

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO DEVELOPMENT REVIEW COMMITTEE MEETING
April 20, 2022**

A meeting of the Louisville Metro Development Review Committee was held on Wednesday, April 20, 2022 at 1:00 p.m. via Cisco Webex Video Teleconferencing.

Commissioners present:

Rich Carlson, Chair
Jeff Brown, Acting Vice Chair
Glenn Price
Pat Seitz

Commissioners absent:

Patti Clare, Vice Chair

Staff members present:

Emily Liu, Director, Planning & Design Services
Joe Reverman, Assistant Director, Planning & Design Services
Brian Davis, Planning Manager
Julia Williams, Planning Supervisor
Molly Clark, Planner I
Jay Lockett, Planner II
Beth Jones, Planner II
Travis Fiechter, Legal Counsel
Chris Cestaro, Management Assistant (minutes)

Other staff present:

Beth Stuber, Transportation
Tony Kelly, MSD

The following matters were considered

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APPROVAL OF MINUTES

Minutes of the April 6, 2022 Development Review Committee meeting.

0:03:36 On motion by Commissioner Brown, seconded by Commissioner Seitz, the following resolution was adopted:

RESOLVED, that the Louisville Metro Development Review Committee does hereby **APPROVE** the minutes of its meeting conducted on April 6, 2022.

The vote was as follows:

YES: Commissioners Brown, Seitz, Price, and Carlson.

ABSENT: Commissioner Clare.

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NEW BUSINESS

CASE NO. 22-WAIVER-0055

Request: A Waiver from 10.2.9 to reduce the required VUA/LBA from 10 FT to 5 FT
Project Name: River City Foundations
Location: 13120 Aiken Road
Owner: River City Foundations, LLC
Applicant: Land Design & Development, INC.
Jurisdiction: City of Middletown
Council District: 19 - Anthony Piagentini
Case Manager: Molly Clark, 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:

00:04:39 Molly Clark presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.)

The following spoke in favor of the proposal:

Ann Richard, Land Design & Development, 503 Washburn Ave # 101, Louisville, KY 40222

Summary of testimony of those in favor:

00:07:57 Ann Richard, the applicant's representative, presented the applicant's case (see recording for detailed presentation.)

The following spoke in opposition to the proposal:

No one spoke.

Deliberation:

00:11:49 Commissioners' deliberation.

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NEW BUSINESS

CASE NO. 22-WAIVER-0055

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

00:12:21 On a motion by Commissioner Brown, seconded by Commissioner Seitz, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Development Review Committee finds that the waiver will not adversely affect adjacent property owners since the applicant is still providing all the required plantings; and

WHEREAS, the Committee further finds that Plan 2040 calls for protection of residential areas, roadway corridors and public spaces from visual intrusions and mitigation when appropriate, 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, 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 and 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. The applicant is still providing a VUA/LBA and all the required plantings; 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 site has an existing building and parking that they are working around; and

WHEREAS, the Committee further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant, as it would require the applicant to relocate existing parking and an existing building; now, therefore be it

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NEW BUSINESS

CASE NO. 22-WAIVER-0055

RESOLVED, the Louisville Metro Development Review Committee does hereby **RECOMMEND** to the City of Middletown that the requested Waiver of section 10.2.9 of the Middletown Land Development Code to reduce the required VUA/LBA from 10 feet to 5 feet be **APPROVED**.

The vote was as follows:

YES: Commissioners Brown, Seitz, Price, and Carlson.

ABSENT: Commissioner Clare.

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NEW BUSINESS

CASE NO. 22-EXTENSION-0005

Request: A request for a second extension of expiration
Project Name: Smyrna Village
Location: 8912 Smyrna Parkway
Owner: Smyrna Multifamily Investments, LLC.
Applicant: Land Design & Development, INC.
Jurisdiction: Louisville Metro
Council District: 23 - James Peden
Case Manager: Molly Clark, 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:

00:13:08 Molly Clark presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.)

The following spoke in favor of the proposal:

Mike Hill, Land Design & Development, 503 Washburn Ave # 101, Louisville, KY 40222

Summary of testimony of those in favor:

00:15:44 Mike Hill, the applicant's representative, presented the applicant's case (see recording for detailed presentation.)

The following spoke in opposition to the proposal:

No one spoke.

Deliberation:

00:17:09 Commissioners' deliberation.

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NEW BUSINESS

CASE NO. 22-EXTENSION-0005

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

00:17:37 On a motion by Commissioner Brown, seconded by Commissioner Seitz, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

RESOLVED, the Louisville Metro Development Review Committee does hereby **APPROVE** the requested Extension of Expiration to extend the expiration of Case #17ZONE1045 to **March 15, 2024**

The vote was as follows:

YES: Commissioners Brown, Seitz, Price, and Carlson.

ABSENT: Commissioner Clare.

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NEW BUSINESS

Case No. 22-DDP-0014

Request: Detailed District Development Plan
Project Name: Riverport Phase 4 Office/Warehouses
Location: 7000 Greenbelt Highway
Owner: BMS Riverport Developers, LLC
Applicant: Land Design & Development, INC.
Jurisdiction: Louisville Metro
Council District: 1 - Angela Bowens
Case Manager: Molly Clark, 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:

00:18:32 Molly Clark presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.)

00:20:57 Commissioner Brown pointed out that, on the site plan, the applicant is apparently not providing handicap ramps at either of the public road intersections at Greenbelt Highway. This is required. Ms. Clark said the applicant should discuss that during their presentation.

The following spoke in support of the proposal:

Derek Triplett, Land Design & Development, 503 Washburn Ave # 101, Louisville, KY 40222

Dan Smith, representing BMS Riverport Developers, LLC (was present but did not speak)

Summary of testimony of those in support:

00:21:33 Derek Triplett, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.) Regarding Commissioner Brown's question, he noted that the applicant will meet all

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requirements and regulations for the 30-foot parkway buffer along Greenbelt Highway, as well as the installation of handicap ramps at the entrances.

The following spoke in opposition:

No one spoke.

Deliberation:

00:30:18 Commissioners' deliberation.

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

00:31:08 On a motion by Commissioner Brown, seconded by Commissioner Seitz, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

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, and Metro Public Works and the Kentucky Transportation Cabinet have 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 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

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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 Detailed District Development Plan **ON CONDITION** that handicap ramps are provided at both public road intersections, and **SUBJECT** to the following binding elements:

Existing Binding Elements for entire Riverport Phase 4

Docket NO. 10-01-00 & 17-01-00

The site is in the Riverport Phase 4 Subdivision, and has received a waiver of the required 200 FT setback from residential properties for M-2 and M-3 uses in the EZ-1 Zoning District (Docket # 17-01- 00)

Circulation

1. A sidewalk connection should be provided from the building out to the sidewalk along the road.
2. The sidewalk along the public access road should be provided in the right-of-way.

Design

3. A description of the building's exterior has not been provided
4. The applicant should address whether there will be any signs, and where they would be located.
5. The applicant should show the 50 ft wide Woodland Protection Area along the north property line adjacent to the residential properties as was approved on the Preliminary Subdivision Plan
6. The applicant should provide a 15 ft, Landscape Buffer Area along the north property line outside of the WPA area and should address what landscaping will be provided.
7. The lot pattern is different than the approved subdivision plan shows. A revised preliminary subdivision plan needs to be submitted.
8. The building is over the 75 ft parkway building limit line at the north end of the site.

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Other

9. The record plat for the Riverport Phase 4 Subdivision Plan needs to be recorded prior to developing this site. The main access to the site is from a road that will be created by the record plat.

ADDITIONAL 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. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. There shall be no freestanding sign permitted on site without prior approval. Monument style signs that meet the size and height limits established in the "Policies for Future Development Along Designated Parkways" may be approved by DPDS staff. Signs that exceed those limits are permitted only if approved by LD&T or the Commission. LD&T or the Planning Commission may require that the signs be smaller than would otherwise be permitted by the Zoning District Regulations.
3. Outdoor lighting shall be directed down and away from surrounding residential properties. Lighting fixtures shall have a 90 degree cutoff and height of the light standard shall be set so that no light source is visible off-site. Light levels due to lighting on the subject site shall not exceed two foot candles measured at the property line.
4. The applicant shall identify and submit for approval by designated DPDS staff, a plan showing the location of Tree preservation Areas on site (exclusive of the areas dedicated as public-right-of-way) prior to beginning any construction procedure (i.e., clearing, grading, demolition). All construction shall be conducted in accordance with the approved Tree Preservation Plan. A partial plan may be submitted to delineate clearing necessary for preliminary site investigation. All Tree Preservation Plans must be prepared in accordance with the standards set forth by DPDS.
5. The site shall be developed in accordance with the woodland protection areas delineated on the site plan and related notes. Any modification of the woodland protection area required notification of adjoining property owners and LD&T action.
6. The applicant shall provide deeds of restriction ensuring that WPA's will be permanently protected in a manner consistent with these binding elements and the approved plan. The form of such restrictions shall be approved by Planning Commission counsel.
7. Woodland Protection Areas (WPA's)) identified on this plan represent portions of the site that shall be permanently preserved including all existing vegetation. All clearing, grading and fill activity in these areas must be in keeping with

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restrictions established at the time of development plan approval. No further clearing, grading, construction or other land disturbing activity shall take place with designated WPA's beyond pruning to improve the general health of the tree or to remove dead or declining trees that may pose a public health and safety threat.

8. If work is required within the easements causing removal or damage of landscape materials, the property owner shall be responsible for replacement of materials according to the approved landscape plan.
9. A soil erosion and sedimentation control plan shall be developed and implemented in accordance with the Metropolitan Sewer District and the USDA Natural Resources Conservation Service recommendations. Documentation of the MSD's approval of the plan shall be submitted to the Planning Commission prior to commencement of any clearing, grading, or construction activities.
10. 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.
11. 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 City of Louisville Department of Inspections, Permits and Licenses (617 W Jefferson Street) and the Metropolitan Sewer District (700 W Liberty).
 - b. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Article 12 and in conformance with the Parkway Policy prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
12. 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.
13. 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.

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14. Outdoor storage shall be allowed between the building and the adjacent residential properties to the north only with Planning Commission Approval.
15. No truck parking or truck idling shall be allowed between the building and the adjacent residential properties to the north.

Binding Elements for this specific site

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

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
3. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
4. Before any permit (including but not limited to building, parking lot, change of use, site disturbance) is requested:
 - a. The development plan must receive full construction approval from Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. Encroachment permits must be obtained from the Kentucky Transportation Cabinet.
 - c. The property owner/developer must obtain approval of a detailed

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plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.

- d. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the April 20, 2022 DRC meeting. A copy of the approved rendering is available in the case file on record in the offices of the Louisville Metro Planning Commission.
5. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
6. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system permitted on the site.
7. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
8. No overnight idling of trucks shall be permitted on-site.

The vote was as follows:

YES: Commissioners Brown, Seitz, Price, and Carlson.

ABSENT: Commissioner Clare.

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NEW BUSINESS

CASE NUMBER 21-CAT3-0022

Request: Category 3 Development Plan
Project Name: Hickory Trace
Location: 4200 Hickory Trace DR, 9000 Blue Lick Rd and 8823 Moody Rd
Owner: Kentucky Partners, LLC
Applicant: Select Homes
Jurisdiction: Louisville Metro
Council District: 13 - Mark Fox
Case Manager: Jay Lockett, AICP, Planner II

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

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

Agency Testimony:

00:31:53 Jay Lockett presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.)

00:34:21 In response to a question from Commissioner Brown, Mr. Lockett discussed whether a pedestrian connection to the Moody Road sidewalk was required. He said the applicant has provided a connection to Blue Lick Road.

00:35:57 In response to questions from Commissioner Carlson, Mr. Lockett said he is not aware of the timing of the Blue Lick Road widening and how that could relate to this plan. The applicant may have had some discussions with KYTC regarding that project. Beth Stuber, with Metro Transportation, said Metro had communicated with the State regarding this proposal, and there did not appear to be any conflict.

The following spoke in support of the proposal:

Cliff Ashburner, 101 S 5th St #2500, Louisville, KY 40202

Mike Hill, Land Design & Development, 503 Washburn Ave # 101, Louisville, KY 40222

Summary of testimony of those in support:

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NEW BUSINESS

CASE NUMBER 21-CAT3-0022

00:37:10 Cliff Ashburner, the applicant's representative, presented the applicant's case and showed a Power Point presentation (See recording for detailed presentation.)

00:41:28 Mike Hill, an applicant's representative, discussed the previous development plan that was approved but only partially constructed due to economic issues. This proposal is to finish a project that was derailed by the economy.

00:42:29 In response to questions from Commissioner Carlson, Mr. Ashburner discussed connectivity and its relation to adjacent multi-family units (see recording.)

The following spoke in opposition to the proposal:

No one spoke.

Deliberation:

00:45:39 Commissioners' deliberation.

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

00:46:00 On a motion by Commissioner Brown, seconded by Commissioner Seitz, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

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

The vote was as follows:

YES: Commissioners Brown, Seitz, Price, and Carlson.

ABSENT: Commissioner Clare.

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NEW BUSINESS

CASE NUMBER 22-DDP-0015

Request:	Revised Detailed District Development Plan with revisions to binding elements
Project Name:	Bellewood Garden Condos
Location:	Parcel 002201830000 Bellwood Garden Ct
Owner:	Home Buyers Realty LLC
Applicant:	Home Buyers Realty LLC
Jurisdiction:	Louisville Metro
Council District:	18 - Marilyn Parker
Case Manager:	Jay Luckett, AICP, Planner II

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

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

Agency Testimony:

00:46:36 Jay Luckett presented the case and showed a Power Point presentation (See staff report and recording for detailed presentation.)

00:49:52 In response to a question from Commissioner Brown, Mr. Luckett discussed a current binding element that refers to renderings presented to the Planning Commission on August 4, 2005. He said the new unit being proposed should be the same as what was presented in 2005.

The following spoke in support of the proposal:

Charles Podgursky, 7321 New LaGrange Road, Louisville, KY 40222

Summary of testimony of those in support:

00:50:36 Charles Podgursky, the applicant's representative, presented the applicant's case (see recording for detailed presentation.)

The following spoke in opposition to the proposal:

No one spoke.

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Deliberation:

00:53:15 Commissioners' deliberation.

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

00:53:24 On a motion by Commissioner Brown, seconded by Commissioner Seitz, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Development Review Committee finds that there do not appear to be any environmental constraints or historic resources 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, and Metro Public Works has approved the preliminary development plan; and

WHEREAS, the Committee further finds that required open space will be provided on the subject site; 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

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RESOLVED, the Louisville Metro Development Review Committee does hereby **APPROVE** the requested Revised Detailed District Development Plan, **SUBJECT** to the following binding elements:

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 elements shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. The density of the development shall not exceed 11.33 dwelling units per acre (17 units on 1.503 acres).
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 or site disturbance permit is requested:
 - a. The development plan must receive full construction approval from Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - c. A minor plat or legal instrument shall be recorded consolidating the property into one lot. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of the approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
 - d. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.

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6. 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.
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. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
9. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the August 4, 2005, Planning Commission meeting.
10. At the time a building permit is requested, the applicant shall submit a certification statement to the permit issuing agency, from an engineer, or other qualified professional stating that the lighting of the proposed development is in compliance with Chapter 4 Part 1.3 of the land development code and shall be maintained thereafter. No building permits shall be issued unless such certification statement is submitted. Lighting shall be maintained on the property in accordance with Chapter 4 Part 1.3 of the land development code. Lighting shall be maintained on the property in accordance with Chapter 4 Part 1.3 of the land development code.
11. All street signs shall be installed by the Developer, and shall conform with the Manual on Uniform Traffic Control Devices (MUTCD) requirements. Street signs shall be installed prior to the recording of the subdivision record plat or occupancy of the first residence on the street, and shall be in place at the time of

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any required bond release. The address number shall be displayed on a structure prior to requesting a certificate of occupancy for that structure.

12. Multi-family development of the property shall be limited to development under a horizontal property regime.
13. The Homeowners Association of the proposed development will be responsible for the maintenance and upkeep of the exterior of each unit as well as the exterior landscaping on the property.
14. The proposed 6-foot tall solid wood fence along the south property line shall be constructed as shown on the approved development plan. The fence shall be maintained in good repair by the property owner.
15. The air conditioning units on the adjacent Middletown Lodge property to the south shall be fenced by the developer.
16. The developer shall grade the site in accordance with the grading cross sections that have been submitted at the LD&T meeting on June 9, 2005, including grading on the adjacent Middletown Lodge property to ensure a stable slope and appropriate drainage.
17. The drainage easement for downstream drainage improvements shall be recorded prior to transmittal of the plans. The construction of the downstream drainage improvements must be completed before requesting a building permit.
18. The developer shall provide evergreen trees a minimum of 8-feet tall planted 15-feet on center along the south property line. Trees shall be replaced by the property owner if they die.

The vote was as follows:

YES: Commissioners Brown, Seitz, Price, and Carlson.

ABSENT: Commissioner Clare.

DEVELOPMENT REVIEW COMMITTEE MINUTES
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NEW BUSINESS

CASE NUMBER 22-DDP-0006

Request:	Revised Detailed District Development Plan with Waivers
Project Name:	6101 Fegenbush Convenience Store
Location:	6101 Fegenbush Ln
Owner:	JAY LAXMI MAA LLC
Applicant:	JAY LAXMI MAA LLC
Jurisdiction:	Louisville Metro
Council District:	2 - Barbara Shanklin
Case Manager:	Jay Lockett, AICP, Planner II

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

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

Agency Testimony:

00:54:45 Jay Lockett presented the case and showed a Power Point presentation (See staff report and recording for detailed presentation.)

The following spoke in support of the proposal:

Nick West and Phil Gambrell, Prism Engineering, 2309 Watterson Trail Suite 200, Louisville, KY 40299

Yashkumar Patel, the applicant (was present but did not speak)

Summary of testimony of those in support:

00:59:07 Nick West, the applicant's representative, presented the applicant's case (see recording for detailed presentation.)

01:01:09 In response to questions from Commissioner Carlson, Mr. West said this proposal will have a fast food/deli-type component, and will be a 24-hour operation.

The following spoke in opposition to the proposal:

No one spoke.

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Deliberation:

01:03:13 Commissioners' deliberation.

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

Waiver #1 - Waiver of Land Development Code section 10.2.5 to permit encroachment into the 30-foot Parkway Buffer.

01:04:10 On a motion by Commissioner Brown, seconded by Commissioner Seitz, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Development Review Committee finds that the waiver will not adversely affect adjacent property owners as the applicant will provide all required plantings and screening within the buffer area; and

WHEREAS, the Committee further finds that the waiver will not violate specific guidelines of Plan 2040 as the applicant will provide adequate screening and buffering; 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 the encroachment is minimal and all required screening and planting will be provided; and

WHEREAS, the Committee further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant, as the irregular shape and size of the S Hurstbourne Pkwy right-of- way create the conditions for the encroachment rather than actions of the applicant; now, therefore be it

RESOLVED, the Louisville Metro Development Review Committee does hereby **APPROVE** the requested Waiver of Land Development Code section 10.2.5 to permit encroachment into the 30-foot Parkway Buffer.

The vote was as follows:

YES: Commissioners Brown, Seitz, Price, and Carlson.

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ABSENT: Commissioner Clare.

Waiver #2 - Sidewalk Waiver to not construct the portion of sidewalk south of the Fegenbush Ln entrance.

01:04:53 On a motion by Commissioner Brown, seconded by Commissioner Seitz, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Development Review Committee finds that the waiver will not adversely affect adjacent property owners, as no sidewalks exist south of the site and the topography and guardrail along Fegenbush Ln make construction difficult; and

WHEREAS, the Committee further finds that the waiver will not violate the comprehensive plan, as Mobility Goal 1, Policy 1.4 states that sidewalks should be provided along the streets of all developments. Mobility Goal 3 Policy 11.7 states that the impact of development and redevelopment should be mitigated by providing on-site or off-site sidewalks. Livability Goal 1 Policy 35 states that critical connections should be built or maintained in the pedestrian network. The applicant is constructing sidewalks all around the site, except for the limited area of waiver requested; and

WHEREAS, the Committee further finds that the applicant could not reasonably comply with one of the methods listed in 6.2.6.C for the portion of sidewalk requested to be waived. The site complies with all requirements for sidewalk construction around the rest of the site; and

WHEREAS, the Committee further finds that the strict application of the provisions of the regulations would create an unnecessary hardship on the applicant, as the area south of their proposed entrance on Fegenbush Ln has significant barriers to construction due to existing grade and guardrail along the roadway; and

WHEREAS, the Committee further finds that there are site constraints to construction in the area of the waiver request. The applicant will construct sidewalks around the rest of the development site; now, therefore be it

RESOLVED, the Louisville Metro Development Review Committee does hereby **APPROVE** the requested Sidewalk Waiver to not construct the portion of sidewalk south of the Fegenbush Ln entrance.

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The vote was as follows:

YES: Commissioners Brown, Seitz, Price, and Carlson.

ABSENT: Commissioner Clare.

Revised Detailed District Development Plan with revisions to Binding Elements

01:05:32 On a motion by Commissioner Brown, seconded by Commissioner Seitz, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Development Review Committee finds that the applicant will provide the full required buffer for the protected waterway, including tree preservation; 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, and Metro Public Works has approved the preliminary development plan; and

WHEREAS, the Committee further finds that there are no open space requirements pertinent to the current proposal; and

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

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RESOLVED, the Louisville Metro Development Review Committee does hereby **APPROVE** the requested Revised Detailed District Development Plan, **SUBJECT** to the following binding elements:

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
3. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area. Construction Fencing shall also be provided along the Limits of Disturbance as shown on the approved district development plan.
4. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested:
 - a. The development plan must receive full construction approval from Louisville Metro Department of Codes and Regulations Construction Permits and Transportation Planning Review and the Metropolitan Sewer District.
 - b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways for any work within the state right-of-way.
 - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter
 - d. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
 - e. A traffic study shall be submitted to Public works and KYTC for review and incorporation into the record. Any recommendations of the traffic study shall

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be accounted for in construction plans; including, but not limited to, restricted access to KY 864.

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. No overnight idling or idling of trucks while loading or unloading equipment shall be permitted on- site.
7. At the time of development, the following restoration standards shall be met:
 - A. Riparian vegetation shall be planted, as necessary, to stabilize the banks of a protected waterway within a Buffer Area. Where a bank is denuded of its vegetation due to erosion, slope failure or similar occurrence, appropriate vegetation shall be planted to quickly establish a vegetative cover, and then replanted with riparian vegetation to ensure the long term stabilization of the bank. Restoration plantings shall be selected from the MSD native species restoration specifications.
 - B. Where stream bank erosion has occurred as a result of on-site development activities, riparian vegetation shall be planted to stabilize the stream bank unless MSD determines such vegetation would be inadequate to re-stabilize the bank. In instances where the MSD determines that planting of riparian vegetation is inadequate to stabilize the stream bank alternate methods of stabilization, approved by the MSD shall be utilized.
 - C. Stream, stream bank, and vegetation restoration projects are allowed where the goal is to restore the protected waterway, wetlands, or Buffer Area to an ecologically healthy state, as approved by MSD.
8. Tree and Vegetation Removal.
 - A. Existing, healthy trees and vegetation within the Buffer Area shall be preserved, except for those area designated by the Limits of Disturbance on the approved district development plan. Trees and vegetation shall be restored in accordance with Binding Element #7 for all areas within the buffer that lie between impervious surfaces and the Limits of Disturbance.

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- B. This provision shall not prohibit any of the following: Removal of dead or diseased trees/vegetation (provided a live root system stays intact); removal of noxious weeds; Removal of non-native trees/vegetation that threaten native species growth or reintroduction; removal of fallen trees, tree limbs, brush and similar debris that accumulate naturally in river/stream beds and that impede river/stream flow, or removal of any other tree/vegetation that is a threat to the public health or safety; Removal of trees as part of an approved plan for stream side recreation or access (e.g. pedestrian trail) or as part of an approved utility or road construction project.
- 9. The materials and design of proposed structures shall be substantially the same as depicted in the renderings at the April 20, 2022 Development Review Committee Meeting
- 10. An Individual Historic Resource Survey Form shall be completed for any historic resources on the subject site. The documentation must occur prior to the issuance of a demolition permit or ground disturbance at the site. The documentation shall be submitted to Urban Design/Historic Preservation Staff upon completion.

The vote was as follows:

YES: Commissioners Brown, Seitz, Price, and Carlson.

ABSENT: Commissioner Clare.

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NEW BUSINESS

CASE NUMBER 21-DDP-0031

Request: Tyler Town Center PD Development Plan with a Waiver
Project Name: Take 5 Car Wash Express
Location: 4600 Grenden Fields Dr and 12610 Taylorsville Rd
Owner: Portland Christian School System
Applicant: Boing US HoldCo
Jurisdiction: Louisville Metro
Council District: 20 - Stuart Benson
Case Manager: Jay Luckett, AICP, Planner II

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

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

Agency Testimony:

01:06:15 Jay Luckett presented the case and showed a Power Point presentation (See staff report and recording for detailed presentation.)

01:10:28 In response to a question from Commissioner Brown, Mr. Luckett said that that there are generally no binding elements for a PD plan. The DRC Committee is able to add Conditions of Approval if needed (see recording for detailed explanation.)

The following spoke in support of the proposal:

Trevor Stubbs, Carter Associates Inc, 1708 21st Street, Vero Beach, FL 32960

Summary of testimony of those in support:

01:11:37 Trevor Stubbs, the applicant's representative, presented the applicant's case (see recording for detailed presentation.)

01:12:55 In response to a question from Commissioner Seitz, Mr. Stubbs said the typical hours of operation are 7:00 a.m. to 7:00 p.m. but the applicant is open to changes to that if requested. In response to a question from Commissioner Carlson, Mr. Stubbs said those were the hours that were presented to residents at the neighborhood meeting and that the neighbors did not appear to have any concerns with

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that. In response to another question from Commissioner Carlson, Mr. Stubbs said the applicant would agree to making that a Condition of Approval.

01:14:32 In response to questions from Commissioner Carlson, Mr. Stubbs said that, at the end of the business day, vacuums/etc. are all turned off and the applicant is willing to agree to this as a Condition of Approval. Mr. Stubbs also discussed; after-hours lighting; the possibility of adding a type of gate to prevent vehicles from entering/congregating on the site after hours; and noting that there will be attendants there during hours of operation.

The following spoke in opposition to the proposal:

Steve Porter, 2406 Tucker Station Road, Louisville, KY 40299

Summary of testimony of those in opposition:

01:18:43 Steve Porter, representing the Tucker Station Neighborhood Association, agreed with Commissioner Carlson that Conditions of Approval were needed as discussed earlier, and would request that the applicant submit a lighting plan to staff prior to issuance of a Certificate of Occupancy.

01:20:33 The Commissioners, Mr. Luckett, and Mr. Porter discussed "Dark Sky" compliance and lighting issues. Mr. Luckett noted that there is a section already in the Tyler Town Center Planned Development District which addresses lighting, in addition to a section in the Land Development Code (see recording for detailed discussion.) Mr. Luckett suggested that, if a Condition of Approval is wanted by the Committee, that the applicant could produce a lighting plan prior to granting a Certificate of Occupancy.

01:22:46 Commissioner Carlson and Mr. Porter discussed the creation and elements of the Tyler Town Center PD.

Deliberation:

01:24:39 Commissioners' deliberation.

01:24:55 Commissioner Brown asked why the Commissioners received about 20 pages of opposition letter/emails prior to today's meeting, but no one in opposition attended today's meeting except for Mr. Porter. Mr. Luckett said a lot of that opposition occurred early on in the presentation of this case. Since then, the applicant has met with neighbors and the Metro Councilmember's office to address their concerns (see recording.)

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NEW BUSINESS

CASE NUMBER 21-DDP-0031

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

Waiver of Land Development Code section 10.2.4 to permit a required property perimeter landscape buffer area to overlap an existing sewer and drainage easement by more than 50%

01:27:44 On a motion by Commissioner Brown, seconded by Commissioner Seitz, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Development Review Committee finds that the waiver will not adversely affect adjacent property owners as the applicant will provide planting and screening in excess of the minimum requirements, including preservation of existing mature trees in the buffer area; and

WHEREAS, the Committee further finds that the waiver will not violate specific guidelines of Plan 2040 as the applicant will provide adequate screening and buffering adjacent to residential uses; 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 the easement and sewer line already existing within the buffer area; and

WHEREAS, the Committee further finds that the applicant will provide a variable width easement that significantly exceeds the minimum requirements, will preserve all existing mature planting in the area as well as enhance the buffer area with additional planting and screening; 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 permit a required property perimeter landscape buffer area to overlap an existing sewer and drainage easement by more than 50%.

The vote was as follows:

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YES: Commissioners Brown, Seitz, Price, and Carlson.

ABSENT: Commissioner Clare.

Tyler Town Center PD District Development Plan

01:28:31 On a motion by Commissioner Brown, seconded by Commissioner Seitz, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

RESOLVED, the Louisville Metro Development Review Committee does hereby **APPROVE** the requested Tyler Town Center PD District Development Plan, **ON CONDITION** that:

- The hours of operation shall be between 7:00 a.m. and 7:00 p.m.
- An attendant shall be on duty during those hours of operation
- Access to the site shall be restricted during off-hours
- The vacuums shall remain turned off during those off-hours
- The applicant shall submit a lighting plan prior to the issuance of a Certificate of Occupancy to ensure compliance with the Tyler Town Center PD.

The vote was as follows:

YES: Commissioners Brown, Seitz, Price, and Carlson.

ABSENT: Commissioner Clare.

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ADJOURNMENT

The meeting adjourned at approximately 2:32 p.m.

Chairman

Division Director