

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO DEVELOPMENT REVIEW COMMITTEE MEETING
March 20, 2019**

A meeting of the Louisville Metro Development Review Committee was held on March 20, 2019 at 1:00 p.m. at the Old Jail Building, located at 514 W. Liberty Street, Louisville, KY 40202.

Commissioners present:

David Tomes, Chair
Rich Carlson, Vice Chair
Jeff Brown

Commissioners absent:

Emma Smith
Donald Robinson

Staff members present:

Joseph Reverman, Assistant Director, Planning & Design Services
Brian Davis, Planning Manager
Lacey Gabbard, Planner I
Zach Schwager, Planner I
Steve Hendrix, Planning & Design Coordinator
Jay Lockett, Planner I
Molly Clark, Associate Planner
Travis Fiechter, Legal Counsel
Mark Dutrow, Transportation
Chris Cestaro, Management Assistant

The following matters were considered

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APPROVAL OF MINUTES

March 6, 2019 DRC Meeting Minutes

00:03:44 On a motion by Commissioner Carlson, seconded by Commissioner Brown, the following resolution was adopted:

RESOLVED, that the Louisville Metro Development Review Committee does hereby **APPROVE** the minutes of its meeting conducted on March 6, 2019.

The vote was as follows:

YES: Commissioners Brown, Carlson, and Tomes.

ABSENT: Commissioners Smith and Robinson.

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NEW BUSINESS

CASE NUMBER 18WAIVER1046

Request: Landscape Buffer Area Reductions
Project Name: Post Parking
Location: 2919 Bardstown Road
Owner: Assumption High School
Applicant: Assumption High School
Representative: Mike Hill – Land Design & Development, Inc.
Jurisdiction: Louisville Metro
Council District: 8 – Brandon Coan

Case Manager: Steve Hendrix, Planning & Design Coordinator

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:

00:04:31 Steve Hendrix presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.)

00:07:19 In response to a question from Commissioner Brown, Mr. Hendrix discussed an alley closure along the south side and the location of the buffer areas.

The following spoke in favor of this request:

Mike Hill, Land Design & Development, 503 Washburn Avenue, Louisville, KY 40222

Lisa Raley, Assumption High School, 2170 Tyler Lane, Louisville, KY 40205

Summary of testimony of those in favor:

00:08:40 Mike Hill, the applicant's representative, presented the applicant's case and showed a Power Point presentation (See recording for detailed presentation.)

00:11:58 Commissioner Carlson asked if the guardrails could be removed and replaced with landscaping. Mr. Hill said the applicant would prefer to keep the guardrails for safety reasons, since this will be parking lot for (primarily) high school students. The decision was made to put the landscape plantings behind the guardrail.

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00:13:34 In response to a question from Commissioner Carlson, Mr. Hendrix corrected a typographical error on page 3 of the staff report. Item “C” should read, “STAFF: The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since the parking lot is existing.”

00:14:12 In response to a question from Commissioner Brown, Mr. Hill pointed out the location of overhead utilities along the Bardstown Road frontage on a photo of the site.

The following spoke in opposition to this request:

No one spoke.

Deliberation:

00:15:00 Commissioners’ deliberation.

00:15:11 Commissioner Brown said he does not think the first waiver has been adequately justified, and that the full 10-foot width of landscaping along Bardstown Road should be provided (see recording for detailed discussion.)

00:19:21 Mr. Hill said the applicant will provide the full landscape buffer along the Bardstown Road frontage and provide the required plantings within that space.

00:19:50 Lisa Raley, representing Assumption High School, said the guardrail is an important safety factor and the school wants to keep it. The rail is on private property.

An audio/visual recording of the Planning Commission hearing 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 #2 - Waiver of Land Development Code section 10.2.4 to not provide the required 25 foot perimeter Landscape Buffer Area and required plantings along the south and east property lines.

00:20:51 On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

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WHEREAS, the Louisville Metro Development Review Committee finds that the waiver will not adversely affect adjacent property owners since the parking lot pavement will be approximately 150 feet from the residential properties across Manchester Road and has an existing grassed yard with mature trees. The waiver along the eastern property lines is adjacent to church property; and

WHEREAS, the Committee further finds that Plan 2040 calls for protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigation when appropriate. Plan 2040 states that parking, loading and delivery areas located adjacent to residential areas should be designed to minimize impacts from noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered. Plan 2040 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. The existing parking lot is adjacent to church property on both the south and east sides. The parking lot is approximately 150 feet from the residential properties across Manchester Road. A church activities building is located on the eastern side of the parking lot; and

WHEREAS, the Committee further finds that the extent of the waiver of the regulation is not the minimum necessary to afford relief to the applicant since the parking lot is existing; and

WHEREAS, the Committee further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant, since the parking lot is in place and since both sides are adjacent to church property; now, therefore be it

RESOLVED, the Louisville Metro Development Review Committee does hereby **APPROVE** the requested Waiver of Land Development Code section 10.2.4 to not provide the required 25 foot perimeter Landscape Buffer Area and required plantings along the south and east property lines.

The vote was as follows:

YES: Commissioners Brown, Carlson, and Tomes.

ABSENT: Commissioners Smith and Robinson.

Accept the withdrawal of requested Waiver #1

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00:21:40 On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution was adopted:

RESOLVED, the Louisville Metro Development Review Committee does hereby accept the **WITHDRAWAL** of Waiver #1 (a Waiver of Land Development Code section 10.2.10 to allow pavement to encroach into a 10 foot Vehicular Use Landscape Buffer Area along Bardstown Road and a portion of Lancashire Drive.)

The vote was as follows:

YES: Commissioners Brown, Carlson, and Tomes.

ABSENT: Commissioners Smith and Robinson.

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NEW BUSINESS

CASE NUMBER 19WAIVER1008

Request: Waiver to allow an LED sign to be within 300 feet of a
residentially-used property
Project Name: Long John Silver's
Location: 2901 Goose Creek Road
Owner(s): Goose Creek Properties, LLC
Representative: Mark Kidwell - Commonwealth Sign Company
Jurisdiction: Meadow Vale
Council District: 17 – Marcus Winkler

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:

00:22:27 Zach Schwager presented the case (see staff report and recording for detailed presentation.)

00:24:11 In response to a question from Commissioner Carlson, Mr. Schwager said the applicant should discuss whether or not they would be willing to restrict the number of times the sign message changes.

The following spoke in favor of this request:

Mark Kidwell, Commonwealth Sign Company, 1824 Berry Blvd, Louisville, KY 40215

John Haley, Long John Silvers, 835 East Muhammad Ali Blvd, Louisville, KY

Summary of testimony of those in favor:

00:25:11 Mark Kidwell, the applicant's representative, explained the applicant's request (see recording for detailed presentation.) He noted that this is not a full-color video sign; these will be text lines.

00:26:49 John Haley, an applicant's representative, explained more about the sign. It is equipped with an auto-dimming feature.

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00:28:01 Commissioner Carlson asked that the sign be limited to ONLY what is being presented today – text only, no changing-image.

00:29:01 In response to a question from Commissioner Brown, Mr. Haley pointed out the exact location of the sign on an aerial photo of the site. The nearby residential uses were discussed.

The following spoke in opposition to this request:

No one spoke.

An audio/visual recording of the Planning Commission hearing 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.

00:31:14 Commissioners' deliberation.

Waiver of Land Development Code Section 8.2.1.D.6 to allow a changing image sign to be closer than 300 feet to a residentially zoned property that is being used residentially

00:32:04 On a motion by Commissioner Brown, seconded by Commissioner Carlson, 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 as the sign faces north down Goose Creek Road and south toward Westport Road. Also, the residentially used property is buffered by a line of trees along Goose Creek Road; and

WHEREAS, the Committee further finds that the waiver will not violate specific guidelines of Cornerstone 2020 as Cornerstone 2020 Guideline 3 Policy 28 describes signs as compatible with the form district pattern and contributing to the visual quality of their surroundings. Promote signs of a size and height adequate for effective communication and conducive to motor vehicle safety. Encourage signs that are integrated with or attached to structures wherever feasible; limit freestanding signs to monument style signs unless such design would unreasonably compromise sign effectiveness. Give careful attention to signs in historic districts, parkways, scenic

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corridors, design review districts and other areas of special concern. These guidelines are not violated because changing image signs are permitted in this location and the sign is located across Goose Creek Road from the nearest affected residential properties; 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 as they are using an existing pole sign. Additionally, there is no feasible location along the Goose Creek Road frontage where a changing image sign could be placed that is not within 300 feet of a residential property; and

WHEREAS, the Committee further finds that the strict application of the provisions of the regulations would deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant as there is no location along Goose Creek Road where a changing image sign could be placed that is not within 300 feet of residential properties, and the pole sign is already in place; now, therefore be it

RESOLVED, that the Louisville Metro Development Review Committee does hereby **APPROVE** the requested Waiver of Land Development Code Section 8.2.1.D.6 to allow a changing image sign to be closer than 300 feet to a residentially zoned property that is being used residentially, **ON CONDITION** that the sign shall be an LED text as presented at today's meeting, **AND** that the sign hours of operation shall be between the hours of 8:00 a.m. and 10:00 p.m. seven days a week, **AND** that the sign shall have a refresh rate of no more than once per minute.

The vote was as follows:

YES: Commissioners Brown, Carlson, and Tomes.

ABSENT: Commissioners Smith and Robinson.

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NEW BUSINESS

CASE NUMBER 18DEVPLAN1195

Request: Revised Development Plan with Binding Element
amendments and Waivers
Project Name: Zips Express Car Wash
Location: 4001 Old Outer Loop
Owner: Kenneth & Sharon Ramage
Applicant: Kenneth & Sharon Ramage
Representative: Mark Batistta – Zips Real Estate II, LLC
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:

00:33:00 Lacey Gabbard presented the case (see staff report and recording for detailed presentation.)

The following spoke in favor of this request:

Rob Sweet, McBride Dale Clarion, 5721 Dragon Way Suite 300, Cincinnati, OH 45227

Jason Baker, BEI Engineering, 1535 Frederica Street, Owensboro, KY 42301

Summary of testimony of those in favor:

00:36:50 Rob Sweet, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.)

00:43:01 In addition to providing many details about the project, he noted that proposed hours of operation are from 7:00 a.m. to 8:00 p.m. 7 days a week. He addressed the noise issues and said the vacuum stands are screened, and the dryers in the facility produce about 70 decibels. He addressed the traffic pattern and safety issues. The facility will meet the lighting standards in the LDC.

00:44:02 Joseph Reverman, Assistant Director for Planning & Design Services, asked for additional information regarding past approval/s on this site – any Conditions

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of Approval, how sidewalks were handled, etc. Mr. Sweet said he has some previous binding elements. Commissioner Brown said the binding elements he has limit hours of operation from 10:00 a.m. to 10:00 p.m. Ms. Gabbard said the previous use was proposed to be a restaurant, but that was never built.

00:44:57 Commissioner Carlson asked if the applicant controls/owns the property now. Mr. Sweet said no, but it is under contract. Commissioner Carlson said that some of the doors/openings appear to be unsecured (safety issue.) Mr. Sweet said that will be addressed.

00:45:20 In response to a request from Mr. Reverman, Ms. Gabbard showed the previously-approved plan (specifically, sidewalks shown on that plan.) Sidewalks were shown on that plan, on the inside part of the drainage ditch area.

00:46:38 Jason Baker, an applicant's representative, explained why there on-site drive lane was eliminated (no access shown off of Lone Oak); and also elaborated on the reasons for the sidewalk waiver along Old Outer Loop (due to drainage issues.) He said the State will not allow sidewalks along Outer Loop (see recording for detailed presentation.) He reviewed plans for the on-site water collection.

The following spoke in opposition to this request:

Wayne Wilson, 3815 Old Outer Loop, Louisville, KY 40219

Aaron Rogers and Tera Vale, 4004 Old Outer Loop, Louisville, KY 40219

Karey Woods, 3907 Old Outer Loop, Louisville, KY 40219

Maricruz Acosta, 4006 Old Outer Loop, Louisville, KY 40219

Gale Miuks, 3352 Old Outer Loop, Louisville, KY 40219

Summary of testimony of those in opposition:

00:52:17 Wayne Wilson said he is particularly opposed to the sidewalk waivers, and also said there is already a lot of traffic back there. He said that there are already three other car washes within a ½ mile of this site. He asked if this paving/construction would put nearby residents in a floodplain. He is concerned about lines of cars backing up onto Old Outer Loop.

00:54:05 Aaron Rogers and Tera Vale live directly across the street from the site. He said their concerns include people turning around in his driveway because his street

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is no outlet; traffic and traffic backups on Outer Loop; and inadequate buffers. He also had concerns about cars backing up onto Lone Oak and Outer Loop while waiting to be washed.

00:59:39 Tera Vale said car accidents in front of a Preston Highway car wash, less than ¼ mile away from this site, have increased. Traffic backs up in a line waiting to get into the facility. School buses stop here. She is also concerned about noise and people playing music. She asked that any accesses be off of/out onto Outer Loop, not Lone Oak, and also have a buffer on Lone Oak and Old Outer Loop so drivers cannot cut through.

01:03:53 Karey Woods said her main concern is both regular and construction traffic. She said backups occur here regularly, and drivers try to cut through on Lone Oak to get around the Outer Loop traffic lights. Ms. Woods added that the house on the property is not vacant and is currently occupied by a renter.

01:07:40 Maricruz Acosta, representing her parents, said her parents are concerned about speeders on Old Outer Loop and traffic concerns. She said a car wash will make it worse.

01:09:05 Gale Miuks said her main concern is traffic. She said the intersection of Briarcliff Road and Outer Loop is very congested; drivers are using Lone Oak up Old Outer Loop as a bypass. She explained traffic flow problems in detail and said this site is a poor place for development. See recording for her detailed presentation.

Rebuttal:

01:13:27 Mr. Sweet said that, regarding traffic, the applicant has designed the site to minimize it to Lone Oak only. He said that if the waiver was “adjusted” that would disrupt the stacking spaces, which would lead to traffic backing up onto the street. The access on Outer Loop is controlled by the State. He said the buffer being proposed is a “natural landscape buffer” and elaborated more on what is being proposed.

Deliberation:

01:15:13 Commissioners’ deliberation.

01:16:30 Commissioner Carlson raised binding elements, put on the original plan during the rezoning, regarding hours of operations (from 10:00 a.m. to 10:00 p.m.) and that any other type of use besides a restaurant had to have a public hearing. He said he is opposed to changing these binding elements, and finds no justification for the

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waivers. He said he is also concerned about traffic and cars waiting line and spilling out onto surrounding streets.

01:19:54 Commissioner Brown said he agreed with Commissioner Carlson. He is also concerned about queue extensions. There is no site design or mitigation to prevent this. He said he feels the site is too small for the proposed use.

01:21:03 Commissioner Tomes said he agreed with the other two Commissioners and said the proposed use seems to “overburden” the site.

01:22:06 Mr. Sweet requested that this case be Continued to a date-uncertain Planning Commission hearing so he can have a chance to get together with the applicant to address the concerns. During the discussion, it was noted that **NEW NOTICES** would need to be sent to property owners, and include notices to speakers present at today’s meeting. Commissioners Carlson and Brown requested a traffic study. Commissioner Brown expressed particular concern about the left-turn lane requirements and queueing.

An audio/visual recording of the Planning Commission hearing 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.

CONTINUE this case to the full Planning Commission, date uncertain

01:24:41 On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution was adopted:

RESOLVED, the Louisville Metro Development Review Committee does hereby **CONTINUE** this case to the full Planning Commission, date uncertain.

The vote was as follows:

YES: Commissioners Brown, Carlson, and Tomes.

ABSENT: Commissioners Smith and Robinson.

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NEW BUSINESS

CASE NUMBER 19WAIVER1006

Request: Waiver of retaining wall height
Project Name: Retaining Wall Waiver
Location: 12920 Factory Lane
Owner: Reza Ghasemzadeh – Atlantic Development Group LLC
Applicant: Reza Ghasemzadeh – Atlantic Development Group LLC
Representative: Mark Madison – Milestone Engineering
Jurisdiction: Louisville Metro
Council District: 19 – Anthony Piagentini

Case Manager: Lacey Gabbard, AICP, Planner I

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

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

Agency Testimony:

01:25:12 Lacey Gabbard presented the case (see staff report and recording for detailed presentation.)

01:26:57 In response to a question from Commissioner Brown, Ms. Gabbard said the proposed height of the retaining wall varies, but it is 6-foot maximum.

The following spoke in favor of this request:

Mark Madison, Milestone Design Group, 108 Davenport Lane Suite 300, Louisville, KY 40223

Summary of testimony of those in favor:

01:27:37 Mark Madison, the applicant's representative, presented the applicant's case (see recording for detailed presentation.) He explained the reasons for the requested waiver.

01:30:27 Commissioner Brown asked if any "fall protection" (fencing, railing, etc.) would be needed on top of the wall. Mr. Madison explained the proposed construction of the wall and said no additional protection was needed, beyond what is being proposed.

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The following spoke in opposition to this request:

No one spoke.

Deliberation:

01:31:59 Commissioners' deliberation.

An audio/visual recording of the Planning Commission hearing 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.

01:32:09 On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution, based on the Standard of Review and Staff Analysis 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 all planting requirements will be met and the wall is located on the subject site; and

WHEREAS, the Committee further finds that Plan 2040 calls for protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigation when appropriate. Plan 2040 calls for appropriate transitions between uses that are substantially different in scale and intensity or density, and to mitigate the impact caused when incompatible developments occur adjacent to one another through the use of landscaped buffer yards, vegetative berms and setback requirements to address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances. Plan 2040 states that parking, loading and delivery areas located adjacent to residential areas should be designed to minimize noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered. Plan 2040 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. The intent of landscape buffer areas is to create suitable transitions where varying forms of development adjoin, to minimize the negative impacts resulting from adjoining incompatible land uses, to decrease storm water runoff volumes and velocities associated with impervious surfaces, and to filter airborne and waterborne pollutants.

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The planting requirements along the proposed 15 foot LBA will still be met, so adequate screening will be provided per the LDC; and

WHEREAS, the Committee further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since, according to the applicant's justification statement, other options were explored but due to the geography of the site and the request of the adjoining property owner, the retaining wall and reduced LBA are the only viable option; 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. Due to the geography of the site and the request of the adjoining property owner, the retaining wall and reduced LBA are the only viable option for completion of this project on this site; now, therefore be it

RESOLVED, the Louisville Metro Development Review Committee does hereby **APPROVE** the requested **Waiver** of Land Development Code section 10.2.4.B to allow a retaining wall greater than 4 feet within an LBA less than 25 feet.

The vote was as follows:

YES: Commissioners Brown, Carlson, and Tomes.

ABSENT: Commissioners Smith and Robinson.

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CASE NUMBER 19DEVPLAN1007

Request: Revised Development Plan with Binding Element amendments and a Waiver
Project Name: Dixie Highway SK Cornerstone
Location: 5210 Dixie Highway
Owner: Bob Hamilton – Dixie Highway SK Cornerstone LLC
Applicant: Bob Hamilton – Dixie Highway SK Cornerstone LLC
Representative: Bob Hamilton – Dixie Highway SK Cornerstone LLC
Jurisdiction: Louisville Metro
Council District: 12 – Rick Blackwell

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:

01:32:45 Lacey Gabbard presented the case (see staff report and recording for detailed presentation.)

01:34:51 Commissioner Brown suggested updates/minor corrections to proposed binding elements #6A (update language and include the Kentucky Transportation Cabinet).

The following spoke in favor of this request:

Todd Riley (sp), Riley Design & Consulting, 4516 Boardwalk, Smithton, IL 62285

Summary of testimony of those in favor:

01:36:14 Todd Riley, the applicant's representative, presented the applicant's case (see recording for detailed presentation.)

01:37:49 Mr. Riley stated that the applicant will provide a cross-access easement with an adjoining property. He also said there is a current sidewalk along Dixie Highway – the applicant will replace that and make it ADA-compliant. This sidewalk will connect to the proposed front part of the building. Commissioner Brown asked if that sidewalk is currently being replaced as part of the Dixie Highway project. Mr. Riley said he did not

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know when this part of the “Dixie Do-Over” will be started at this location, but the applicant is willing to update this part of the sidewalk anyway.

The following spoke in opposition to this request:

No one spoke.

Deliberation:

01:39:55 Commissioners’ deliberation.

An audio/visual recording of the Planning Commission hearing 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 10.2.3 to not provide the 15 foot landscape buffer area between the M-2 and C-1 zones at the rear of the property

01:39:59 On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution, based on the Standard of Review and Staff Analysis 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 proposed buffer area exceeds the existing plantings at the rear of the property; and

WHEREAS, the Committee further finds that Guideline 3, Policy 9 of Cornerstone 2020 calls for the protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigate when appropriate. Guideline 3, Policies 21 and 22 calls for appropriate transitions between uses that are substantially different in scale and intensity or density, and to mitigate the impact caused when incompatible developments occur adjacent to one another through the use of landscaped buffer yards, vegetative berms and setback requirements to address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances. Guideline 3, Policy 24 states that parking, loading and delivery areas located adjacent to residential areas should be designed to minimize the impacts from noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered. Guideline 13, Policy 4 calls

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for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. Guideline 13, Policy 7 calls for protection of the character of parkways and scenic byways and corridors through standards for buffers, landscape treatment, lighting and signs.

The subject property is zoned C-1 and M-2, with the zoning boundary line located about fifty-five feet from the rear property line. Though the zones are of different intensity, they function as part of the subject site as a whole and therefore are functionally of the same use and intensity. The applicant is proposing a 15 foot landscape buffer area to be located at the rear property line, which provides a more logical buffer for the adjacent property; and

WHEREAS, the Committee further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since the zoning boundary existed on this site prior to this development plan, and the landscape buffer at the rear of the property provides better screening for adjacent properties than a buffer area located in the interior of the site; and

WHEREAS, the Committee further finds that the applicant has incorporated other design measures that compensate for non- compliance by providing a 15 foot landscape buffer area at the rear of the site; now therefore be it

RESOLVED, the Louisville Metro Development Review Committee does hereby **APPROVE** the requested Waiver of Land Development Code section 10.2.3 to not provide the 15 foot landscape buffer area between the M-2 and C-1 zones at the rear of the property.

The vote was as follows:

YES: Commissioners Brown, Carlson, and Tomes.

ABSENT: Commissioners Smith and Robinson.

- **General Plan Binding Element Amendments**
- **Revised Detailed District Development Plan with Site Plan Binding Element Amendments**

01:40:35 On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution, based on Standard of Review and Staff Analysis and testimony heard today, was adopted:

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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. Metro Public Works and the Kentucky Transportation Cabinet have not approved the preliminary development plan; and

WHEREAS, the Committee further finds that there are no open space requirements pertinent to the current proposal. Future multi- family development proposed on the subject site will be required to meet Land Development Code requirements; and

WHEREAS, the Committee further finds that the Metropolitan Sewer District has not yet approved the preliminary development plan, however their remaining unresolved comment appears to be minor. MSD 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 General Plan Binding Element Amendments; **AND** the requested Revised Detailed District Development Plan with Binding Element Amendments, subject to the following binding elements:

Existing General Plan Binding Elements

1. The development will be in accordance with the approved district development plan. No further development will occur.
2. ~~The development shall not exceed 710 square feet of gross floor area.~~

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3. Before a building permit is issued:
 - a) The development plan must be reapproved by the Jefferson County Department of Public Works and Transportation and the Metropolitan Sewer District.
 - b) Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
 - c) The size and location of any proposed signs must be approved by the Planning Commission. The Planning Commission may require that the signs be smaller than would otherwise be permitted by the Zoning District Regulations.
 - d) A minor subdivision plat will be recorded to combine the rear of the subject property with the adjacent Batt N' Putt property on the northern boundary. The deed book and page number of the recorded instrument shall be submitted to the Planning Commission.
4. Before a certificate of occupancy is issued the property owner must obtain approval of a landscape plan (buffering/landscaping) in accordance with Article 12. Such plan shall be implemented within six months of approval and maintained thereafter.
5. If a building permit is not issued within one year 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.
6. A certificate of occupancy must be received from the appropriate code enforcement officer prior to occupancy of the structure or land for the proposed use. All binding elements must be implemented prior to requesting issuance of the certificate.
7. The above binding elements may be amended as provided for in the Zoning District Regulations.

Existing Site Binding Elements

1. The development shall be in accordance with the approved district development plan and agreed upon binding elements unless amended pursuant to the Zoning District Regulations. No further development shall occur without prior approval from the Planning Commission, except for land uses permitted in the established zoning district.

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- ~~2. The development shall not exceed 1,610 square feet of gross floor area.~~
3. There shall be no freestanding sign permitted on site without prior approval by the Planning Commission. The Planning Commission may require that the signs be smaller than would otherwise be permitted by the Zoning District Regulations.
4. No outdoor advertising signs (billboards), small free-standing (temporary) signs, pennants, balloons, or banners shall be permitted on the site.
5. There shall be no outdoor storage on the site.
6. Outdoor lighting shall be directed down and away from surrounding residential properties. Lighting fixtures shall have a 90 degree cutoff so that no light source is visible off-site. Lighting levels attributable to the fixtures located on the subject site shall not exceed two foot candles at the property line.
7. Before any permit (including but not limited to building, parking lot, change of use or alteration permit) is requested:
 - ~~a) The development plan must receive full construction approval from the Jefferson County Department of Public Works and Transportation (400 Fiscal Court Building) and the Metropolitan Sewer District (700 West Liberty).~~
 - b) The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Article 12 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - c) An access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be secured from the adjoining property owner and recorded. A copy of the recorded instrument shall be submitted to the Division of Planning and Development Services; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
8. If a building permit is not issued within one year of the date of approval of the plan, 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.
9. A certificate of occupancy must be received from the appropriate code enforcement office prior to occupancy of the structure or land for the proposed

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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.

10. There shall be no outdoor music (live, piped, radio or amplified), outdoor entertainment, or outdoor PA system permitted on the site.
11. The property owner/developer shall provide copies of these binding elements to tenants, contractors and other parties engaged in development of this project, and shall inform them of the content of these binding elements. Further, the property owner/developer shall require contractors to similarly notify all of their sub-contractors whose duties relate to the binding elements. The property owner/developer shall ensure their compliance with the binding elements.

Proposed Site Binding Elements

1. The development shall be in accordance with the approved district development plan and agreed upon binding elements unless amended pursuant to the Zoning District Regulations. No further development shall occur without prior approval from the Planning Commission, except for land uses permitted in the established zoning district.
2. There shall be no freestanding sign permitted on site without prior approval by the Planning Commission. The Planning Commission may require that the signs be smaller than would otherwise be permitted by the Zoning District Regulations.
3. No outdoor advertising signs (billboards), small free-standing (temporary) signs, pennants, balloons, or banners shall be permitted on the site.
4. There shall be no outdoor storage on the site.
5. Outdoor lighting shall be directed down and away from surrounding residential properties. Lighting fixtures shall have a 90 degree cutoff so that no light source is visible off-site. Lighting levels attributable to the fixtures located on the subject site shall not exceed two foot candles at the property line.
6. Before any permit (including but not limited to building, parking lot, change of use or alteration permit) is requested:
 - a) The development plan must receive full construction approval from Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.

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- b) The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Article 12 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - c) An access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be secured from the adjoining property owner and recorded. A copy of the recorded instrument shall be submitted to the Division of Planning and Development Services; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
 - d) Final elevations/renderings shall be submitted for review and approval by Planning Commission staff. A copy of the approved rendering shall be available in the case file on record in the offices of the Louisville Metro Planning Commission.
- 7. If a building permit is not issued within one year of the date of approval of the plan, 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.
 - 8. A certificate of occupancy must be received from the appropriate code enforcement office 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.
 - 9. There shall be no outdoor music (live, piped, radio or amplified), outdoor entertainment, or outdoor PA system permitted on the site.
 - 10. The property owner/developer shall provide copies of these binding elements to tenants, contractors and other parties engaged in development of this project, and shall inform them of the content of these binding elements. Further, the property owner/developer shall require contractors to similarly notify all of their sub-contractors whose duties relate to the binding elements. The property owner/developer shall ensure their compliance with the binding elements.

The vote was as follows:

YES: Commissioners Brown, Carlson, and Tomes.

ABSENT: Commissioners Smith and Robinson.

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NEW BUSINESS

CASE NUMBER 19DEVPLAN1015

Request: Revised Development Plan with Binding Element amendments and a Waiver
Project Name: Dixie Highway SK Cornerstone
Location: 5210 Dixie Highway
Owner: Bob Hamilton – Dixie Highway SK Cornerstone LLC
Applicant: Bob Hamilton – Dixie Highway SK Cornerstone LLC
Representative: Curtis Mucci and Steve Scott, Mindel Scott & Associates
Jurisdiction: Louisville Metro
Council District: 12 – Rick Blackwell

Case Manager: Lacey Gabbard, AICP, Planner I

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

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

Agency Testimony:

00:41:27 Lacey Gabbard presented the case (see staff report and recording for detailed presentation.)

01:45:07 Commissioner Brown and Ms. Gabbard discussed the requested Waiver #2 (regarding a parkway buffer) and its relation to a previously-approved plan.

01:46:07 Commissioner Carlson and Ms. Gabbard discussed sidewalks along this area of Greenbelt Highway (see recording for detailed discussion.) The closest sidewalk is over ½ mile away, to the south of the site.

The following spoke in favor of this request:

Curtis Mucci and Steve Scott, Mindel Scott & Associates, 5151 Jefferson Boulevard, Louisville, KY 40219

Jeff Robinson, Summit Construction, 4852 Crittenden Drive, Louisville, KY 40209

Summary of testimony of those in favor:

01:47:46 Curtis Mucci, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.) He also discussed the previously-approved plan and how the new plan differs.

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01:51:45 In response to a question from Commissioner Carlson, Mr. Mucci said the proposed building is larger than what was previously proposed, but there is less impervious surface. The berm was also discussed – Mr. Mucci said that, for the portion of the property adjacent to a residential area to the north, there will be no berm but the buffer requirements will be met with existing vegetation (trees.)

The following spoke in opposition to this request:

No one spoke.

The following spoke neither for nor against this request:

Jim Chambers, 6012 Santa Fe Trail, Louisville, KY 40258

Summary of testimony of those neither for nor against:

01:53:14 Jim Chambers, a nearby resident, said that bus riders have to stand in the emergency lane to catch buses because there are no sidewalks. He asked if the berm and trees would be provided on the north side of the subdivision. Mr. Mucci said there will be no berm, but existing trees will be preserved. Mr. Chambers said that a previously approved plan had a waiver granted to not build the berm, but will have an 8-foot sound fence. Now, there is no berm or fence being proposed.

01:57:45 After some discussion, Mr. Mucci said the applicant will install an 8-foot sound fence, since that was shown on the previously-approved plan.

01:58:31 Mr. Chambers said that the exhaust stacks on the diesel trucks are 10-feet high, so how will an 8-foot tall sound fence help?

Deliberation:

01:59:10 Commissioners' deliberation. Commissioner Brown said he does not agree that the sidewalk waiver is justified. He does think that the remaining waivers are justified, as long as the 8-foot sound fence is built.

An audio/visual recording of the Planning Commission hearing 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

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Waiver #1 - Waiver of Land Development Code section 10.2.4 to not provide the 50 foot LBA and screening/plantings along the southern property line and provide a 15 foot setback in its place

02:00:05 On a motion by Commissioner Brown, seconded by Commissioner Carlson, 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 property to the south is currently vacant, zoned R-1 and R-4, and owned by Louisville-Jefferson County Metro Government. Additionally, the site to the south of the subject property contains potential wetlands, hydric soils, and a protected waterway that would restrict development to the south; and

WHEREAS, the Committee further finds that Guideline 3, Policy 9 of Cornerstone 2020 calls for protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigation when appropriate. Guideline 3, Policies 21 and 22 call for appropriate transitions between uses that are substantially different in scale and intensity or density, and mitigation of the impact caused when incompatible developments occur adjacent to one another through the use of landscaped buffer yards, vegetative berms and setback requirements to address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances. Guideline 3, Policy 24 states that parking, loading and delivery areas located adjacent to residential areas should be designed to minimize impacts from noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered. Guideline 13, Policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. Guideline 13, Policy 6 calls for screening and buffering to mitigate adjacent incompatible uses. The intent of landscape buffer areas is to create suitable transitions where varying forms of development adjoin, to minimize the negative impacts resulting from adjoining incompatible land uses, to decrease storm water runoff volumes and velocities associated with impervious surfaces, and to filter airborne and waterborne pollutants. The property along the subject site's southern border is owned by Metro and zoned residential, and contains potential wetlands, hydric soils, and a protected waterway which would restrict development. Though it differs in intensity with the subject site, it is unlikely to be developed and acts as a buffer between the subject site and developed residential properties further to the south; and

WHEREAS, the Committee further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since there are barriers that will

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most likely prevent the adjacent property to the south from being developed, so it currently acts as a buffer between the subject property and the residentially zoned properties further to the south; 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 since a 50 foot buffer would restrict the size of the proposed building on 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 10.2.4 to not provide the 50 foot LBA and screening/plantings along the southern property line and provide a 15 foot setback in its place.

The vote was as follows:

YES: Commissioners Brown, Carlson, and Tomes.

ABSENT: Commissioners Smith and Robinson.

Waiver #2 - Waiver of Land Development Code section 10.2.4 to reduce the 35 foot buffer along the western property line to 30 feet, and to not provide screening but to follow parkway buffer requirements.

02:00:42 On a motion by Commissioner Brown, seconded by Commissioner Carlson, 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 property to the west is also zoned EZ-1 and does not have a buffer, and the applicant is proposing to comply with the 30 foot parkway buffer requirements; and

WHEREAS, the Committee further finds that Guideline 3, Policy 9 of Cornerstone 2020 calls for protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigation when appropriate. Guideline 3, Policies 21 and 22 call for appropriate transitions between uses that are substantially different in scale and intensity or density, and mitigation of the impact caused when incompatible developments occur adjacent to one another through the use of landscaped buffer yards, vegetative berms and setback requirements to address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage,

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and visual nuisances. Guideline 3, Policy 24 states that parking, loading and delivery areas located adjacent to residential areas should be designed to minimize impacts from noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered. Guideline 13, Policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. Guideline 13 Policy 6 calls for screening and buffering to mitigate adjacent incompatible uses. The intent of landscape buffer areas is to create suitable transitions where varying forms of development adjoin, to minimize the negative impacts resulting from adjoining incompatible land uses, to decrease storm water runoff volumes and velocities associated with impervious surfaces, and to filter airborne and waterborne pollutants.

The applicant is proposing to comply with the 30 foot parkway buffer requirements, which will satisfy screening and landscaping for the site and the VUA along Greenbelt Highway; 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. The applicant is proposing to comply with the 30 foot parkway buffer requirements, which will satisfy screening and landscaping for the site and the VUA along Greenbelt Highway; 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 since the 30 foot parkway buffer will provide adequate screening and is not substantially smaller than the required 35 foot LBA; now, therefore be it

RESOLVED, the Louisville Metro Development Review Committee does hereby **APPROVE** the requested Waiver of Land Development Code section 10.2.4 to reduce the 35 foot buffer along the western property line to 30 feet, and to not provide screening but to follow parkway buffer requirements.

The vote was as follows:

YES: Commissioners Brown, Carlson, and Tomes.

ABSENT: Commissioners Smith and Robinson.

- **Waiver #3 - Waiver of Land Development Code section 6.2.6 to not provide sidewalks along Greenbelt Hwy**
- **Waiver #4 - Waiver of Land Development Code section 5.9.2.A.1.b.i to not provide pedestrian access from the sidewalk to the building entrance**

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02:01:13 On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution, based on the evidence and testimony heard today and the previously-approved development plan, was adopted:

RESOLVED, the Louisville Metro Development Review Committee does hereby **DENY** the requested Waiver of Land Development Code section 6.2.6 to not provide sidewalks along Greenbelt Highway, and does hereby **DENY** the requested Waiver of Land Development Code section 5.9.2.A.1.b.i to not provide pedestrian access from the sidewalk to the building entrance, and does hereby **REQUIRE** the applicant to construct the sidewalk as shown on the previously-approved rezoning plan.

The vote was as follows:

YES: Commissioners Brown, Carlson, and Tomes.

ABSENT: Commissioners Smith and Robinson.

Outdoor Amenity Area design review presented today per Land Development Code section 5.12.2

02:02:18 On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution, based on the staff report and evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Development Review Committee finds that the proposal meets the Land Development Code requirements; now, therefore be it

RESOLVED, the Louisville Metro Development Review Committee does hereby **APPROVE** the requested Outdoor Amenity Area design review presented today per Land Development Code section 5.12.2.

The vote was as follows:

YES: Commissioners Brown, Carlson, and Tomes.

ABSENT: Commissioners Smith and Robinson.

Revised Detailed District Development Plan

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02:03:02 On a motion by Commissioner Brown, seconded by Commissioner Carlson, 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' preliminary approval is pending the sidewalk waiver requests. MSD has provided preliminary approval; and

WHEREAS, the Committee further finds that the proposed Outdoor Amenity Area meets Land Development Code 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 Revised Detailed District Development Plan, **SUBJECT** to the following binding elements:

Existing Binding Elements

1. The site shall be maintained in accordance with all applicable sections of the Land Development Code (LDC) and agreed-upon binding elements unless amended pursuant to the LDC. Amendment of any binding element(s) shall be submitted to the Planning Commission or its designee for review and approval; any amendments not so referred shall not be valid.

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2. No outdoor advertising signs, small freestanding signs, pennants, balloons or banners shall be permitted.
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 is requested, including but not limited to permits for building, parking lot, change of use, site disturbance, alteration or demolition:
 - a. The development plan must receive full construction approval from Develop Louisville, Louisville Metro Public Works and the Metropolitan Sewer District,
 - b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways for any work within the state right-of-way.
 - c. A minor subdivision plat shall be recorded creating the lot lines as shown on the development plan. 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.
 - d. 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
 - e. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
5. 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 a copy of these binding elements to tenants, purchasers, contractors, subcontractors and other parties

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engaged in development and/or use of this site and shall advise all parties of their content. 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. These binding elements shall run with the land and the owner(s) and occupant(s) of the property shall at all times be responsible for compliance with them.

7. No overnight idling within 200 ft. of residential property lines. Signs shall be posted restricting idling and establishing a slow acceleration zone along the northern drive aisle.
8. The materials and design of proposed structures shall be reviewed for Land Development Code compliance by Planning & Design Services staff prior to construction approval.
9. Northern access shall not be used for truck traffic between the hours of 10:00p.m. and 6:00a.m.
10. The 8-foot sound fence that was shown on the plan for the original rezoning, Case No. 16ZONE1072, shall be required along the length of the vehicular use area that abuts the northern property line.

The vote was as follows:

YES: Commissioners Brown, Carlson, and Tomes.

ABSENT: Commissioners Smith and Robinson.

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NEW BUSINESS

CASE NUMBER 19DEVPLAN1022

Request: Revised Detailed District Development Plan with Binding
Element amendments
Project Name: Springhurst Commercial Outlot
Location: 4100 Towne Center Drive
Owner: Matt Levitt – Meijer Stores LDT PTR
Applicant: Matt Levitt – Meijer Stores LDT PTR
Representative: Matt Wilson – Wilson Development Group
Jurisdiction: Louisville Metro
Council District: 17 – Markus Winkler

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:

02:04:52 Lacey Gabbard presented the case (see staff report and recording for detailed presentation.)

The following spoke in favor of this request:

Derek Triplett, 503 Washington Ave Suite 101, Louisville, KY 40222

Robert Keys, 191 Wacker Drive Suite 2500, Chicago, IL 60606

Kristofer Ames, 191 Wacker Drive Suite 2500, Chicago, IL 60606

Summary of testimony of those in favor:

02:05:52 Derek Triplett, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.)

02:08:13 In response to some questions from Commissioner Brown, Mr. Triplett addressed traffic control and movement within the parking lot. The applicant will work with staff to come up with a safe circulation pattern, and this will be a Condition of Approval.

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The following spoke in opposition to this request:
No one spoke.

Deliberation:

02:11:50 Commissioners' deliberation.

An audio/visual recording of the Planning Commission hearing 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.

General Plan Binding Element Amendments

02:12:19 On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

RESOLVED, the Louisville Metro Development Review Committee does hereby **APPROVE** the requested General Plan Binding Element Amendments to binding element #2, to read as follows:

General Plan Binding Elements

1. The development shall be in accordance with the approved district development plan and agreed upon binding elements unless amended pursuant to the Zoning District Regulations. No further development shall occur without prior approval from the Planning Commission except for land uses permitted in the established zoning district.
2. ~~The development of all "lots" and "shops" shall not exceed 862,800 square feet of gross floor area. Also, development of any individual "lot" or "shop" shall not exceed the gross floor area indicated in the Detailed District Development Plan (Revised by LD&T action on 5/22/97).~~
3. There shall be no direct vehicular access to Springhurst Boulevard or Private Roadway "A" or "B", except as indicated on the Development Plan. All other access locations shall be approved by the Department of Public Works.
4. The only permitted Business Identification and Shopping Center Identification

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signs shall be located as shown on the approved district development plan. The Business Identification signs shall not exceed 60 square feet in area and 6 feet in height. No sign shall have more than two sides. Shopping Center Identification signs shall not exceed 72 square feet in area and 8 feet in height. A Variance from the Board of Zoning Adjustment will be required for the Shopping Center Identification Sign at the intersection of Private Roadway "B" with Springhurst Boulevard in order for the sign to extend into the front yard of lot "L".

5. No outdoor advertising signs (billboards), small free-standing (temporary) signs, pennants or banners shall be permitted on the site.
6. There shall be no outdoor storage on the site.
7. Outdoor lighting shall be directed down and away from surrounding residential properties.
8. Construction fencing shall be erected at the edge of the area of development prior to any grading or construction to protect the existing tree stands and their 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.
9. The applicant shall submit a plan for approval by the Planning Commission staff landscape architect showing trees/tree masses to be preserved prior to beginning any construction procedure (i.e. clearing, grading, demolition). Any modification of the tree preservation plan requested by the applicant may be approved by the Planning Commission staff landscape architect if the changes are in keeping with the intent of the approved tree preservation plan. The plan shall exhibit the following information:
 - a) Proposed site plan (showing buildings, edges of pavement, property/lot lines, easements, existing topography, and other significant site features (LOJIC topographic information is acceptable).
 - b) Preliminary drainage considerations (retention/detention, ditches/large swales, etc.)
 - c) Location of all existing trees/ tree masses existing on the site as shown by aerial phot or LOJIC maps.

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- d) Location of construction fencing for each tree/tree mass designated to be preserved.
- 10. Before any permit (including but not limited to building, parking lot, change of use or alteration permit) is requested:
 - a) The development plan must receive full construction approval from the Jefferson County Department of Public Works and Transportation (400 Fiscal Court Building) and the Metropolitan Sewer District (700 West Liberty)
 - b) The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Article 12 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
- 11. Prior to requesting a Certificate of Occupancy:
 - a) A minor subdivision plat shall be recorded creating the lot lines as shown on the development plan. A copy of the recorded instrument shall be submitted to the Division of Planning and Development Services, transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
 - b) An access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be secured from the adjoining property owner and recorded. A copy of the recorded instrument shall be submitted to the Division of Planning and Development Services, transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
 - c) A detailed sign plans shall be submitted and approved by staff in conformance with the approved master sign plan.
- 12. If a building permit is not issued within one year of the date of approval of the plan, 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.
- 13. A certificate of occupancy must be received from the appropriate code enforcement office 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.

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14. There shall be no outdoor music (live, piped, radio or amplified) outdoor entertainment, or outdoor PA system permitted on the site.
15. The property owner/developer shall provide copies of these binding elements to tenants, contractors and other parties engaged in development of this project, and shall inform them of the content of these binding elements. Further, the property owner/developer shall require contractors to similarly notify all of their sub-contractors whose duties relate to the binding elements. The property owner/developer shall ensure their compliance with the binding elements.
16. The shopping center in Lot 707 shall not be opened for business until the additional right-of-way for Westport Road and intersecting streets, including four through lanes from Freys Hill Road to Hurstbourne Parkway has been acquired, utility relocation is substantially complete, and construction funding has been approved, and Springhurst Boulevard (Road A) has been opened to traffic from Westport Road to Hurstbourne Parkway.
17. The Springhurst Development will provide storm water detention in excess of the minimum amount required by the Metropolitan Sewer District in order to accommodate a reduction in the pre-development storm water flow through the City of Ten Broeck. The reduction will amount to 15% for the 2-year storm and 10% for the 10 and 100 year storm.

The vote was as follows:

YES: Commissioners Brown, Carlson, and Tomes.

ABSENT: Commissioners Smith and Robinson.

Revised Detailed District Development Plan

02:12:54 On a motion by Commissioner Brown, seconded by Commissioner Carlson, 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

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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 has provided preliminary approval. MSD preliminary approval is pending minor notes to be added to the plan; and

WHEREAS, the Committee further finds that there are no open space requirements pertinent to the current proposal. Future multi- family development proposed on the subject site will be required to meet Land Development Code 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 Revised Detailed District Development Plan, **ON CONDITION** that there is a construction plan review to improve the safety and circulation in the parking area in and around the development, and to better define the intersections in traffic control which will be a part of the construction plan approval, and **SUBJECT** to the following binding elements:

Proposed 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.

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2. Prior to development (includes clearing and grading) of each site or phase of this project, the applicant, developer, or property owner shall obtain approval of a detailed district development plan in accordance with Chapter 11, Part 6. Each plan shall be in adequate detail and subject to additional binding elements.
3. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
4. 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.
5. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition 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 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. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services prior to obtaining a building permit.
 - d. Final elevations/renderings shall be submitted for review and approval by Planning Commission staff. A copy of the approved rendering shall be available in the case file on record in the offices of the Louisville Metro Planning Commission.
6. If a certificate of occupancy (building permit) is not issued within one (two) year(s) of the date of approval of the plan or rezoning, whichever is later, the property

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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 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.
8. 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.
9. 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 was as follows:

YES: Commissioners Brown, Carlson, and Tomes.

ABSENT: Commissioners Smith and Robinson.

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CASE NUMBER 19WAIVER1009

Request: Waiver for sidewalks, building square footage and connectivity
Project Name: Hunting Creek Country Club
Location: 6807 Foxcroft Road
Owner: Hunting Creek Country Club, Inc.
Applicant: Karl Lentz – Evans/Griffith Inc. – LJB Inc.
Jurisdiction: City of Prospect
Council District: 16 – Scott Reed

Case Manager: Molly Clark, Associate Planner
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:

02:13:35 Jay Lockett presented the case (see staff report and recording for detailed presentation.) In response to a question from Commissioner Tomes, Mr. Lockett confirmed that Louisville Metro has the final authority on waivers in the City of Prospect.

The following spoke in favor of this request:

Karl Lentz, LJB Inc., 4010 Dupont Circle Suite 478, Louisville, KY 40207

Summary of testimony of those in favor:

02:16:20 Karl Lentz, the applicant's representative, presented the applicant's case (see recording for detailed presentation.)

The following spoke in opposition to this request:

No one spoke.

Deliberation:

02:18:07 Commissioners' deliberation.

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An audio/visual recording of the Planning Commission hearing 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 - Waiver from 5.3.6.D.1 – The maximum building square footage for non-residential uses within the designated outlying areas is 5,000 square feet.
- Waiver #2 - Waiver from 5.8.1.B – All developments shall provide sidewalks in the abutting right of way to serve the development site (same side of street).
- Waiver #3 - Waiver from 5.9.2.A.1.b.i – A clearly defined, safe pedestrian access shall be provided from adjacent public rights-of-way (public sidewalk) through off-street parking area to non-residential building entrances.

02:18:11 On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

(Waiver #1) WHEREAS, the Louisville Metro Development Review Committee finds that the proposed development is not adding additions that make the country club significantly closer to residential areas. The addition is small compared to the large parcel the country club is located on; and

WHEREAS, the Committee further finds that, according to Guideline 22 policy 4, Cornerstone 2040 calls for non-residential development within the Village Form Districts to occur only at locations with appropriate access and connectivity. This site serves the whole subdivision and is technically non-residential but you can look at it as an accessory to the subdivision built around the country club. Even though the building will exceed the maximum square feet allowed, it is not an inappropriate use. Guideline 23 policy 5 states that retail commercial development should be located in activity centers where it can be demonstrated that sufficient population exists or is anticipated to support it. This gold course has existed since the 1960's and serves the subdivision built around it. Guideline 27 policy 9 states the encouragement of new developments and rehabilitation of buildings that provide commercial use. This proposed development will be rehabbing an existing country club building that houses the dining room as well as adding a gold pro shop to open to the country club members who most likely live in close proximity to the club; and

WHEREAS, the Committee further finds that, by allowing the applicant to build bigger than the maximum square footage, it will allow the existing country club to serve more of

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its members while being an accessory use to the residential subdivision that surrounds the country club; and

WHEREAS, the Committee further finds that the strict application of the provisions of the regulation would deprive the applicant because this is not a typical non-residential use. This is a country club where the subdivision was purposely built around it. To not allow the country club to expand would deprive them of being able to serve all their members in a slightly bigger facility; and

(Waiver #2) WHEREAS, the Committee further finds that all the residential properties that surround the country club do not have sidewalks and it would not be consistent with the neighborhood; and

WHEREAS, the Committee further finds that Guideline 43 policy 9 encourages development that respects the natural features of the site through sensitive site design, avoids substantial changes to the topography and minimizes property damage and environmental degradation resulting from disturbance of natural systems. By not building sidewalks, the Country Club can avoid disturbing the greens and existing trees on the golf course. According to guideline 47 policy 1, Cornerstone 2040 calls for the preservation of buildings, sites, districts, and landscapes that are recognized as having historic or architectural value and ensure that new land uses are compatible in height, massing, scale, and architectural style and placement when located within the impact area of such resources. By building sidewalk, it would disrupt the current grass and other plantings specific to the gold course that has been around since the 1960's. Adding sidewalks would change the character of the neighborhood seeing as the subdivision surrounding the Country Club do not have sidewalks; and

WHEREAS, the Committee further finds that the development would have to spend a great amount of money in order to build a sidewalk around a gold course that is located in a subdivision with no sidewalk network; and

WHEREAS, the Committee further finds that the strict application of the provisions of the regulation would deprive the applicant of reasonable use of the land because sidewalks are not a part of the neighborhood character for the subdivision built around the country club. Strict application of the provisions of the regulation would case a financial hardship for the applicant; and

(Waiver #3) WHEREAS, the Committee further finds that this development has multiple entrances from Foxcroft Rd and Hunting Creek Drive. More than likely if the subdivision does not have a network of sidewalks, residents use their vehicles and park at the country club. By not adding more impervious area to create pedestrian connectivity, this will have less effect on the adjacent property owners; and

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WHEREAS, the Committee further finds that according to Cornerstone 2040, Guideline 61 policy 8 states that the protection and/or enhance environmentally sensitive areas through responsible and sustainable best practices in the planning and design on transportation network projects. Expanding the pavement to create pedestrian connectivity is only creating more impervious surface which is not good for the environment. Guideline 97 policy 12 states development should minimize impervious surface area and take advantage of soil saturation capacities. But adding more impervious area to create pedestrian connections, would only increase the total impervious area which is unnecessary for this development; and

WHEREAS, the Committee further finds that the extent of the waiver of the regulation is the minimum necessary for afford relief to the applicant because it is unnecessary to require an applicant to create pedestrian connections within a site to the right of way in a neighborhood that does not have side walk networks; and

WHEREAS, the Committee further finds that to have the applicant build pedestrian connections out to the right of way in a neighborhood that does not have a sidewalk network would be unnecessary and unreasonable. This country club has existed since the 1960s, and the subdivision accesses the country club through the 3 different vehicular access points on the site; now therefore be it

RESOLVED, the Louisville Metro Development Review Committee does hereby **APPROVE** the requested Waiver from 5.3.6.D.1 to exceed the maximum building square footage for non-residential uses within the designated outlying area; and to **APPROVE** the requested Waiver from 5.8.1.B to not provide sidewalks in the abutting right of way to serve the development site (same side of street); and to **APPROVE** the requested Waiver from 5.9.2.A.1.b.i to not provide a clearly defined, safe pedestrian access from adjacent public rights-of-way (public sidewalk) through off-street parking area to non-residential building entrances.

The vote was as follows:

YES: Commissioners Brown, Carlson, and Tomes.

ABSENT: Commissioners Smith and Robinson.

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NEW BUSINESS

CASE NUMBER 19DEVPLAN1055

Request: Sign Plan Review
Project Name: Circle K Store 4703312
Location: 14000 Taylorsville Road
Owner: Too B Enterprises
Jurisdiction: Louisville Metro
Council District: 20 – Stuart Benson

Case Manager: Jay Luckett, 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:

02:19:46 Jay Luckett presented the case (see staff report and recording for detailed presentation.) Joseph Reverman, Assistant Director of Planning & Design Services, noted that this case was heard at LD&T a few weeks ago. Mr. Luckett described that original request and how it differed from what is being requested today.

02:21:14 In response to a question from Commissioner Carlson, Mr. Luckett said the same notice was sent to the same recipients for today's meeting. He said the opposition heard at the LD&T meeting was opposition to any change in lighting or size of the signs.

The following spoke in favor of this request:

Brenden Slaigel (sp), Pattison Sign Group, 520 West Summit Hill Drive Suite 702, Knoxville, TN

Summary of testimony of those in favor:

02:21:58 Brenden Slaigel (sp), the applicant's representative, presented the applicant's case (see recording for detailed presentation.)

The following spoke in opposition to this request:

No one spoke.

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Deliberation:

02:22:53 Commissioners' deliberation.

An audio/visual recording of the Planning Commission hearing 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.

Sign Plan Review

02:23:00 On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution, based on the staff report and evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Development Review Committee finds that the request does comply with the original Condition of Approval #5 as follows:

“5. One sign, not exceeding three feet by three feet in size, shall be permitted to be attached to the north side of the main building, just above the front entrance. The size, lighting and design of any attached sign shall be approved by the DRC Committee or the full Planning Commission. No signs attached to the canopy shall be lighted except gas price signs which can remain red in color. There shall be no freestanding signs or flagpoles permitted on the site. The DRC or the Planning Commission may require that the signs be smaller than would otherwise be permitted by the Land Development Code.”; now, therefore be it

RESOLVED, the Louisville Metro Development Review Committee does hereby **APPROVE** the requested sign plan that was presented at today's DRC meeting.

The vote was as follows:

YES: Commissioners Brown, Carlson, and Tomes.

ABSENT: Commissioners Smith and Robinson.

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NEW BUSINESS

CASE NUMBER 19DEVPLAN1026

Request: A sidewalk waiver and waivers relating to pedestrian and vehicular connections associated with a Category 2-B Development Plan

Project Name: Knopp Avenue Contractor Shop

Location: 4647 Knopp Avenue

Owner: Mark L. Vincent

Jurisdiction: Louisville Metro

Council District: 13 – Mark Fox

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:

02:23:32 Jay Lockett presented the case (see staff report and recording for detailed presentation.) He noted that there is a chained gate in the right-of-way (this was brought to Mr. Lockett's attention right before today's meeting and the applicant should address this.)

The following spoke in favor of this request:

Karl Lentz, LJB Inc., 4010 Dupont Circle Suite 478, Louisville, KY 40207

Summary of testimony of those in favor:

02:25:42 Karl Lentz, the applicant's representative, presented the applicant's case (see recording for detailed presentation.) He said the chained "gate" is part of a shared access to allow a property owner to the north to gain access to his property. There are two posts with a cable running across – it is located right at the property line, not in the right-of-way.

02:27:25 In response to a question from Commissioner Carlson, Mr. Lentz said the property to the north is not a residence, but a small industrial business.

The following spoke in opposition to this request:

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No one spoke.

Deliberation:

02:28:04 Commissioners' deliberation.

An audio/visual recording of the Planning Commission hearing 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 - Waiver of Land Development Code section 5.8.1.B to not provide sidewalks in the Knopp Ave. right-of-way.
- Waiver #2 - Waiver of Land Development Code section 5.9.2.A.1.b.i to not provide pedestrian access from the building entrance to Knopp Ave.
- Waiver #3 - Waiver of Land Development Code section 5.9.2.A.1.b.ii to not provide pedestrian and vehicle connections to abutting non-residential sites.

02:28:25 On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

(Waiver #1) WHEREAS, the Louisville Metro Development Review Committee finds that the waiver will not adversely affect adjacent property owners as there are no sidewalks along Knopp Ave and there are no residential or commercial uses nearby likely to generate significant pedestrian traffic; and

WHEREAS, the Committee further finds that 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. 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. 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 storage of trucks and equipment. The site is located in a heavy industrial area, with many secure storage sites, auto salvage yards, and truck transfer facilities that generate

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minimal pedestrian traffic. There is no existing pedestrian network in the area to connect to and it is unlikely that sidewalks will be constructed on Knopp Ave in the future; and

WHEREAS, the Committee further finds that the extent of the waiver is the minimum necessary to afford relief to the applicant; and

(Waiver #2) WHEREAS, the Committee further finds that 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 Committee further finds that 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. 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. 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 storage of trucks and equipment. The proposed use of a contractor storage yard needs a fenced perimeter for security, which would prevent the creation of the required pedestrian connection; and

WHEREAS, the Committee further finds that the extent of the waiver is the minimum necessary to afford relief to the applicant; 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, as the proposed use has exceptional security needs that necessitate a fenced perimeter and will not generate any pedestrian traffic; and

(Waiver #3) WHEREAS, the Committee further finds that 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 Committee further finds that 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. 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

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and services made necessary by development. 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 nature of development in this area is industrial and many sites are secured with fences. It is unlikely that anyone will have business at multiple abutting sites and would need to take advantage of connections between sites. The proposed use needs a fenced perimeter for security purposes that would prevent connections between abutting sites; and

WHEREAS, the Committee further finds that the extent of the waiver is the minimum necessary to afford relief to the applicant; 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, as the proposed use has exceptional security needs that necessitate a fenced perimeter and it is unlikely that anyone will have business at multiple sites; now, therefore be it

RESOLVED, the Louisville Metro Development Review Committee does hereby **APPROVE** the requested Waiver of Land Development Code section 5.8.1.B to not provide sidewalks in the Knopp Avenue right-of-way; and does **APPROVE** the requested Waiver of Land Development Code section 5.9.2.A.1.b.i to not provide pedestrian access from the building entrance to Knopp Avenue; and does **APPROVE** the requested Waiver of Land Development Code section 5.9.2.A.1.b.ii to not provide pedestrian and vehicle connections to abutting non-residential sites.

The vote was as follows:

YES: Commissioners Brown, Carlson, and Tomes.

ABSENT: Commissioners Smith and Robinson.

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ADJOURNMENT

The meeting adjourned at approximately 3:40 p.m.

Chairman

Division Director