sup>th</sup> Street.)

**Discussion**

00:23:26 Mr. Lockett stated the case is related to a proposed events space in the shopping center. One of the binding elements prevents dance halls. There is a concern that an interpretation of 'dance halls' could lead to a violation so the request is to delete that use.

After looking through the general and detailed plan minutes, Mr. Lockett said he couldn't find a reason why this was included.

**The following spoke in favor of this request:**

Taylor Thompson, 1757 Frankfort Avenue, Suite 102, Louisville, Ky. 40206

**Summary of testimony of those in favor:**

00:28:58 Mr. Thompson answered questions from the commissioners regarding event hours of operation, parking, tenants and types of events (potentially).

**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.**

**Deliberation**

00:33:41 Development Review Committee deliberation.

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**CONSENT AGENDA**

**CASE NO. 17MOD1011**

On a motion by Commissioner Brown, seconded by Commissioner Smith, the following resolution based on the testimony heard today was adopted.

**RESOLVED**, that the Louisville Metro Development Review Committee does hereby **APPROVE** the binding element modification.

**The vote was as follows:**

**YES: Commissioners Brown, Ferguson, Smith and Carlson**  
**NOT PRESENT AND NOT VOTING: Commissioner Tomes**

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**NEW BUSINESS**

**CASE NO. 17DEVPLAN1155**

Request: General/Detailed District Development Plan and Landscape Waivers  
Project Name: Southpointe Commons  
Location: 7413 Bardstown Road  
Owner: Investors Exchange Company, LLC  
Applicant: Investors Exchange Company, LLC  
Representative: Wyatt, Tarrant & Combs, LLP  
Jurisdiction: Louisville Metro  
Council District: 22 – Robin Engel  
**Case Manager: Laura Mattingly, AICP, Planner II**

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. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5<sup>th</sup> Street.)

**Agency Testimony:**

00:35:51 Ms. Mattingly discussed the case summary, standard of review and staff analysis from the staff report.

**The following spoke in favor of this request:**

Jon Baker, Wyatt, Tarrant and Combs, LLP, 500 West Jefferson Street, Suite 2800, Louisville, Ky. 40202  
John Campbell, Heritage Engineering, 642 South 4<sup>th</sup> Street, Suite 100, Louisville, Ky. 40202

**Summary of testimony of those in favor:**

00:40:28 Mr. Baker gave a power point presentation and discussed the changes from the plan approved on November 15, 2017. "TARC does not want to bring services into the development site or stop in front of Bates." There will be landscaping, additional trees and a turn lane into Bates. There's no safe use for the (removed) sidewalk and it will not lead to anything.

00:58:37 Commissioner Brown said he's not comfortable eliminating that sidewalk because it was a major part of the finding of facts when this case originally came through.

01:01:07 Ms. Liu suggests revisiting that portion of sidewalk in phase 2. Commissioner Brown replied, "We started with our public road that had all the sidewalks and slowly but surely they're scaling back. I think at a minimum, we need that multi-use

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path on one side or the other.” Mr. Baker agrees to revert back to the approved plan – take out turn lane and provide the sidewalk connection.

01:14:40 Mr. Campbell clarified the differences from the approved plan and request today.

**Deliberation**

01:19:02 Development Review Committee deliberation.

**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 of Section 10.3.7.A.1 to decrease a portion of the required 50’ Gene Snyder Landscape Buffer to 35’**

On a motion by Commissioner Brown, seconded by Commissioner Smith, the following resolution based on the testimony heard today and the applicant’s justification statement was adopted.

**WHEREAS**, the waiver will not adversely affect adjacent property owners as the required buffer area is not adjacent to any adjoining properties and cannot be viewed from adjoining properties; and

**WHEREAS**, Guideline 3, Policy 9 of Cornerstone 2020 calls for the protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigate when appropriate. Guideline 3, Policies 21 and 22 calls for appropriate transitions between uses that are substantially different in scale and intensity or density, and to mitigate the impact caused when incompatible developments occur adjacent to one another through the use of landscaped buffer yards, vegetative berms and setback requirements to 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. Guideline 3, Policy 24 states that parking, loading and delivery areas located adjacent to residential areas should be designed to minimize the impacts from noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered. Guideline 13, Policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. Guideline 13, Policy 7 calls for protection of the character of parkways and scenic byways and corridors through standards for buffers, landscape treatment, lighting and signs. The intent of parkway development standards is to protect existing scenic and

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aesthetic qualities, to ensure a quality visual experience on developing corridors and to protect and improve the visual experience on established corridors. These guidelines are not violated as only a portion of the buffer is affected and the development will still be screened and buffered from the freeway; and

**WHEREAS**, the Louisville Metro Development Review Committee finds the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the provision of the required landscaping and amenity areas interior to the site caused a design change that requires the vehicle use area to encroach into the Gene Snyder buffer; and

**WHEREAS**, the Louisville Metro Development Review Committee further finds the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant as providing the full 50' along the Gene Snyder would not allow for the Interior Landscape Areas and Amenity Areas as proposed on the plan.

**RESOLVED**, that the Louisville Metro Development Review Committee does hereby **APPROVE** a waiver of section 10.3.7.A.1 to decrease a portion of the required 50 foot Gene Snyder landscape buffer to 35 feet.

**The vote was as follows:**

**YES: Commissioners Brown, Ferguson, Smith and Carlson**  
**NOT PRESENT AND NOT VOTING: Commissioner Tomes**

**Waiver of Section 10.2.4.A to allow the proposed private roadway to encroach into the required 35' property perimeter Landscape Buffer Area and to not provide the required 8' screen along the southeastern property line**

On a motion by Commissioner Brown, seconded by Commissioner Smith, the following resolution based on the testimony heard today and the applicant's justification was adopted.

**WHEREAS**, the waiver will not adversely affect adjacent property owners as plantings and a portion of the required width will still be provided; and

**WHEREAS**, Guideline 3, Policy 9 of Cornerstone 2020 calls for protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigation when appropriate. Guideline 3, Policies 21 and 22 call for appropriate transitions between uses that are substantially different in scale and

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intensity or density, and mitigation of the impact caused when incompatible developments occur adjacent to one another through the use of landscaped buffer yards, vegetative berms and setback requirements to 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. Guideline 3, Policy 24 states that parking, loading and delivery areas located adjacent to residential areas should be designed to minimize impacts from noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered. Guideline 13, Policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. Guideline 13, Policy 6 calls for screening and buffering to mitigate adjacent incompatible uses. The intent of landscape buffer areas is to create suitable transitions where varying forms of development adjoin, to minimize the negative impacts resulting from adjoining incompatible land uses, to decrease storm water runoff volumes and velocities associated with impervious surfaces, and to filter airborne and waterborne pollutants. These policies are not violated, as the applicant has still provided more than half the buffer area where there is no right turn lane proposed and will provide appropriate plantings that will serve the intent of the guidelines while allowing the applicant to provide better access to Bates Elementary to the south; and

**WHEREAS**, the Louisville Metro Development Review Committee finds the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the buffer cannot be provided due to the applicant adding drive lanes that aim to alleviate congestion and increase traffic flow to Bates Elementary; and

**WHEREAS**, the Louisville Metro Development Review Committee further finds the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant as the additional drive lanes would not be able to be provided that will increase connectivity and benefit the surrounding community.

**RESOLVED**, that the Louisville Metro Development Review Committee does hereby **APPROVE** a waiver of section 10.2.4.A to not provide the required 8 foot screen along the southeastern property line.

**The vote was as follows:**

**YES: Commissioners Brown, Ferguson, Smith and Carlson**  
**NOT PRESENT AND NOT VOTING: Commissioner Tomes**

**Detailed District Development Plan and Binding Elements**



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On a motion by Commissioner Brown, seconded by Commissioner Smith, the following resolution based on the testimony heard today was adopted.

**WHEREAS**, LOJIC has identified Karst terrain on site. The applicant has performed a Karst survey and will take measures to ensure the development will not negatively impact the natural resources on site; and

**WHEREAS**, provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community appear to have been provided through adequate roadway connections and appropriately place sidewalks; and

**WHEREAS**, the proposal includes amenity areas and focal points that meet the size and design requirements of the Land Development Code; and

**WHEREAS**, 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 Louisville Metro Development Review Committee finds the overall site design and land uses appear compatible with the existing and future development of the area. Buildings will meet all required setbacks and landscaping requirements are being met with the exception of the Gene Snyder buffer and property perimeter buffer to the south; and

**WHEREAS**, the Louisville Metro Development Review Committee further finds the development plan generally conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code with the exception of the Gene Snyder buffer and property perimeter buffer.

**RESOLVED**, that the Louisville Metro Development Review Committee does hereby **APPROVE** the Detailed District Development Plan **ON CONDITION** that the plan is updated along Southpointe Blvd. near the Bardstown Rd. intersection to reflect the approved plan from the November 15, 2017 DRC meeting and **SUBJECT** to the following Binding Elements:

**All binding elements from the approved General Development Plan (11640) are applicable to this site, in addition to the following:**

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

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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 Codes and Regulations Construction Permits and Transportation Planning Review and the Metropolitan Sewer District.
  - b. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
  - c. A minor plat 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.
  - d. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
5. Prior to any site disturbance permit being issued and prior to any clearing, 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

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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 renderings as presented at the January 3, 2018 DRC meeting.
10. The applicant will work with staff on providing twice as many trees and screening than what is required in the 35' LBA adjacent to the Steven D. Webb property.
11. Exhibits showing details of amenity areas must be submitted and approved by the Planning Commission or designee prior to issuance of building permit.

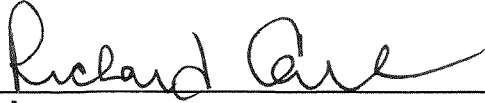
**The vote was as follows:**

**YES: Commissioners Brown, Ferguson, Smith and Carlson**  
**NOT PRESENT AND NOT VOTING: Commissioner Tomes**

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**ADJOURNMENT**

The meeting adjourned at approximately 2:12 p.m.



Vice **Chair**



**Planning Director**