

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO DEVELOPMENT REVIEW COMMITTEE MEETING
January 22, 2020**

A meeting of the Louisville Metro Development Review Committee was held on January 22, 2020 at 1:00 p.m. at the Old Jail Building, located at 514 W. Liberty Street, Louisville, KY 40202.

Commissioners present:

Rich Carlson, Vice Chair
Jeff Brown
Jim Mims

Commissioners absent:

David Tomes, Chair

Staff members present:

Joe Reverman, Assistant Director, Planning & Design Services
Brian Davis, Planning & Design Manager
Jay Lockett, AICP, Planner I
Lacey Gabbard, Planner I
John Carroll, Legal Counsel
Beth Stuber, Transportation
Rachel Dooley, Management Assistant

The following matters were considered

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APPROVAL OF MINUTES

January 8, 2020 DRC Meeting Minutes

00:02:45 On a motion by Commissioner Brown, seconded by Commissioner Mims, the following resolution was adopted:

RESOLVED, that the Louisville Metro Development Review Committee does hereby **APPROVE** the minutes of its meeting conducted on January 8, 2019.

The vote was as follows:

YES: Commissioners Mims, Brown and Carlson.

ABSENT: Commissioner Tomes.

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NEW BUSINESS

CASE NUMBER 19-MPLAT-0094

Request: Shift a build limit line
Project Name: Minor Plat
Location: 105 Indian Hills Trail
Owner/Applicant: Shannon & Natalie Gerlack
Representative: Doug Schmitt
Jurisdiction: Indian Hills
Council District: 7 – Paula McCraney

Case Manager: Jay Lockett, AICP, Planner I

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

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

Agency Testimony:

00:03:24 Jay Lockett presented the case via Plat PDF (see staff report and recording for detailed presentation.) Mr. Lockett stated the applicant wishes to amend the Record Plat to shift the existing build limit line along Tribal Road. The applicant is requesting a new build line from 40 feet to 30 feet to accommodate a new porch.

00:04:08 Commissioner Mims asked if the normal set back requirements are met. Mr. Lockett replied this site meets standard setbacks and does not require a variance to shift the original setback build limit.

The following spoke in favor of this request:

Doug Schmitt, PO Box 172, Harrods Creek, Kentucky, 40027
Natalie Gerlack, 2824 Avenue of the Woods, Louisville, Kentucky, 40241

Testimony of those who spoke in favor:

00:05:40 Doug Schmitt, representing the applicant, noted the requested 30 foot set back is from the property line. The street line is an additional 17 feet from the property line to the street edge along Tribal Road. Mr. Schmitt detailed there are other homes in the Indian Hills area that vary from 40 foot set back to 15 foot set back on side streets that border Indian Hills Trail. He presented elevations to Commissioners (see recording for detailed presentation).

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00:09:15 Commissioner Mims asked if the proposed addition been constructed. Doug Schmitt replied no, this process comes first before acquiring permits and building.

The following spoke in opposition to this request:

James "Jim" Graven, City of Indian Hills, Louisville, Kentucky, 40207
Finn Cato, 2958 Breckenridge, Suite # 3, Louisville, Kentucky, 40220
Frank Doheny, 143 Westwind Road, Indian Hills, Kentucky, 40207

Testimony of those who spoke in favor:

00:09:42 Jim Graven, code enforcement officer for the City of Indian Hills, stated the city does not allow change for building lines, variances, and setbacks. Mr. Graven noted neighbors are upset and do not want this change. If approved this site would set a precedent for neighbors who also want to modify their setback lines. Mr. Graven presented photos from Indian Hills Trail to Commissioners (see recording for detailed presentation).

00:11:56 Finn Cato, city attorney for Indian Hills, stated he is not opposed to the renovation, but the building limit line is 40 feet city wide and they do not want to change this. Mr. Cato noted this was discussed at neighborhood meetings and there was opposition to this request. He stated members of the city council, Mayor Chip Hancock, Gary Ulmer, Luann George, Frank Dohney, and the Indian Hills Chief of Police is present today to express opposition to this request.

00:13:45 Commissioner Mims asked Finn Cato and Jim Graven if there has been a pattern of changes to the subdivision setback line and if there have been requests to change setback lines. Jim Graven replied there have been no changes and requests to change setback lines are denied monthly.

00:14:50 Commissioner Mims asked if Indian Hills is a fourth class city. Jay Luckett replied Indian Hills does have zoning authority, but Louisville Metro handles all Minor Plats regardless of zoning authority.

00:15:18 Commissioner Mims asked Finn Cato and Jim Graven if there is an ordinance for the 40 foot setback. Finn Cato replied the setback is part of the original plat when Indian Hills was created.

00:15:53 John Carroll asked Jim Graven if there had been no changes to the setback lines on this plat. Jim Graven replied there have been no changes.

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00:16:46 Commissioner Brown asked Jay Lockett if open porch or patio were allowed to encroach into the building limit line. Jay Lockett replied the build limit line is for enclosed structures. Commissioner Brown and Jay Lockett discussed the LDC for Indian Hills and Louisville Metro's definition of enclosed structures (see recording for detailed presentation).

00:17:40 Commissioner Carlson, Commissioner Mims, Joe Reverman, John Carroll, and Jay Lockett discussed the criteria for the process of approval for plats (see recording for detailed presentation).

00:19:48 Brian Davis read the Land Development Code into the record detailing the process (see recording for detailed presentation).

00:22:50 Frank Doheny stated he is opposed to this request to change the setback limit.

Rebuttal:

00:21:39 Doug Schmitt recounted conversations with Finn Cato that zoning would be through Jefferson County. Mr. Schmitt stated there are other homes in the neighborhood have different setbacks. He stated the main body of the house is on the 40 foot setback while the proposed side porch will encroach on the setback.

00:26:32 John Carroll asked if the lot is 1.138 acres. Doug Schmitt replied yes.

00:27:39 Jim Graven asked Commissioners the notification process for this case. Jay Lockett and Jim Graven discussed the notifications sent (see recording for detailed presentation).

00:28:56 Natalie Gerlack, applicant, spoke with adjacent neighbors who were notified, and they agreed to the change. Ms. Gerlack noted the porch is on the side of the home facing Tribal Road and will not be facing Indian Hills Trail.

Deliberation:

00:30:55 Commissioners' deliberation (see recording for detailed presentation). Commissioner Mims and Joe Reverman discussed the Land Development Code standards for unenclosed structures on building limit lines (see recording for detailed presentation). Commissioner Brown stated the building limit lines were established for the benefit for Indian Hills and he agrees with the City of Indian Hills. Commissioner Carlson stated the system should follow Indian Hills enforcement guidelines.

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NEW BUSINESS

CASE NUMBER 19-MPLAT-0094

Commissioner Brown stated the applicant has the option to appeal decisions made at the Development Review Committee meeting to the full Planning Commission.

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.

00:35:48 On a motion by Commissioner Brown, seconded by Commissioner Mims, based on the Standard of Review and Staff Analysis, and evidence and testimony heard today, the following resolution was adopted:

RESOLVED, the Louisville Metro Development Review Committee does hereby **DENY** the **Record Plat Amendment** based on the testimony heard today.

The vote was as follows:

YES: Commissioners Mims, Brown, and Carlson.
ABSENT: Commissioner Tomes.

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NEW BUSINESS

CASE NUMBER 19-WAIVER-0011

Request: Waiver to not provide pedestrian access from the building entrance
Project Name: LG&E Engineering Center
Location: 4664 Jennings Lane
Owner/Applicant: Zachary Conley – LG&E-KU
Representative: Emily Estes – Lockett & Farley
Jurisdiction: Louisville Metro
Council District: 10 – Pat Mulvihill

Case Manager: Jay Lockett, AICP, Planner I

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

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

Agency Testimony:

00:38:15 Jay Lockett presented the case via the proposed Development Plan PDF (see staff report and recording for detailed presentation.) Mr. Lockett noted this is a secured site and there will be no public/pedestrian access.

The following spoke in favor of this request:

Emily Estes, 741 S. Third Street, Louisville, Kentucky, 40202

Summary of testimony of those in support:

00:39:45 Emily Estes, the applicant's representative, stated this is a secured site with a fence and gate with no pedestrian access.

The following spoke in opposition to this request:

No one spoke

Deliberation:

00:40:34 Commissioners' deliberation (see recording for detailed presentation).

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NEW BUSINESS

CASE NUMBER 19-WAIVER-0011

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.

00:41:30 On a motion by Commissioner Brown, seconded by Commissioner Mims, based on the Standard of Review and Staff Analysis, and evidence and testimony heard today, the following resolution was adopted:

WHEREAS, the Louisville Metro Development Review Committee finds the waiver will not adversely affect adjacent property owners, as most sites in this area are industrial uses with fenced perimeters for security; and

WHEREAS, the Louisville Metro Development Review Committee further finds the waiver will not violate the guidelines of the Comprehensive Plan. Mobility Goal 3, Policy 5 states that we should evaluate developments for their impact on the transportation network (including the street, pedestrian, transit, freight movement and bike facilities and services) and air quality. This development is not open to the public, so it should not affect general foot traffic on Jennings Lane. Mobility Goal 3, Policy 5 states that we should ensure that those who propose new developments bear or share in rough proportionality the costs of transportation facilities and services made necessary by development. This development is for a facility that brings electricity and gas to the city of Louisville. They are a part of the city's infrastructure. Mobility Goal 3, Policy 10 states that we should ensure that necessary improvements occur in accordance with long-range transportation plans and level of mobility criteria for all modes of travel. The proposal is unlikely to generate any pedestrian traffic, as the site is to be used exclusively for the engineers of LG&E and the storage of trucks and equipment. The proposed use of an engineering office and is not open to the public would prevent the creation of the required pedestrian connection; and

WHEREAS, the Louisville Metro Development Review Committee further finds the extent of the waiver is the minimum necessary to afford relief to the applicant. This is a secured site and is not open to the public. Having a pedestrian connection to a public sidewalk would be unnecessary for this development; 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, as the proposed use has exceptional security needs that necessitate a fenced perimeter and will not generate any pedestrian traffic; now, therefore be it,

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NEW BUSINESS

CASE NUMBER 19-WAIVER-0011

RESOLVED, the Louisville Metro Development Review Committee does hereby **APPROVE** the **Waiver** of Land Development Code section 5.9.2.A.1.b.i to not provide pedestrian access from the building entrance to Jennings Lane.

The vote was as follows:

YES: Commissioners Mims, Brown, and Carlson.

ABSENT: Commissioner Tomes

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NEW BUSINESS

CASE NUMBER 19-PARKWAIVER-0009

Request: Parking Waiver to reduce required parking from 6 to 2
Project Name: Big Bar
Location: 1200-1202 Bardstown Rd
Owner/Applicant: Bigger is Better, LLC
Representative: Kevin Bryan
Jurisdiction: Louisville Metro
Council District: 8 – Brandon Coan

Case Manager: Jay Lockett, AICP, Planner I

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

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

Agency Testimony:

00:42:26 Jay Lockett presented the case via the Plat PDF (see staff report and recording for detailed presentation.) Mr. Lockett noted the waiver will allow the site to have four parking spaces available instead of two.

00:43:42 Commissioner Brown and Mr. Lockett discussed the public parking lot on 1255 Bardstown Road, the striped midblock pedestrian crossing, and the 150 parking spaces available on Bardstown Road (see recording for detailed presentation).

The following spoke in favor of this request:

Kevin Bryan, 961 Schiller Avenue, Louisville, Kentucky, 40204

Summary of testimony of those in support:

00:45:14 Kevin Bryan, representing the applicant, detailed the site expansion into the adjacent building and is available for questions (see recording for detailed presentation).

The following spoke in opposition to this request:

Leslie Frye, 943 Burning Springs Court, Louisville, Kentucky, 40223

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CASE NUMBER 19-PARKWAIVER-0009

Summary of testimony of those in opposition:

00:46:12 Leslie Frye stated concerns with the staff report findings regarding the abundance of public parking available. Ms. Frye manages apartment units within the block or two of the site and residents have been blocked in due to lack parking on Bardstown Road. Leslie Frye asked Commissioners to clarify the difference between restrictions between residential parking vs commercial parking in this area.

Rebuttal:

00:51:09 Kevin Bryan stated they are working on an agreement with an adjacent animal hospital to utilize the parking lot during certain hours to help mitigate the amount of customers parking on the street.

Deliberation:

00:52:48 Commissioners' deliberation (see recording for detailed presentation). Commissioner Mims asked staff if this site is covered by the Bardstown Road overlay district and if they have any jurisdiction over this case. Jay Luckett replied it is for external changes to the structure. This site is not proposing any exterior changes; only the change in use from retail/residential to bar use. Commissioner Mims and Commissioner Brown discussed signage to prevent parking near residences (see recording for detailed presentation).

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

00:58:22 On a motion by Commissioner Brown, seconded by Commissioner Mims, based on the Standard of Review and Staff Analysis, and evidence and testimony heard today, the following resolution was adopted:

RESOLVED, the Louisville Metro Development Review Committee does hereby **APPROVE** the requested **Waiver Parking Waiver** to reduce minimum parking requirement from 6 to 2.

The vote was as follows:

YES: Commissioners Mims, Brown, and Carlson.

ABSENT: Commissioner Tomes

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NEW BUSINESS

CASE NUMBER 19-WAIVER-0097

Request: Waiver to permit a changing image sign to be located closer than 300 ft from a residentially zoned district

Project Name: Waiver for Changing Image Sign

Location: 930 Ormsby Lane

Owner: Assumption Greek Orthodox Church

Applicant: Smart LED Signs & Lighting

Representative: SBT LLC

Jurisdiction: Louisville Metro

Council District: 18 - Marilyn Parker

Case Manager: **Beth Jones, AICP, Planner II**

Presented by: **Brian Davis, Planning & Design Manager**

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

The staff report prepared for this case was incorporated into the record. 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:

00:59:16 Brian Davis, presenting on behalf of Beth Jones, detailed the Waiver via Power Point slide show (see staff report and recording for detailed presentation.) Mr. Davis noted there is an existing sign that will be removed when the proposed one is installed.

01:02:26 John Carroll, legal counsel, asked if this sign is LED and if there is off premises advertising. Brian Davis replied yes, and the applicant will be able to give more details for the proposed sign.

01:03:07 Commissioner Brown asked for clarification for the jurisdiction of this site. Brian Davis replied it is in the City of Lyndon, but they do not have authority involving waivers and issuing sign permits.

01:03:42 Commissioner Mims asked where this sign could be placed without encroaching on the 300 ft residential zone buffer. Brian Davis stated the distance between the sign location and nearest residential building is 130-135 feet. The sign would be within a residential zone regardless of where the sign is placed on the applicant's property.

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NEW BUSINESS

CASE NUMBER 19-WAIVER-0097

The following spoke in favor of this request:

Steve Taylor, P.O. Box 22402, Louisville, Kentucky, 40252

Karla Hill, 11441 Blankenbaker Access Drive, Louisville, Kentucky, 40299

Summary of testimony of those in favor:

01:05:59 Steve Taylor, representing the applicant, noted the church plans to consolidate the where the proposed sign will be and adjacent lots to solve the issue of offsite advertising. Mr. Taylor addressed the adjacent property owners within the affected 300 feet radius of the LED sign have been notified. He presented to Commissioners the signed approval letters from the adjacent property owners. Steve Taylor noted the sign will be perpendicular to New La Grange Road to reduce the view angle.

01:11:58 Karla Hill stated the church is have taken into consideration the environmental impact of this sign and will have the sign 40 feet away from the edge of the road. Ms. Hill noted the auto dimming features and the viewing angle of the proposed sign.

01:14:34 Commissioner Brown asked to see the locations of adjacent properties and the hours of operations for the sign. Steve Taylor detailed the four properties along Lyndale Avenue that fall within the 300 foot radius. He noted the sign will be 24/7 but if needed they can accommodate to a set time.

01:16:50 Commissioner Carlson and Steve Taylor discussed notification of the waiver to property owners (see recording for detailed presentation).

01:18:23 Commissioner Carlson and Karla Hill discussed the refresh rate for the proposed LED sign to be within the Land Development Code regulations (see recording for detailed presentation).

01:20:18 Commissioner Brown asked if there will be removal of vegetation to improve visibility of the sign. Steve Taylor replied there will be no change in landscaping.

The following spoke in opposition of this request:

No one spoke.

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Deliberation:

01:21:18 Commissioners discussed mitigation of the sign impact on the apartment residents within the 300 foot impact radius, the sign refresh rate programming, and hours of operation (see recording for detailed presentation). The Commissioners and the applicant agreed to 7 a.m. to 9 p.m. operation hours for the LED sign.

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.

01:38:08 On a motion by Commissioner Brown, seconded by Commissioner Mims, based on the Standard of Review and Staff Analysis, and evidence and testimony heard today, the following resolution was adopted:

RESOLVED, the Louisville Metro Development Review Committee does hereby **CONTINUE** this Planning Case to the February 20, 2020 Planning Commission Public Hearing to allow the applicant an opportunity to mitigate the landscaping, hours of operation, and to work with the sign manufacture on possible software updates to restrict the ability for operator to change the hours of operations and to change the refresh rate so that is no longer complies with the Land Development Code.

The vote was as follows:

YES: Commissioners Mims, Brown, and Carlson.

ABSENT: Commissioner Tomes

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NEW BUSINESS

CASE NUMBER 19-AMEND-0004

Request: District Development Plan
Project Name: Fern Creek Speedwash
Location: 8102 Old Bardstown Road
Owner/Applicant: Chris Harrison, Fern Creek Speedwash LLC
Representative: Kathy M. Linares, Mindel Scott
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:

01:39:43 Lacey Gabbard presented the case (see staff report and recording for detailed presentation.).

01:41:05 Commissioner Mims asked about the reaction from adjacent daycare property owner. Lacey Gabbard replied the applicant will be able to answer this question.

The following spoke in favor of this request:

Kent Gootee, 5151 Jefferson Boulevard, Louisville, Kentucky, 40219

Summary of testimony of those in favor:

01:42:13 Kent Gootee stated the applicant is out of the country and if needed this case can be continued. Mr. Gootee presented a Power Point slide show (see recording for detailed presentation). He noted there was a landscape plan revision and the applicant Chris Harrison and adjacent property owner Dorothy Williams concluded the 6 foot fence remain between the properties.

01:48:55 Commissioners, Kent Gootee, and Lacey Gabbard discussed the new landscape plan, and the 8 foot fence binding element (see recording for detailed presentation).

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NEW BUSINESS

CASE NUMBER 19-AMEND-0004

The following spoke in opposition to this request:

David Will, 5815 Round Hill Road, Louisville, Kentucky, 4022

Summary of testimony of those in favor:

01:53:35 David Will stated there are voiced concerns from neighbors. He detailed the height of the berm in relation to the existing 6 foot fence and expressed concerns with the compliance to the binding elements prior/during construction of an 8 foot fence.

02:00:41 Commissioner Carlson and David Will discussed the meetings related to this location (see recording for detailed presentation).

Rebuttal:

02:01:45 Kent Gootee detailed the landscape plan and the construction plan for the 8 foot fence binding element locations.

Deliberation:

02:03:35 Commissioners' deliberation (see recording for detailed presentation). Commissioner Mims and Lacey Gabbard discussed the 8 foot fence along the residential adjacent lot and the landscape mitigation for screening the carwash (see recording for detailed presentation). Commissioners and Kent Gootee discussed continuing this case to the Planning Commission.

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.

02:12:20 On a motion by Commissioner Brown, seconded by Commissioner Mims, based on the Standard of Review and Staff Analysis, and evidence and testimony heard today, the following resolution was adopted:

RESOLVED, the Louisville Metro Development Review Committee does hereby **CONTINUE** this Planning Case to the February 20, 2020 Planning Commission Public Hearing.

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NEW BUSINESS

CASE NUMBER 19-AMEND-0004

The vote was as follows:

YES: Commissioners Mims, Brown, and Carlson.

ABSENT: Commissioner Tomes

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NEW BUSINESS

CASE NUMBER 19-DDP-00615

Request: District Development Plan
Project Name: 7931 Bardstown Road
Location: 7931 Bardstown Road
Owner/Applicant: Patrick W. Madden, Bardstown Road Development LLC
Representative: Mike Hill, Land Design & Development, Inc
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:

02:13:37 Lacey Gabbard presented the case (see staff report and recording for detailed presentation.)

The following spoke in favor of this request:

Mike Hill, 503 Washburn Avenue, Louisville, Kentucky, 40222

Summary of testimony of those in favor:

02:16:34 Mike Hill, representing the applicant, presented a Power Point slide show (see recording for detailed presentation). Mr. Hill noted the development plan was approved in 2013 for tract 3 to amend the building size on the original plan. He detailed the proposed monument sign elevations.

02:25:18 Commissioner Mims asked for the locations of dumpsters. Mike Hill showed via the Development Plan the location of the enclosed dumpster area that will serve both buildings.

The following spoke in opposition to this request:

No one spoke

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NEW BUSINESS

CASE NUMBER 19-DDP-00615

Deliberation:

02:25:48 Commissioners' deliberation (see recording for detailed presentation).

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

02:26:42 On a motion by Commissioner Brown, seconded by Commissioner Mims, based on the Standard of Review and Staff Analysis, and evidence and testimony heard today, the following resolution was adopted:

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

WHEREAS, the Louisville Metro Development Review Committee further finds 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 approval; and

WHEREAS, the Louisville Metro Development Review Committee further finds 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 further finds 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 Louisville Metro Development Review Committee further finds 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 the amendments to

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CASE NUMBER 19-DDP-00615

the Binding Elements **ON THE CONDITION** that BOZA approves 19-VARIANCE-0063 as docketed for February 3, 2020 BOZA meeting.

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. The development shall not exceed 118,138 square feet of gross floor area. Tract 1 shall not exceed 4,195 square feet, Tract 2 shall not exceed 93,673 square feet, and Tract 3 shall not exceed 20,270 square feet.

Amended by the DRC, February 6, 2013.

3. Signs shall be in accordance with Chapter 8. The sign on Tract 1, Tract 2 shall not exceed (60 square feet in area and 6 feet tall).
4. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested:
 - a. The development plan must receive full construction approval from Louisville Metro Department of Inspections, Permits and Licenses, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - c. A Tree Preservation Plan prepared in accordance with Chapter 10 of the LDC shall be reviewed and approved.
 - d. A minor plat or legal instrument shall be recorded consolidating the property into one lot. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of the approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
 - e. Final elevations/renderings shall be submitted for review and approval by Planning Commission staff. A copy of the approved rendering shall be

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available in the case file on record in the offices of the Louisville Metro Planning Commission.

5. A reciprocal access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be created between the adjoining property owners and recorded. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
6. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
7. 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.
8. The property owner/developer must adhere to the detailed concept landscape plan for screening (buffering/landscaping) as submitted to the Fairways at Glenmary Neighborhood Association on August 20, 2008, and as described in the proposed plan rendering which is attached to these binding elements. Such plan shall be implemented prior to occupancy of the site and shall be maintained in perpetuity thereafter by the applicant and developer, their heirs, successors; and assigns, contractors, subcontractors, and other parties engaged in development and maintenance of the site. The bald cypress trees shown on the concept landscape plan shall be a minimum of 6-8 feet tall and the Colorado spruce a minimum of 4-6 feet tall at the time of planting.
9. The fence in the buffer zone between the development and the adjacent patio homes shall be a 5board horse fence and shall be extended in a southerly direction along the westernmost boundary of the Fairways of Glenmary ("Fairways") to a stone column that will be erected by the developer at the northwest corner of the intersection of Major Lane and Glenmary Place, with the

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actual site determined by the placement of utilities in the area. Said stone column shall be constructed of material closely matching that used in the existing identifying sign for Fairways and contain a granite identifying stone with '*Fairways of Glenmary*' etched into it. Fairways shall maintain this column, as well as the one listed in binding element no. 11.

10. A second stone column, matching the first, with the exception of the identifying stone, shall be erected by the developer at the southwest corner of the intersection of Major Lane and Glenway Place with the actual site determined by the placement of utilities in the area. The aforementioned 5-board horse fence shall continue in a southerly direction from this column along the westernmost boundary of Fairways to the northernmost point on the existing Fairways identification sign.
11. Existing shrubs and flowers in the areas of the proposed new stone columns shall be moved in order to allow the 5-board horse fence to be erected behind them. This cost is to be borne by Fairways with a one-time \$1,000.00 cash allowance given by the developer to Fairways for this purpose.
12. Major Lane shall be designed to prevent the use of it (Major Lane) by delivery trucks. The applicant shall work with Metro Public Works to install "no truck traffic" signs along Major Lane.
13. A 4-board horse fence shall be installed between the detention basin and the Fairways at Glenmary property as shown on the detailed landscape plan presented at the public hearing to ensure the safety of small children.
14. There shall be no outdoor music (live, piped, radio, or amplified), outdoor entertainment, or outdoor PA systems audible past the property line.
15. 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 and the maintenance of the site, the applicant and developer, their heirs, successors; and assigns, contractors, subcontractors, and other parties engaged in development shall be responsible for compliance with these binding elements.

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16. No overnight idling of trucks shall be permitted on-site.
17. Upon commencing of the operations of businesses on the site:
 - a. Trucks may only park on the site for a maximum time-period of six (6) hours.
 - b. Semi-trailers with no tractors shall not be stored on the site except in the loading dock well.
 - c. Trash collection containers shall be screened with the same building materials as the buildings they serve or shall be located inside the building.
 - d. Trash collection times shall be restricted to weekdays between the hours of 7:00am and 7:00pm
18. No business shall be open to the public after 11:00p.m., except for previously advertised special events for the 9,673 square foot retail store only. The number of advertised occasions shall not exceed 60 days per calendar year, in which the 93,673 square foot retail store shall be permitted to remain open until 12:00 midnight, up to 50 days per calendar year, and 24 hours up to 10 days per calendar year. Upon a change in use of the 93,673 square foot retail store on-site, this binding element shall be amended to permit a change in use of the aforementioned structure.
Amended by the DRC, June 3, 2009, Case # 12632
19. Security and other lighting for any and all commercial buildings closest and/or adjacent to the neighboring patio homes in Fairways shall shine toward the walls of the commercial building.
20. The developer/property owner shall install a concrete pipe sized appropriately per MSD standards in the MSD easement located along the boundary between the site and the Fairways to provide storm water flow to the creek at the eastern end of the Fairways property. The existing 8-inch pipe shall be removed. Yard inlets shall be installed at 200' maximum intervals to insure proper surface water drainage. Access to the ditch shall be restricted to the area behind and to the north of Unit #1 in the Fairways.
21. In order to protect the Fairways neighborhood from other nuisances associated with construction, the developer/property owner shall assure that:

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- a. Trees on the Fairways property line shall be protected as part of the tree preservation protection plan. As required by this plan, tree protection fencing shall be installed prior to construction activity. Trees will be required to be removed where the storm water pipe exits the detention basin to the Fairways property.
 - b. Dumpsters and portable toilets shall be placed in the northwest or northeast corner of the site;
 - c. Dirt and mud buildup shall be periodically cleaned from dedicated public and internal private streets; and
 - d. Construction equipment shall be operated only between the hours of 7:00 am and sundown.
22. If Metro Public Works determines at construction plan approval that a sight-distance problem exists at Brentlinger Lane and the proposed rear entrance to the Kohl's site, the applicant shall design and construct modifications to Brentlinger Lane and/or the rear entrance to achieve acceptable sight distance requirements at this location.
23. Bardstown Road and Brentlinger Lane shall be improved as shown per the schematic road improvement drawing per Metro Public Works and KYTC requirements. The developer shall be responsible for utility relocations, final surface overlay, signage, striping, and signal modifications associated with the road improvements. Improvements shall be completed prior to any request for a certificate of occupancy.
24. Prior to issuance of the C.O., the portion of the Major Lane extension shown on the approved plan for this site shall be dedicated by major subdivision plat. Further, at time of construction plan approval, additional right of way shown on the approved plan along Brentlinger Lane shall be dedicated by major or minor plat.
25. Erosion control measures shall be placed along the drainage ditch on Mr. Herrick's property, as determined to be appropriate by the developer in conjunction with MSD. The drainage improvement work and improvements by the developer on the Herrick property are to be as approved with work monitored by MSD.

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26. The applicant shall fill in any gaps in the existing tree line to provide a continuous screen along the south side of the detention basin. The applicant shall work with the staff landscape architect to provide a continuous evergreen screen along the east property line. The screen shall consist of a double row of trees north of Major Lane and a single row of trees south of Major Lane. Trees shall be a minimum of 7 feet tall at the time of planting and shall be spruce or other hardy evergreen species, not to include pine.

27. The development plan for case 10787 shall be revised to demonstrate compliance with the site development and design standards of the Neighborhood Form District, or to obtain a waiver of any standards, which cannot be met, and for which relief is available, including the size of the building. The Planning Commission or its designee is directed to apply the existing site design standards in the Land Development Code to the revised development plan. The revised development plan shall be presented for consideration by the Planning Commission (or committee thereof) within 180 days of final action by the legislative body.

The vote was as follows:

YES: Commissioners Mims, Brown, and Carlson.
ABSENT: Commissioner Tomes

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ADJOURNMENT

The meeting adjourned at approximately 3:25 p.m.

Chairman

Division Director