

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO DEVELOPMENT REVIEW COMMITTEE MEETING
August 19, 2020**

A meeting of the Development Review Committee was held on Wednesday, August 19, 2020 at 1:00 p.m. via Cisco Webex Video Teleconferencing.

Commissioners present:

Rich Carlson, Chair
Jim Mims, Vice Chair
Jeff Brown
Marilyn Lewis
Pat Seitz (joined meeting at approximately 00:19:47)

Commissioners absent:

No one.

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
Dante St. Germain, Planner II
Beth Jones, Planner II
Lacey Gabbard, Planner I
Jay Lockett, Planner I
Laura Ferguson, Legal Counsel
Beth Stuber, Transportation
Chris Cestaro, Management Assistant (minutes)

The following matters were considered

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APPROVAL OF MINUTES

Minutes of the August 5, 2020 Development Review Committee meeting

00:03:23 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 August 5, 2020.

The vote was as follows:

YES: Commissioners Lewis, Brown, and Carlson.

ABSTAIN: Commissioner Mims.

ABSENT: Commissioner Seitz.

DEVELOPMENT REVIEW COMMITTEE MINUTES
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NEW BUSINESS

CASE NUMBER 20-DDP-0030

Request: Revised Detailed District Development Plan with Landscaping Waivers and amendment to General Plan Binding Elements
Project Name: Stone Creek Parkway Apartments
Location: 700 Stone Creek Parkway
Owner: NTS Realty Holdings Limited Partners
Applicant: NTS Realty Holdings Limited Partners
Representative: Bardenwerper Talbott & Roberts
Jurisdiction: City of Jeffersontown
Council District: 18 - Marilyn Parker
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:

00:04:51 Dante St. Germain said the General Plan binding elements need to be amended; therefore, the case is not ready to be heard today. She asked that it be continued to the September 2, 2020 Development Review Committee meeting (see recording for detailed explanation.)

The following spoke in favor of this request:

Nick Pregliasco, Bardenwerper Talbott & Roberts PLLC, 1000 North Hurstbourne Parkway, Louisville, KY 40223

Summary of testimony of those in support of the proposal:

00:05:55 Nick Pregliasco, the applicant's representative, said the applicant agrees with the request for a continuance.

The following spoke in opposition to this request:

No one spoke.

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.

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NEW BUSINESS

CASE NUMBER 20-DDP-0030

00:06:52 On a motion by Commissioner Brown, seconded by Commissioner Mims, 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 **CONTINUE** this case to the September 2, 2020 Development Review Committee.

The vote was as follows:

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

ABSENT: Commissioner Seitz.

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NEW BUSINESS

CASE NUMBER 20-WAIVER-0072

Request: Waivers of requirements for placement and size of freestanding and attached signs
Project Name: LDC Waivers
Location: 1309 S. 3rd Street
Owner: Filson Historical Society
Applicant: Signarama Dixie Representative:
Jurisdiction: Louisville Metro
Council District: 6 - David James
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. 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:

00:07:32 Beth Jones presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.) In response to a question from Commissioner Carlson, Ms. Jones confirmed that none of the proposed signs will be illuminated, either internally or externally.

NOTE: Commissioner Pat Seitz joined the meeting at approximately 00:19:47.

The following spoke in favor of this request:

Richard Clay, Filson Historical Society, 1310 South Third Street, Louisville, KY
Cynthia Miles Brown, Signarama Dixie, 4436 Dixie Highway, Louisville, KY 40216

Summary of testimony of those in support of the request:

00:20:17 Richard Clay, President of the Filson Historical Society, presented the applicant's case (see recording for detailed presentation.) He noted that many members of the Filson Society are elderly, and "way-finding" can sometimes be challenging (finding parking lot, buildings, etc.) He said there is an alley going through the campus, with a pedway over it, improved signage will help with safety and directional concerns.

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00:21:25 Cynthia Miles Brown, with Sigarama, said that the Filson Club had worked to involve the Old Louisville Neighborhood Association, the Historic Preservation Society and ARC. Mr. Clay said he had attended the meeting of the Old Louisville Neighborhood Association, and said the response was “overwhelmingly” positive.

The following spoke in opposition to the request:

No one spoke.

Commissioner Deliberation:

00:24:04 Commissioners’ 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 1 to permit a freestanding sign to exceed 20 sq ft in area and be placed more than 6 ft from the principal façade of the structure (LDC 2.7.5.E.7.a.)

WAIVER 2 to permit a freestanding sign to exceed the permitted overall height (LDC 2.7.5.E.7.b.)

00:25:23 On a motion by Commissioner Brown, seconded by Commissioner Mims, the following resolution, based on the Standard of Review and Staff Analysis, and evidence and testimony heard today, was adopted:

(Waivers #1 AND #2) WHEREAS, the Louisville Metro Development Review Committee finds that the waivers will not adversely affect adjacent property owners in that the proposed placement of the sign is designed in keeping with the uncharacteristic development pattern on the site, where extensive tree plantings are planned for the near future; and

WHEREAS, the Committee further finds that the waivers do not violate guidelines of Plan 2040, which requires that: appropriateness must be evaluated in the context of the compatibility of the proposed use or uses with surrounding uses (Community Form 1.2.4); impacts on quality of life must be considered (Community Form 16); adverse

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visual intrusions must be considered when there are impacts to residential areas (Community Form 20); and

WHEREAS, the Committee further finds that the extent of the waivers of the regulations are the minimum necessary to afford relief to the applicant in that the proposed sign meets all remaining LDC standards and requirements for the TNZD and has been approved by the ARC and the Old Louisville Neighborhood Association; and

WHEREAS, the Committee further finds that strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as the proposed signs are appropriate to accommodate development on the site, which differs significantly from the traditional style prevalent in the vicinity due to a combination of adaptive re-use and new development, and the function of the signs is to direct the public both to and around the campus area; now, therefore be it

RESOLVED, the Louisville Metro Development Review Committee does hereby **APPROVE** the requested Waiver to permit a freestanding sign to exceed 20 sq ft in area and be placed more than 6 ft from the principal façade of the structure (LDC 2.7.5.E.7.a.); AND the requested Waiver to permit a freestanding sign to exceed the permitted overall height (LDC 2.7.5.E.7.b.).

The vote was as follows:

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

WAIVER 3 to permit a freestanding sign to be placed more than 6 ft from the principal façade of the structure (LDC 2.7.5.E.7.a.)

00:26:52 On a motion by Commissioner Brown, seconded by Commissioner Mims, 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 in that the proposed placement of the sign is designed in keeping with development on the site and adjoining parking areas and includes no lighting that might adversely affect residential uses in the vicinity; and

WHEREAS, the Committee further finds that the waiver does not violate guidelines of Plan 2040, which requires that: appropriateness must be evaluated in the context of the compatibility of the proposed use or uses with surrounding uses (Community Form 1.2.4); impacts on quality of life must be considered (Community Form 16); adverse

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visual intrusions must be considered when there are impacts to residential areas (Community Form 20); 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 in that the proposed sign meets all remaining LDC standards and requirements for the TNZD and has been approved by the ARC and the Old Louisville Neighborhood Association; and

WHEREAS, the Committee further finds that strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as the proposed sign is appropriate to identify the site and direct the public to the adjoining parking area. It is the only sign proposed for the S. Third Street campus frontage; now, therefore be it

RESOLVED, the Louisville Metro Development Review Committee does hereby **APPROVE** the requested Waiver to permit a freestanding sign to be placed more than 6 ft from the principal façade of the structure (LDC 2.7.5.E.7.a.)

The vote was as follows:

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

WAIVER 4 to permit an attached sign to exceed the permitted area (LDC 2.7.5.E.5.)

00:27:40 On a motion by Commissioner Brown, seconded by Commissioner Mims, 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 in that the proposed placement of the sign is designed in keeping with development on the site and adjoining parking areas and includes no lighting that might adversely affect residential uses in the vicinity; and

WHEREAS, the Committee further finds that the waiver does not violate guidelines of Plan 2040, which requires that: appropriateness must be evaluated in the context of the compatibility of the proposed use or uses with surrounding uses (Community Form 1.2.4); impacts on quality of life must be considered (Community Form 16); adverse visual intrusions must be considered when there are impacts to residential areas (Community Form 20); 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 in that the proposed sign meets

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all remaining LDC standards and requirements for the TNZD and has been approved by the ARC and the Old Louisville Neighborhood Association; and

WHEREAS, the Committee further finds that strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as the carriage house building, which is the primary public entrance to the facility, is located at the rear of the site away from direct frontage on either street, and a larger sign is necessary to ensure visibility and direct users safely through the site; now, therefore be it

RESOLVED, the Louisville Metro Development Review Committee does hereby **APPROVE** the requested Waiver to permit an attached sign to exceed the permitted area (LDC 2.7.5.E.5.).

The vote was as follows:

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

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NEW BUSINESS

CASE NUMBER 20-WAIVER-0065

Request: Waiver to permit a changing image sign within 300 ft of a residential zone
Project Name: LDC Waiver
Location: 3827 Shelbyville Road
Owner: Eclipse Bank.
Applicant: Reuff Sign Company Representative:
Jurisdiction: Louisville Metro
Council District: 9 - Bill Hollander
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. 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:

00:28:24 Beth Jones presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.)

The following spoke in favor of this request:

Carl Reuff, Reuff Sign Company, 1530 East Washington Street, Louisville, KY

Summary of testimony of those in support of the request:

00:34:33 Carl Reuff, the applicant's representative, spoke for the applicant (see recording for detailed presentation)

00:35:58 In response to a question from Commissioner Brown, Mr. Reuff said the sign is will be auto-dimmed; no video; and a change rate of one image per 20 seconds. The sign was planned to be operated 24-hours a day; however, the applicant is willing to turn it off if the Committee deems that necessary.

00:37:16 In response to a question from Commissioner Brown, Ms. Jones discussed differences between the Louisville Metro Code for changing image signs, and the St. Matthews Code for changing image signs (see recording for detailed discussion.)

00:38:22 Mr. Reuff discussed the major sign requirements for sign waivers for the City of St. Matthews.

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CASE NUMBER 20-WAIVER-0065

The following spoke in opposition to the request:

No one spoke.

Commissioner Deliberation:

00:39:40 Commissioners' 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.

00:42:07 On a motion by Commissioner Brown, seconded by Commissioner Mims, 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 in that neighboring sites are fully developed with uses compatible with the use of the site and the signage requested. Neither of the sign faces face the residential uses and they are located across a railroad track from the sign location; and

WHEREAS, the Committee further finds that the waiver does not violate guidelines of Plan 2040, which requires that: appropriateness must be evaluated in the context of the compatibility of the proposed use or uses with surrounding uses (Community Form 1.2.4); impacts on quality of life must be considered (Community Form 16); adverse visual intrusions must be considered when there are impacts to residential areas (Community Form 20); 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 in that the sign meets all remaining LDC standards and requirements; and

WHEREAS, the Committee further finds that, as part of the original development of the site, there exists a solid line of evergreen shrubbery approximately 8 ft in height and a mature tree which shield the nearby residential uses; ***this vegetation must be maintained as a condition of the development plan.*** Strict application of the provisions of the regulation would create an unnecessary hardship as development on adjacent sites is compatible with the use of the subject site and the residential development in the vicinity will suffer minimal to no negative impacts due to the

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orientation of the sign and other existing development between the sign and the residences; now, therefore be it

RESOLVED, the Louisville Metro Development Review Committee does hereby **APPROVE** the requested waiver to permit a changing image sign to be located closer than 300 ft from a residentially zoned district (LDC 8.2.1.D.6.)

The vote was as follows:

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

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NEW BUSINESS

CASE NUMBER 20-WAIVER-0063

Request: Waiver to allow a single-family residential structure to encroach into a scenic corridor setback.
Project Name: Meremont Heights Way Waiver
Location: 17915 Meremont Heights Way
Owner: Boland Maloney Realty Co.
Applicant: Nathan Wright - Mindel Scott
Representative: Nathan Wright - Mindel Scott
Jurisdiction: Louisville Metro
Council District: 19 - Anthony Piagentini
Case Manager: **Zach Schwager, 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:

00:43:11 Zach Schwager presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.)

00:45:38 In response to a question from Commissioner Mims, Mr. Schwager clarified which corner the subject site is and where the encroachment is (see recording.)

00:46:10 In response to a question from Commissioner Seitz, Mr. Schwager said the applicant could better answer how many of the trees would be removed or saved.

00:46:24 Commissioner Lewis asked how close the applicant would be placing the structure to an adjacent property line (house shown on a site photo.) See recording for detailed discussion.

The following spoke in favor of this request:

Nathan Wright Mindel Scott & Associates, 5151 Jefferson Boulevard, Louisville, KY 40219

Jim Boland, Boland Maloney Realty Company, 297 North Hubbards Lane, Louisville, KY 40207

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Summary of testimony of those in support of the request:

00:47:26 Nathan Wright, the applicant's representative, said the applicant is proposing to have the structure located 20 feet from the adjacent property line of the closest home; and that no trees will be removed. The applicant is proposing additional trees for the buffer. He then presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.)

00:53:58 Commissioner Brown asked if the applicant was going to extend the pipe and relocating the headway. Mr. Wright said yes (see recording for detailed discussion.)

00:54:24 Commissioner Seitz asked if there was any reason why the applicant wanted the house further toward the right, toward the street, instead of making it the typical house that is five feet from the property line. Mr. Wright said that the homes being proposed today are the same size that were proposed when this subdivision was designed in 2007. Mr. Wright gave more details about the design of the subdivision. In response to a question from Commissioner Brown, Mr Wright said the size and footprint of the home would have to be changed if typical setbacks were retained.

00:55:43 In response to a question from Commissioner Lewis, Mr. Wright said the lots 168-170 are smaller and are not corner lots. In response to a question from Commissioner Seitz, Mr. Wright confirmed that if the house is set 5 feet from the line, it won't fit. A different home with a different footprint would have to go on this lot.

00:56:38 In response to a question from Commissioner Lewis, Mr. Wright said that the applicant wants a side-entry garage which is why the extra footage is being requested. Using the development plan, Mr. Wright pointed out the location of the proposed garage (see recording.)

00:57:44 Commissioner Lewis asked, if the house was moved over, the applicant couldn't use the proposed floor plan. Mr. Wright said that is correct. Commissioner Lewis asked if the requested encroachment into the buffer is due more to the layout of this house than to the topographic change. Mr. Wright discussed topographical issues that affected the house placement.

00:59:52 Jim Boland, the builder, explained design issues that affected the applicant's decision (house placement on the lot, placement of the driveway and garage, etc.) Commissioners Seitz and Lewis, and Mr Boland and Mr. Wright also discussed specific design issues (see recording for detailed discussion.)

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01:06:19 In response to a question from Commissioner Seitz, Wright said the proposed house is 60 feet wide; the lot at the shortest end is 94.43 feet wide. Commissioner Lewis said she would like to see more dimensions on the site plan, particularly regarding the actual proposed structure.

01:07:57 In response to a question from Commissioner Seitz, Mr. Wright said the applicant will not remove any of the pictured trees and will add 10 more trees to alleviate the encroachment.

01:08:43 In response to a question from Commissioner Carlson, Mr. Wright said the applicant is trying to center the house on the lot and create more room between this structure and lots 170 and 171. Driveway and garage design issues were discussed. Commissioner Carlson emphasized the purpose of the scenic corridor buffer.

01:12:16 Commissioner Carlson asked if this is the only design of house that would fit this lot with the buffer requirements. Mr. Wright discussed design and landscaping issues.

The following spoke in opposition to the request:

Don Barrickman, 1711 Meremont Ridge Road, Louisville, KY

Summary of testimony of those in opposition:

01:13:48 Don Barrickman is a current resident who said that several residents are also opposed to this. He said notice was only sent to the three adjoining properties. He said the tree canopy affects all the residents, not just from an aesthetic perspective but also because it acts as a sound buffer. He said there are other requirements in the Covenants and Restrictions that may prohibit this house from being built. He said that, as this development keeps being built out, there are more variances and waivers being requested. He discussed some of the complaints neighbors have had with the HOA board, and also asked if a sidewalk is supposed to be built here. He said he thought MSD had deemed this lot to be “unbuildable” and asked why this has changed.

01:19:29 Commissioner Seitz said side entrances are not unusual and would likely be permitted in this neighborhood. Mr. Barrickman agreed.

01:22:30 Mr. Wright reiterated that the buffer will remain in place. He requested a continuance of this case to allow the applicant to provide the Committee members with the additional information they have requested (revised/clarified plans, etc.)

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Commissioner Deliberation:

01:22:58 Commissioners' deliberation.

01:23:06 Commissioner Mims requested that the building plans match the site plans; he also asked if the house could be rotated so that it did not encroach into the buffer area as much. He asked Commissioner Brown if there were any road plans he was aware of that could cause trees along Long Run Road to be removed. Commissioner Brown said there were no plans he was aware of; if any work is done along Long Run Road, it would be shoulder improvements that might be 4-6 feet off the edge of the pavement.

01:25:53 Commissioner Brown said he still did not see adequate justification for the waiver request. He suggested that this case be continued to give the applicant an opportunity to update the site plan to clearly show the building footprint; all applicable dimensions, driveway, driveway access, and the garage.

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.

01:30:30 On a motion by Commissioner Brown, seconded by Commissioner Mims, the following resolution was adopted:

RESOLVED, the Louisville Metro Development Review Committee does hereby **CONTINUE** this case to the **September 3, 2020 Planning Commission public hearing**.

The vote was as follows:

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

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NEW BUSINESS

CASE NUMBER 20-DDP-0023

Request: District Development Plan
Project Name: Gray and Clay
Location: 709 E Gray Street
Owner: LDG Land Holdings, LLC
Applicant: Michael Gross, LDC Development, LLC
Representative: Cliff Ashburner, Dinsmore & Shohl
Jurisdiction: Louisville Metro
Council District: 4 - Barbara Sexton Smith
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:

01:33:19 Lacey Gabbard presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.)

The following spoke in favor of this request:

Cliff Ashburner, Dinsmore & Shohl, 101 S 5th St #2500, Louisville, KY 40202
Kelli Jones, Sabak Wilson & Lingo, 608 S 3rd St, Louisville, KY 40202

Summary of testimony of those in support of the proposal:

01:40:28 Cliff Ashburner, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.)

01:46:50 In response to a question from Commissioner Mims, Kelli Jones, an applicant's representative, discussed drainage (see recording for discussion.)

The following spoke in opposition:

No one spoke.

Commissioner Deliberation:

01:49:30 Commissioners' deliberation.

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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.

01:51:00 On a motion by Commissioner Brown, seconded by Commissioner Mims, the following resolution, based on the Standard or Review and Staff Analysis and evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Development Review Committee 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 Committee further finds that provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community has been provided. Public Works and MSD have provided preliminary approvals; and

WHEREAS, the Committee further finds that the proposed plan complies with Outdoor Amenity Area requirements; and

WHEREAS, the Committee 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 Committee 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 Committee 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 District Development Plan, **SUBJECT** to the following binding elements:

General Plan 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 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.
 - 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 prior to obtaining a building permit.
 - d) A road closure approval for the unnamed alley between Springer Alley and E Gray Street shall be approved prior to requesting a building permit.
5. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
6. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these

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binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.

7. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the February 7, 2019 Planning Commission meeting.

Site Plan Binding Elements

All binding elements from the approved General Development Plan 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 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 building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.

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- c. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the August 19, 2020 DRC meeting. A copy of the approved rendering is available in the case file on record in the offices of the Louisville Metro Planning Commission.
5. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
6. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system permitted on the site.
7. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.

The vote as follows:

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

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NEW BUSINESS

CASE NUMBER 20-DDP-0037

Request: Revised District Development Plan with Binding Element Amendments
Project Name: Hurstbourne Senior Apartments
Location: 4901 S. Hurstbourne Parkway
Owner: Michael Gordon, Vandebrook Properties LLC
Applicant: Bonnie Harbage, HS Development Properties LLC
Representative: Jason Hall, Prism Engineering
Jurisdiction: Louisville Metro
Council District: 22 - Robin Engel
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:

01:51:48 Lacey Gabbard presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.)

01:56:44 Commissioner Brown asked if the applicant wanted to eliminate binding elements #9, 10 and 11 (see staff report.) He specifically asked about binding element #11, which "binds out" certain C-2 uses. Ms. Gabbard said this type of binding element is generally not used anymore, which is why she is suggesting that it be eliminated.

01:57:29 Commissioner Brown also asked if there had been any discussions about extending the Laverne Drive stub street, now that a residential use is being proposed. Ms Gabbard said she has not received any comment/request regarding this; she added that there are several issues that could make it difficult to extend that stub. In order to extend the stub into Hurstbourne, it would have to go through a detention basin, or make a difficult route around it. An extension of the Laverne stub would require the street to go through a parking lot without connecting anything that would benefit by a connection. Laverne Drive is in a different jurisdiction.

01:59:06 Beth Stuber, with Louisville Metro Transportation Planning, said Laverne Drive is a City of Jeffersontown road, and that the City of Jeffersontown did not want the connection.

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01:59:28 Ms. Gabbard noted that she has received e-mails and phone calls from citizens regarding this case (noted in the staff report.) She said the neighbors in the subdivision do not want that stub extended.

01:59:57 In response to a question from Commissioner Carlson, Ms. Gabbard said that, if binding element #11 was eliminated then any use permitted in C-2 would be permitted on that site. She said binding element #11 does not affect this plan, it only affects future development. The Commissioners discussed the rezoning and why that binding element was added.

The following spoke in favor of this request:

Kevin Young, Land Design and Development, 503 Washburn Ave # 101, Louisville, KY 40222

Summary of testimony of those in support of the proposal:

02:03:01 Kevin Young, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.)

The following spoke in opposition:

Geri Archer (sp), 4912 Clarmar Road , Louisville, KY 40299

Steven King (sp), 4908 Clarmar Road, Louisville, KY 40299

Summary of testimony of those in opposition:

02:12:32 Ms. Geri Archer (sp), a Clarmar Road resident, said she lives directly behind the site. She asked that binding element #11 not be removed. She is concerned because this property has been proposed for a variety of uses and does not want any more changes. She asked that the 25-foot canopy of mature trees be preserved.

02:14:39 Steven King (sp), also a resident of Clarmar Road, said he also shared Ms. Archer's concerns about the variety of uses that have been proposed for this site and wanted use restrictions to remain. He said he also wants the canopy of mature trees to remain, primarily as a buffer from the three-story building. He asked to see a bit more detail about the lighting plan.

02:16:04 Mr. Young said the applicant will keep binding element #11 as-is. He said the applicant sent a letter to all adjacent property owners asking to meet with them and discuss the project. The fence line and the 25-foot landscape buffer with the mature trees will be kept. Since the applicant is required to provide fencing between their C-2

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property and the adjacent R-4 properties, he said the applicant will pull the fencing in to the property in order to protect the treeline. He discussed the lighting plan in more detail (see recording for detailed discussion.) All lighting will at least meet the Land Development Code requirements.

Commissioner Deliberation:

02:18:15 Commissioners' 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.

02:20:06 On a motion by Commissioner Brown, seconded by Commissioner Mims, 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 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 Committee further finds that provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community has been provided. Public Works and MSD have provided preliminary approvals; and

WHEREAS, the Committee further finds that the proposal meets all Outdoor Amenity Area requirements; and

WHEREAS, the Committee 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 Committee 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

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WHEREAS, the Committee 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 District Development Plan and Binding Element Amendments, **SUBJECT** to the following binding elements:

Existing Binding Elements (15ZONE1017)

1. The development shall be in accordance with the approved district development plan, 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 17,280 square feet of gross floor area.~~
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. 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.
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

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issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.

6. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system (audible beyond the property line or permitted on the site).

7. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.

~~8. The material and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the January 21, 2016 Planning Commission Public Hearing.~~

Applicant's Proposed Binding Elements:

~~9. Lighting will be directed down and away from the Morning Pointe property consistent with Chapter 4, Part 1 of the Land Development Code. All display lighting, which is located only in the front of Gordon Motor Sports' showroom and will be limited to "bollard" style lighting fixtures, a maximum of 4 feet in height.~~

~~10. **Landscape buffer area (LBA) adjacent to Morning Pointe.** The applicant will provide a 15-foot LBA along the property line shared with Morning Pointe. The LBA will be planted at a Category 3 planting density per Table 10.2.4. This 15-foot LBA will provide a joint planted buffer area of 40 feet between the two properties.~~

Binding Elements

1. The development shall be in accordance with the approved district development plan, 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. 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. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the August 19, 2020 DRC meeting. A copy of the approved rendering is available in the case file on record in the offices of the Louisville Metro Planning Commission.

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. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system (audible beyond the property line or permitted on the site).

6. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors subcontractors, and

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other parties engaged in development of the site, shall be responsible for compliance with these binding elements.

7. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.

8. The following uses shall not be permitted onsite without a duly noticed public hearing and approval by the Planning Commission: auction sales, automobile repair garages, billiard parlors and game rooms, bingo halls and parlors, boat sales, book binding, cleaning, pressing and drying establishments, dance halls, fraternities and sororities, exposition building or center, flea market, indoor paint ball ranges, laser tag, tattoo, body art and piercing parlors, package liquor stores, restaurants where dancing or entertainment is allowed, rubber stamp manufacture, skating rinks, taverns, bars and saloons, theaters, automobile service stations, car washes, boarding and lodging houses, and tourist homes.

The vote as follows:

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

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CASE NUMBER 20-DDP-0035

Request: District Development Plan with Binding Element Amendments and a Landscape Waiver
Project Name: Kentucky/Indiana Foot & Ankle Specialists
Location: 7397 Jefferson Boulevard
Owner: Joseph Waldman, Covington Land Development, LLC
Applicant: Dr. Syed A. Khader, Dr. Syed A. Khader, PLLC
Representative: Jason Hall, Prism Engineering
Jurisdiction: Louisville Metro
Council District: 24 - Madonna Flood
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:

02:21:00 Lacey Gabbard presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.)

02:26:33 Commissioner Carlson asked about **existing binding element #4**, which mentions and extension of Jefferson Boulevard to Fern Valley. Commissioner Brown said that Jefferson Boulevard has already been extended to Fern Valley. Commissioner Carlson suggested that this binding element could be eliminated, since the work has already been done.

02:28:15 Commissioner Carlson also asked about binding element #13 that mentions street widening work to be done at the intersection of McCauley at Preston Highway. Commissioners Brown and Carlson discussed the binding element; it was agreed that binding element #13 should remain.

The following spoke in favor of this request:

Jason Hall, Prism Engineering, 2309 Watterson Trail, Louisville, KY 40299

Summary of testimony of those in support of the proposal:

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02:30:09 Jason Hall, the applicant's representative, said that the correct square footage on the final submitted plan should be 6,891 square feet with 45 parking spaces. He discussed other details about the proposed plan (see recording for detailed presentation.)

02:32:17 Regarding binding element #13, he asked if "the developer" referred to would be the overall developer, not the developer of this outlot.

The following spoke in opposition to this request:

No one spoke.

Commissioner Deliberation:

02:33:59 Commissioners' 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 Land Development Code section 10.2 to waive the required landscape buffer between the C-2 and EZ-1 zones (20-WAIVER-0053)

02:35:40 On a motion by Commissioner Brown, seconded by Commissioner Mims, 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 zoning boundary is interior to the subject site, and will not be noticed by adjoining properties; and

WHEREAS, the Committee further finds that Land Use and Development Goal 1, Policy 5 encourages development that recognizes and incorporates the unique characteristics of identified general landscape types and native plant communities. Land Use and Development Goal 1, Policy 10 mitigates 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. The area where the applicant is requesting to waive the landscape buffers is interior to the subject site, therefore the uses are not incompatible because they are the same use. The area of the site where the C-2 and EZ-1 zoning line occurs is primarily a parking area on the subject site; and

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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 providing the landscape buffer would create a disruption on the subject site. The landscape buffer would need to be placed in the middle of a parking area. The applicant is proposing to provide the required plantings on the rest of the subject site; 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, as the zoning district line does not follow the property line and therefore the landscape buffer would be placed in the interior of the subject site; now, therefore be it

RESOLVED, the Louisville Metro Development Review Committee does hereby **APPROVE** the requested Waiver of Land Development Code section 10.2 to waive the required landscape buffer between the C-2 and EZ-1 zones (20-WAIVER-0053).

The vote as follows:

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

District Development Plan with Binding Element Amendments

02:36:21 On a motion by Commissioner Brown, seconded by Commissioner Mims, 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 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 Committee further finds that provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community has been provided. Public Works and MSD have provided preliminary approvals; and

WHEREAS, the Committee further finds that there are no Outdoor Amenity Area requirements with this proposal; and

WHEREAS, the Committee further finds that the Metropolitan Sewer District has approved the preliminary development plan and will ensure the provision of adequate

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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 Committee 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 Committee 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 District Development Plan and Binding Element Amendments, **SUBJECT** to the following binding elements:

General Plan Binding Elements (Revised with 15DEVPLAN1147)

1. The development will be in accordance with the approved District Development Plan. No further development will occur until approved by the Planning Commission.
2. ~~The development shall not exceed 435,090 square feet of gross leasable area.~~
3. ~~Before a building permit is requested:~~
 - a) ~~The Development Plan must be reapproved by the Jefferson County Department of Public Works and Transportation and the Metropolitan Sewer District.~~
 - b) ~~The property owner/developer shall obtain approval of the detailed plan for screening (buffering/landscaping) as described in Article 12. Such plan shall be implemented prior to requesting a certificate of occupancy maintained thereafter.~~
4. ~~When funds are committed for the extension of Jefferson Boulevard to Fern Valley Road, the developer will dedicate and construct Jefferson Boulevard on its property. The location of the proposed 100' right-of-way will be immediately located and marked. It shall be reserved by the owner, free of structures or any obstruction, until needed for road construction.~~

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5. ~~There shall be no small freestanding (temporary) signs permitted on any lot within the development.~~

6. ~~If a building permit is not issued within two years of the date of approval of the plan or rezoning, whichever is later, the property shall not be used in any manner unless a revised District Development Plan is approved or an extension is granted by the Planning Commission.~~

7. ~~A certificate of occupancy must be received from the appropriate code enforcement office prior to occupancy of the structure or land before the proposed use. All binding elements must be implemented prior to requesting issuance of the certificate.~~

8. Storm drainage retention facilities shown on the District Development Plan shall be built during the initial phase of the mall expansion. Developer shall facilitate drainage with its project design and construction process and will meet all requirements of the MSD.

9. Ronwood Lane, Barnes Drive and Dougy Lane will not be connected to the development.

10. The developer will construct a 7-foot high continuous solid wood fence along the south property line of residences on Ronwood Lane that are adjacent to the existing Jefferson Mall. This fence will also be constructed along the property line of the mall extension site where it borders developed residential tracts.

11. Landscaping will be distributed uniformly throughout the proposed and existing Jefferson Mall development to create a uniform design as a substitute for the literal terms of ~~Article 12.10~~ requiring a maximum 120 foot separation between interior landscaping.

12. Before the opening for business of retail space in the expanded development, the developer will modify the existing south central entrance (opposite Brownfield Square) to include a traffic signal, and to include interconnects and controller modifications for signals at the intersections of Outer Loop and Jefferson Boulevard and Outer Loop and Judge Boulevard. Sharing of costs with other developers and governmental agencies will be as documented in the records of the County Director of Works and Transportation.

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13. The developer will provide improvements for widening McCawley Road at Preston Highway after the appropriate governmental authority has provided the required right-of-way. The maximum construction cost to the developer for these improvements shall be \$50,000.00. The developer will fund the design of the improvement (which will be approved by the Jefferson County Department of Public Works and Transportation).

14. There may be some overlap in the number of parking spaces required in the case of a regional shopping mall. Therefore, the initial requirement of parking spaces shall be 1921. Land shall be reserved to add up to 798 parking spaces when needed by the Developer or when required by the Jefferson County Director of Works and Transportation.

15. The above binding elements may be amended as provided for in the Zoning District Regulations.

Proposed General Plan Binding Elements

1. The development will be in accordance with the approved District Development Plan. No further development will occur until approved by the Planning Commission.
2. 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.
 - c. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the August 19, 2020 DRC meeting. A copy of the approved rendering is available in the case file on record in the offices of the Louisville Metro Planning Commission.
3. When funds are committed for the extension of Jefferson Boulevard to Fern Valley Road, the developer will dedicate and construct Jefferson Boulevard on its property. The location of the proposed 100' right-of-way will be immediately located and marked. It shall be reserved by the owner, free of structures or any obstruction, until

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needed for road construction.

4. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
5. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
6. Storm drainage retention facilities shown on the District Development Plan shall be built during the initial phase of the mall expansion. Developer shall facilitate drainage with its project design and construction process and will meet all requirements of the MSD.
7. Ronwood Lane, Barnes Drive and Dougy Lane will not be connected to the development.
8. The developer will construct a 7-foot high continuous solid wood fence along the south property line of residences on Ronwood Lane that are adjacent to the existing Jefferson Mall. This fence will also be constructed along the property line of the mall extension site where it borders developed residential tracts.
9. Landscaping will be distributed uniformly throughout the proposed and existing Jefferson Mall development to create a uniform design as a substitute for the literal terms of Chapter 10 requiring a maximum 120 foot separation between interior landscaping.
10. Before the opening for business of retail space in the expanded development, the developer will modify the existing south central entrance (opposite Brownfield Square) to include a traffic signal, and to include interconnects and controller modifications for signals at the intersections of Outer Loop and Jefferson Boulevard and Outer Loop and Judge Boulevard. Sharing of costs with other developers and governmental agencies will be as documented in the records of the County Director of Works and Transportation.
11. The developer will provide improvements for widening McCawley Road at Preston Highway after the appropriate governmental authority has provided the required right-of-way. The maximum construction cost to the developer for these improvements shall be \$50,000.00. The developer will fund the design of the improvement (which will be approved by the Jefferson County Department of Public Works and

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Transportation).

12. There may be some overlap in the number of parking spaces required in the case of a regional shopping mall. Therefore, the initial requirement of parking spaces shall be 1921. Land shall be reserved to add up to 798 parking spaces when needed by the Developer or when required by the Jefferson County Director of Works and Transportation.

13. The above binding elements may be amended as provided for in the Zoning District Regulations.

Site Plan Binding Elements

All binding elements from the approved General Development Plan 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 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 building permit. Such plan shall be implemented prior to

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occupancy of the site and shall be maintained thereafter.

- c. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the August 19, 2020 DRC meeting. A copy of the approved rendering is available in the case file on record in the offices of the Louisville Metro Planning Commission.

5. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.

6. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system permitted on the site.

7. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.

The vote as follows:

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

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ADJOURNMENT

The meeting adjourned at approximately 3:37 p.m.

Chairman

Division Director