

**MINUTES OF THE MEETING
OF THE
LAND DEVELOPMENT AND TRANSPORTATION COMMITTEE**

May 8, 2014

A meeting of the Land Development and Transportation Committee was held on, Thursday, May 8, 2014 at 1:00 PM in the Metro Development Center, located at 444 South Fifth Street, Louisville, Kentucky.

Committee Members present were:

Vince Jarboe, Vice-Chair
Jeff Brown
David Proffitt

Committee Members absent were:

Donnie Blake, Chairman
Clifford Turner

Staff Members present were:

John Carroll, Legal Counsel
Joseph Reverman, Planning Supervisor
Jessica Wethington, Public Information Specialist
Julia Williams, Planner II
Matt Doyle, Planner I
David B. Wagner, Planner II
Christopher Brown, Planner II
Tammy Markert, Transportation Planning
Chris Cestaro, Management Assistant (minutes)

Others Present:

Pat Barry, MSD

The following matters were considered:

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Approval of Minutes

April 24, 2014 LD&T Committee Meeting Minutes

On a motion by Commissioner Brown, the following resolution was adopted:

RESOLVED, the Land Development and Transportation Committee does hereby **APPROVE** the minutes of its meeting conducted Thursday, April 24, 2014.

The vote was as follows:

YES: Commissioners Jarboe and Brown.

NO: No one.

NOT PRESENT: Commissioners Blake and Turner.

ABSTAINING: Commissioner Proffitt.

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New Cases

Case No. 14DEVPLAN1039

Project Name: Tim Faulkner Gallery
Location: 1512 Portland Avenue
Owner: 1512 Portland Avenue, LLC
Applicant: Gregg Rochman
Representative: Gregg Rochman, Shine Contracting
Jurisdiction: Louisville Metro
Council District: 5 – Cheri Bryant Hamilton

Case Manager: **Matthew R. Doyle, Planner I**

The staff report prepared for this case was incorporated into the record. This report was available to any interested party prior to the LD&T meeting. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Request:
Category 3 Development Plan

The following spoke on behalf of Case No. 14DEVPLAN1039:

Gregg Rochman, 1535 Lytle Street, Louisville, KY 40203

DISCUSSION:

Matthew Doyle presented the case (see staff report for detailed presentation.) He added that the proposal also complies with the recommendations of the Portland Neighborhood Plan (notably the recommendations for the “Shippingport Business District.”)

John Carroll, legal counsel for the Planning Commission, said a crossover access agreement should be included with the shared parking (**agreement should be received before final transmittal.**)

Gregg Rochman, the applicant, introduced himself but did not have anything else to add.

On a motion by Commissioner Proffitt, the following resolution was adopted:

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WHEREAS, the Louisville Metro Land Development and Transportation Committee finds that, based on the evidence and testimony presented today, the staff report, and the applicant's justification, that all of the applicable Guidelines of Cornerstone 2020 and the Comprehensive Plan are being met; now, therefore be it

RESOLVED, the Louisville Metro Land Development and Transportation Committee does hereby **APPROVE** the proposed Category 3 Development Plan; and also make a note of the suggested changes to the parking agreement which legal counsel has provided to the owner.

The vote was as follows:

YES: Commissioners Jarboe, Brown, and Proffitt.

NO: No one.

NOT PRESENT: Commissioners Blake and Turner.

ABSTAINING: No one.

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CASE NO. 14DEVPLAN1007

Project Name:	McDonald's Ormsby Station
Location:	9901 Ormsby Station Road
Owner:	Marshall Realty Company
Applicant:	American Engineers, Inc.
Representative:	American Engineers, Inc.
Jurisdiction:	City of Lyndon
Council District:	18 – Marilyn Parker

Case Manager: **David B. Wagner, Planner II**

The staff report prepared for this case was incorporated into the record. This report was available to any interested party prior to the LD&T meeting. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Request:

Revised Detailed District Development Plan, Waivers, and Amendment to Binding Elements for the existing McDonald's Ormsby Station, and being in the City of Lyndon.

The following spoke on behalf of Case No. 14DEVPLAN1007:

No one spoke.

DISCUSSION:

David Wagner presented the case (see staff report for detailed presentation.) He said he did not think that parking encroachment would affect the existing plantings in the parkway buffer; it would take away some of the greenspace.

Using a site plan, he described some aspects of the site and the surrounding areas (zoning categories, etc.)

He added that any actions taken today on the plan and the waivers would be **recommendations** to the City of Lyndon.

Commissioner Brown asked if there was language in that easement that would prohibit the dumpster from being located there. Mr. Wagner said he has not received an easement agreement; however, it is located at the very end and is

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not going to cause any issues, since it has been located there since the McDonald's has been there. Commissioner Brown said he was only concerned about approving a waiver for something that may have been prohibited by a private agreement.

Waiver #1 - to allow VUA to encroach into the 30' Parkway Buffer along Hurstbourne Parkway per LDC Table 10.3.1

On a motion by Commissioner Proffitt, the following resolution was adopted:

WHEREAS, the Louisville Metro Land Development and Transportation Committee finds that the waiver will not adversely affect adjacent property owners because the existing plantings along Hurstbourne Parkway will not be affected by the reduction in buffer area; and

WHEREAS, the Committee further finds that the waiver will not violate the Comprehensive Plan as required plantings and screening will still be provided along the street; and

WHEREAS, the Committee further finds that the extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because the buffer is being reduced just enough to allow vehicular movement and parking on the site; and

WHEREAS, the Committee further finds that 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 because the site has already been developed as a restaurant for some time as approved by the Planning Commission. Some open space will be lost but the required plantings will remain as they are currently; and

WHEREAS, the Committee further finds that, based on the evidence and testimony presented today, the staff report, and the applicant's justification, that all of the applicable Guidelines of Cornerstone 2020 and the Comprehensive Plan are being met; now, therefore be it

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RESOLVED, the Louisville Metro Land Development and Transportation Committee does hereby **RECOMMEND** to the City of Lyndon that the proposed Waiver of LDC Table 10.3.1 to allow VUA to encroach into the 30' Parkway Buffer along Hurstbourne Parkway as shown on the plan be **APPROVED**.

The vote was as follows:

YES: Commissioners Jarboe, Brown, and Proffitt.

NO: No one.

NOT PRESENT: Commissioners Blake and Turner.

ABSTAINING: No one.

Waiver #2 - to allow the dumpster and small building to encroach into the 10' VUA LBA along Ormsby Park Place per LDC Table 10.2.6

On a motion by Commissioner Proffitt, the following resolution was adopted:

WHEREAS, the Louisville Metro Land Development and Transportation Committee finds that the waiver will not adversely affect adjacent property owners because the existing dumpster and small building are existing structures and are at the end of the private street which will cause no vehicular movement issues; and

WHEREAS, the Committee further finds that the waiver will not violate the Comprehensive Plan as it allows the development to come into compliance with regulations that have changed since the original approval of the development; and

WHEREAS, the Committee further finds that the extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because the structures were built some time ago and they would otherwise have to be moved; and

WHEREAS, the Committee further finds that 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 because it would force the owner to move the permanent structures that have been there for some time; and

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WHEREAS, the Committee further finds that, based on the evidence and testimony presented today, the staff report, and the applicant's justification, that all of the applicable Guidelines of Cornerstone 2020 and the Comprehensive Plan are being met; now, therefore be it

RESOLVED, the Louisville Metro Land Development and Transportation Committee does hereby **RECOMMEND** to the City of Lyndon that the proposed Waiver of LDC Table 10.2.6 to allow the dumpster and small building to encroach into the 10' VUA LBA along Ormsby Park Place as shown on the plan be **APPROVED**.

The vote was as follows:

YES: Commissioners Jarboe, Brown, and Proffitt.

NO: No one.

NOT PRESENT: Commissioners Blake and Turner.

ABSTAINING: No one.

Revised Detailed District Development Plan (RDDDP) and Binding Element Amendments

WHEREAS, the Louisville Metro Land Development and Transportation Committee finds that the proposal conserves natural resources that currently exist on the site, including the existing landscaping and trees. The applicant will have to obtain approval of a revised landscaping and tree preservation plan as well; and

WHEREAS, the Committee further finds that provisions have been made for safe and efficient vehicular and pedestrian transportation both within the development and the community. Transportation Review has approved the proposal's transportation facilities; and

WHEREAS, the Committee further finds that open space is not required for this proposal; and

WHEREAS, the Committee further finds that provision has been made for adequate drainage facilities on the subject site in order to prevent drainage

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problems from occurring on the subject site or within the community. MSD has approved the drainage facilities for the site; and

WHEREAS, the Committee further finds that the proposal is compatible with the surrounding area as it will continue to be used as a restaurant which was approved by the Planning Commission. The surrounding area is developed for office and commercial uses as well; and

WHEREAS, the Committee further finds that the proposal conforms to the Comprehensive Plan and Land Development Code upon the approval of the waivers. The proposal is compatible with the surrounding area as it will continue to be used as a restaurant which was approved by the Planning Commission. The surrounding area is developed for office and commercial uses as well; and

WHEREAS, the Committee further finds that, based on the evidence and testimony presented today, the staff report, and the applicant's justification, that all of the applicable Guidelines of Cornerstone 2020 and the Comprehensive Plan are being met; now, therefore be it

RESOLVED, the Louisville Metro Land Development and Transportation Committee does hereby **RECOMMEND** to the City of Lyndon that the proposed Revised Detailed District Development Plan and Amended Binding Elements for Case No. 14DEVPLAN1007 be **APPROVED, subject to the following binding elements:**

All binding elements from the approved General District 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 and to the City of Lyndon for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. There shall be no direct vehicular access to Hurstbourne Parkway.

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3. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
4. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested:
 - a. The development plan must receive full construction approval from Louisville Metro Department of Inspections, Permits and Licenses, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - c. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
5. Prior to any site disturbance permit being issued and prior to any clearing, grading or issuance of a site disturbance permit, a site inspection shall be conducted by PDS staff to ensure proper placement of required tree protection fencing in accordance with the approved Tree Preservation Plan.
6. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
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

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

8. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the May 8, 2014 Land Development and Transportation Committee meeting.

The vote was as follows:

YES: Commissioners Jarboe, Brown, and Proffitt.

NO: No one.

NOT PRESENT: Commissioners Blake and Turner.

ABSTAINING: No one.

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CASE NO. 14DEVPLAN1030

Project Name: Five Guys
Location: 4226 Shelbyville Road
Owner: Hwang's Martial Arts IV, LLC
Applicant: BGE Operating Partners
Representative: George Flannery
Jurisdiction: City of St. Matthews
Council District: 26 – Brent Ackerson

Case Manager: **Christopher Brown, Planner II**

The staff report prepared for this case was incorporated into the record. This report was available to any interested party prior to the LD&T meeting. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Request:

Revised Detailed District Development Plan with Binding Element Amendments.

The following spoke on behalf of Case No. 14DEVPLAN1030:

Larry Potts, 12119 Belmont Park Circle, Louisville, KY 40243

George Flannery, 4 Ace Gardiner Road, Napierville, IL

Jason Tyner (sp), 7422 Steeplecrest Circle, Louisville, KY 40222

DISCUSSION:

Christopher Brown presented the case (see staff report for detailed presentation.) He said the binding elements that are proposed to be amended are the ones to allow an increase in the square footage.

He added that any actions taken today on the plan would be **recommendations** to the City of St. Matthews.

In response to a question from Commissioner Proffitt, Mr. Brown clarified that the applicant wants to expand into what was the “overhang” area.

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Commissioner Brown asked if this would be a painted crosswalk. Mr. Brown said there would be a curb separating the sidewalk from parking; then the crosswalk is painted in the parking area itself.

John Carroll, legal counsel for the Planning Commission, asked why the binding element limiting the use of the property was proposed for elimination. Mr. Brown said the applicant is requesting to allow this use which is not permitted by that binding element, but is permitted as a C-2 use. By eliminating that “use” binding element, the use of the property would then be determined by the C-2 zoning category.

Commissioner Proffitt asked why that “use” binding element was there. Mr. Brown said that, during a previous rezoning, this binding element was added to protect the properties behind it. At that time, that was a standard procedure.

Revised Detailed District Development Plan (RDDDP) and Amendment to Binding Elements

On a motion by Commissioner Proffitt, the following resolution was adopted:

WHEREAS, the Louisville Metro Land Development and Transportation 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 with the current proposal; and

WHEREAS, the Committee further finds that the Metropolitan Sewer District has approved the preliminary development plan and will ensure the provisions 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, based on the evidence and testimony presented today, the staff report, and the applicant's justification, that all of the applicable Guidelines of Cornerstone 2020 and the Comprehensive Plan are being met; now, therefore be it

RESOLVED, the Louisville Metro Land Development and Transportation Committee does hereby **RECOMMEND** to the City of St. Matthews that the proposed Revised Detailed District Development Plan and Amended Binding Elements for Case No. 14DEVPLAN1030 be **APPROVED, subject to the following binding elements:**

1. The development will be in accordance with the approved district development plan. No further development will occur.
2. ~~The use of the property shall be limited to automobile dealership and Martial Arts Studio. No repair or maintenance of vehicles shall occur at this site.~~
3. The development shall not exceed ~~4,934~~ **2,729** square feet in gross floor area.
4. Before building permits are issued:
 - a. The development plan must be reapproved by the Transportation Engineering, Water Management and Fire Safety Sections of the Jefferson County Public Works and Transportation Cabinet.
 - b. The size and location of any proposed signs must be approved by the City of St. Matthews and by the Planning Commission. The City and the Planning Commission may require that signs be smaller than would otherwise be permitted by the zoning regulations. If the existing sign structure is retained, owner shall modify the structure so that the overall height shall not exceed twenty (20) feet above grade.

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- c. The property owner must obtain approval of a plan for screening (buffering) and landscaping along the southwest property line adjacent to the single family and duplex dwellings along that property line. Such plan shall be implemented prior to occupancy and maintained thereafter.
 - d. Encroachment permits must be obtained from the Kentucky Transportation Cabinet.
 - e. The appropriate variances must be obtained from the Board of Zoning Adjustment to allow the development as shown on the approved district development plan.
5. If building permits are 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 until a revised district development plan is approved or an extension is granted by the Planning Commission and the City of St. Matthews.
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. Such certificate of occupancy shall not be issued until the height of the sign referred to in paragraph 4 (b) has been reduced in height to not more than twenty (20) feet.
7. The above binding elements may be amended as provided for in the zoning district regulations upon approval by the City Council.

The vote was as follows:

YES: Commissioners Jarboe, Brown, and Proffitt.

NO: No one.

NOT PRESENT: Commissioners Blake and Turner.

ABSTAINING: No one.

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CASE NO. 14DEVPLAN1017

Project Name:	Texas Roadhouse
Location:	13321 Shelbyville Road
Owner:	Middletown Investment Partners
Applicant:	Texas Roadhouse
Representative:	Greenberg Farrow
Jurisdiction:	City of Middletown
Council District:	19 – Jerry Miller
Case Manager:	Christopher Brown, Planner II

The staff report prepared for this case was incorporated into the record. This report was available to any interested party prior to the LD&T meeting. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Request:

Detailed District Development Plan with Landscape Waivers.

The following spoke on behalf of Case No.14DEVPLAN1017:

Emily Bernahl, Greenberg Farrow, 21 South Evergreen Avenue Suite 200, Arlington Heights, IL 60005

Douglas Druen, Texas Roadhouse, 8329 Highway 329, Crestwood, KY 40014

Scott Harrington, representing Councilman Jerry Miller, 601 West Jefferson Street, Louisville, KY 40202

DISCUSSION:

Christopher Brown presented the case (see staff report for detailed presentation.)

In response to a question from Commissioner Brown, Mr. Brown used the site plan to discuss traffic circulation and parking patterns.

Commissioner Proffitt asked if there were any current proposals for the lots along Shelbyville Road. Mr. Brown said this is the first outlot proposal to come to a hearing; there are two other outlot proposals that are currently in the review process. Mr. Brown said the tree plantings along Shelbyville Road were

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discussed when the General Plan came in for review. Staff's recommendation at that time was to not approve that waiver for encroachment into the scenic corridor, but to let the outlot proposals deal with it as they came in. That was approved by the Louisville Metro Planning Commission and the City of Middletown, with the idea that there would still be spacing to get some plantings in along Shelbyville Road.

Emily Bernahl, an applicant's representative, showed the proposed landscape plan/s. She said the applicant will be adding landscaping, and showed where the larger trees and evergreens have been placed. She said the site is a "challenge" due to the grading and the applicant had to use caution with the placement due to grading and water runoff issues. There will also be a continuous 3-foot hedge to screen the parking area.

Commissioner Jarboe asked how many trees are required in the front along Shelbyville Road. Ms. Bernahl said five are required; the applicant is proposing three. Commissioner Proffitt asked if trees could be added in the interior landscape islands in the parking area. Ms. Bernahl said possibly, but the applicant would have to revisit the shrub requirement; there are interior requirements as well. She said that the applicant is adding to the interior requirements and tree canopy coverage to offset some other areas.

Commissioner Brown asked if there is an off-site area where they could fulfill their requirement. Mr. Brown said that would only apply if an applicant is not meeting a total tree canopy requirement; this applicant is meeting the tree canopy requirement, just not the total number of trees that are required along Shelbyville Road and the Gene Snyder buffer.

Commissioner Proffitt asked if the applicant could add one more tree along the front in the interior landscape island. Mr. Brown said he did not know if there could be potential issues there. He said the applicant is required to have one tree planting in each of the islands.

Commissioner Brown said this is along the Middletown/Eastwood Trail, and asked if Metro Parks has any comments regarding the provision of trees in this area. Mr. Brown said the Councilman Jerry Miller and the Mayor have expressed concerns.

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Scott Harrington, representing Councilman Jerry Miller, showed a photo of the original site. He said 17 acres of trees are gone. He said the Councilman opposes the waiver, mostly because all of the other businesses along Shelbyville Road have been able to provide required tree plantings on their lots. He gave examples of how this scenic corridor has been implemented; he also presented pictures of other businesses along the corridor whose businesses are visible from the road and are not being obscured by tree plantings. He said Mayor Chapman of the City of Middletown also does not support these waivers, especially since four landscape waivers have already been approved for this site. Mr. Harrington showed photos of the site, which is elevated.

He discussed Mayor Fischer's Tree Canopy Assessment in Louisville.

Ms. Bernahl disagreed that the applicant is not adding anything to the site, and said that the statement that they are eliminating as many trees as a whole development is "unfair". She said the applicant is trying to meet the Code and accommodate areas where there are utility crossings, etc. She emphasized that there are certain areas where trees can't be planted (over sewer lines and under utility wires, for example.)

Commissioner Proffitt asked if the applicant had considered tree wells along the Gene Snyder side. He said this might mitigate certain maintenance and survivability issues. He and Mr. Brown discussed alternative landscaping options. Ms. Bernahl offered to reexamine the plan and make sure there are no conflicts with utilities to install the two trees that are needed.

Commissioner Jarboe mentioned that, when this entire site was zoned for development, there was concern about how this parkway buffer area was going to be treated. Ms. Bernahl said she had thought there was going to be a large bed or buffer along the frontage and considerable amounts of shrubbery, outside of the applicant-supplied landscaping.

The Commissioners discussed the parking area and concluded that there would be more than enough parking; Commissioner Proffitt suggested creating two more landscape islands.

Douglas Druen, an applicant's representative, said the applicant would be willing to revisit this and try to make changes, particularly along Shelbyville Road.

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On a motion by Commissioner Proffitt, the following resolution was adopted:

RESOLVED, the Louisville Metro Land Development and Transportation Committee does hereby **CONTINUE** this case to the **May 22, 2014 LD&T Committee meeting**.

The vote was as follows:

YES: Commissioners Jarboe, Brown, and Proffitt.

NO: No one.

NOT PRESENT: Commissioners Blake and Turner.

ABSTAINING: No one.

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CASE NO. 14DEVPLAN1031

Project Name:	Summit Gardens
Location:	8708 Brownsboro Road
Owner:	Kitty Developer LLC
Applicant:	Elite Homes
Representative:	Heritage Engineering LLC
Jurisdiction:	Louisville Metro
Council District:	17 – Glen Stuckel
Case Manager:	Julia Williams, AICP, Planner II

The staff report prepared for this case was incorporated into the record. This report was available to any interested party prior to the LD&T meeting. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Request:

Minor Amendment to the PD Development Plan.

The following spoke on behalf of Case No. 14DEVPLAN1031:

Scott Hannah, Heritage Engineering, 642 South Fourth Street, Louisville, KY 40299

Rocky Pusateri, representing Elite Homes, 1002 Woodland Ridge Court, Louisville, KY 40245

John Shea, 8207 Old Gate Road, Louisville, KY 40241

Mark Osbourn, 8617 Glenfield Way Louisville, KY 40241

DISCUSSION:

Julia Williams presented the case (see staff report for detailed presentation.) She also gave a brief history of the project. She said the current development is single-family adjacent to single-family, which do not have buffer requirements. She clarified that the request is to amend the pattern book to indicate that the applicant can provide a fence at the denoted location, but is not required to.

In response to a question from Commissioner Proffitt, Ms. Williams said a fence was indicated in the pattern book. She said this is the last plan that the LD&T

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Committee approved last year – Metro Council did not have to approve it, because it met the pattern book. It continues to meet the pattern book, except for this fence.

Commissioner Brown asked about the comments received from interested parties, and if those commenting were from the adjacent subdivision. Ms. Williams said she had received one e-mail from a resident of Wyndham Place and a letter from Ten Broeck. The letter from Ten Broeck does not deal with the sections being discussed today.

Commissioner Brown asked if this proposal referred only to the fencing along the Wyndham Place properties, or if it would apply to the entire perimeter. Ms. Williams pointed out the specific location of fencing being discussed today. She said the boundary along Ten Broeck has a binding element on it.

Scott Hannah, an applicant's representative, said that when working with staff before, he did not realize that a fence would be required. He explained about the preparation of the pattern book, and said that the plan was for some assisted living facilities at that time. Now, the plan is for single-family with density lower than that allowed under the R-4 zoning category. No buffering would be required if this plan had originally been presented as a single-family development.

He said some buffering has been provided along the boundary with the Wyndham subdivision (29 trees) and the applicant is willing to work with neighbors if an alternate type of buffering is wanted. He said Rocky Pusateri, the developer, has met with some of the neighbors and so far they seem satisfied. He added that there is a lot of landscaping as part of this plan.

Rocky Pusateri, representing Elite Homes, said he has spoken to the president of the Wyndham HOA about the placement of the trees. He said landscape screening rather than fencing seems to be preferred.

In response to a question from Commissioner Proffitt, Mr. Hannah said the trees would be 6-foot evergreens (1.75 inch caliper) at initial planting. The trees will be evergreens and deciduous. Mr. Pusateri said they use almost-2-inch caliper for every tree. Mr. Hannah said they are planning for "an evergreen wall"; Mr. Pusateri said a lot of this area is vegetated already. They are trying to fill any open spaces so there is adequate screening for residents of both subdivisions.

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In response to a request from Commissioner Proffitt, Mr. Hannah showed photos of the model homes on the site, as well as the more vegetated areas along Wyndham Place. Mr. Hannah showed the location/s of the property lines in the photos.

John Shea, representing the City of Brownsboro Farms, discussed some of the history of the project and said that a six-foot fence was originally required, as well as landscape along Highway 22. He said he thought the applicant was addressing fencing all the way around the entire development. He asked that, if the Committee approves something, to please make sure that it applies only to one section and not to Sections 1, 2, and 3.

Mr. Shea and the applicant's representatives discussed where the homes will be and the screening that will be provided.

Mark Osbourn, president of the Wyndham Place HOA, introduced himself but said he had nothing to add at this time.

Mr. Hannah said the amendment of the pattern book being requested today would apply to sections 1 and 2. Ten Broeck has their own binding element that requires a berm and plantings. He said the landscape plan does meet the intent of the pattern book.

Mr. Pusateri said he had spoken with Mayor Roos of Ten Broeck and they agreed that they can discuss buffering when the border reaches the City of Ten Broeck. Ms. Williams added that nothing is being proposed today for Section 3 next to Ten Broeck.

Maximum building height was discussed.

In response to a question from Commissioner Proffitt, Mr. Hannah pointed out the locations of a 25-foot setback, a 15-foot LBA and a sanitary sewer easement located within the area.

Ms. Williams clarified that a fence has never been proposed for Section 3. She said whatever is being discussed today does not apply to the property line shared with Ten Broeck. She said no fence was ever proposed or was ever alluded to in any of the documents for this section. The pattern book does not refer to a fence along that property line. Commissioner Jarboe said Mr. Roos's

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letter refers to a fence along the property line of Section 3. Ms. Williams said no fence has ever been planned for that area.

Commissioner Proffitt said he is not against this proposal; however, he was surprised that this plan did not come back before the Planning Commission since it was a controversial development. He said the living fence is appropriate and a good alternative to a fence.

Mr. Osbourn said he did not find out about this hearing until last night, and asked that this case be continued or deferred to allow the 57 homeowners of Wyndham Place an opportunity to comment. Mr. Hannah said the homeowners were all notified.

In response to a question from Commissioner Proffitt, Mr. Pusateri said that this landscaping is needed to sell the lots. He said the applicant has financial incentive to make the properties look appealing.

Responding to Commissioner Proffitt, Ms. Williams explained that because this is a much-less-intense use, the proposal went to LD&T instead of the Planning Commission.

In response to a question from an attendee, Ms. Williams said the original "mobility plan" showed parking when the plan was for an entirely different use. Commissioner Proffitt said that the current plan shows full sidewalks in the development.

Commissioner Brown made a motion to approve the proposed Minor Amendment to the PD Development Plan.

Before the vote on the motion, Commissioner Proffitt asked if the applicant had submitted a Tree Preservation Plan. Ms. Williams said they had and showed the approved Landscape and Tree Preservation Plan. Commissioner Proffitt asked about construction fencing along the property line (particularly where off-site tree canopy exists within three feet of a common property line.) Ms. Williams said the applicant has shown their silt fencing, which can act as a tree preservation fence, according to Chapter 10 Part 4 of the Land Development Code.

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On a motion by Commissioner Brown, the following resolution was adopted:

WHEREAS, the Louisville Metro Land Development and Transportation Committee finds that trees are being preserved in a TCPA in the south corner of the property where Goose Creek flows through the property. Steep slopes are identified on the plan as well as the limits of disturbance; and

WHEREAS, the Committee further finds that vehicular and pedestrian circulation is provided throughout the development; and

WHEREAS, the Committee further finds that open space is provided throughout the development; and

WHEREAS, the Committee further finds that MSD has preliminarily approved the proposal; and

WHEREAS, the Committee further finds that the proposed single family residential is compatible with the existing single family residential that surrounds the site. A 15' LBA is provided around the perimeter trees are proposed within the LBA; and

WHEREAS, the Committee further finds that, based on the evidence and testimony presented today, the staff report, and the applicant's justification, that all of the applicable Guidelines of Cornerstone 2020 and the Comprehensive Plan are being met; now, therefore be it

RESOLVED, the Louisville Metro Land Development and Transportation Committee does hereby **APPROVE** the proposed Minor Amendment to the PD Development Plan to eliminate the fence as shown in the pattern book **ON CONDITION** that the applicant work with staff regarding the landscaping within the 15-foot buffer, to fill in the gaps in vacant areas with 8-foot evergreen trees and other shrubs and trees.

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The vote was as follows:

YES: Commissioners Jarboe, Brown, and Proffitt.

NO: No one.

NOT PRESENT: Commissioners Blake and Turner.

ABSTAINING: No one.

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CASE NO. 16777

Project Name: Blankenbaker Station I – Tract 3
Location: 12400 Sycamore Station Place
Owner: Pinnacle Partners LLC and
TSF Properties LLC
Applicant: Pinnacle Partners LLC and
TSF Properties LLC
Representative: Bardenwerper, Talbott & Roberts PLLC
Mindel Scott & Associates
Jurisdiction: Louisville Metro
Council District: 20 – Stuart Benson
Case Manager: **Julia Williams, AICP, Planner II**

The staff report prepared for this case was incorporated into the record. This report was available to any interested party prior to the LD&T meeting. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Request:

Change in zoning from PEC (Planned Employment Center) to C-2 Commercial and building façade Waivers

The following spoke on behalf of Case No. 16777:

William Bardenwerper, Bardenwerper Talbot & Roberts PLLC, 1000 North Hurstbourne Parkway Suite 200, Louisville, KY 40223

Kent Gootee, Mindel Scott & Associates, 5151 Jefferson Boulevard, Louisville, KY 40219

Chance Ragains, Escape Theater, based in New Albany, IN.

Adam Smith, 8235 Douglas Avenue Suite 945, Dallas, TX 75225

Walter Lovell, representing Main Event Entertainment, 5716 Henry Cook Boulevard, Plano, TX 75024

Greg Oakley, Hollenbach-Oakley, P.O. Box 7368, Louisville, KY 40257

Bruce Allen, 1510 Tucker Station Road, Louisville, KY 40299

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CASE NO. 16777

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

DISCUSSION:

Julia Williams presented the case (see staff report for detailed presentation.) She said the applicant's traffic study has been updated as of yesterday. She discussed the two sets of binding elements that had applied to certain lots, which now no longer apply. Staff recommends that those lots be removed from the inclusion in the non-applicable binding elements (see attachment #4 in the staff report) and a new set of applicable binding elements be applied (see attachment #3 in the staff report.) Those lots are 9-68-00 and 9-34-03. She discussed the proposals for the lots, which include a movie theater and mixed-entertainment center.

William Bardenwerper, the applicant's representative, used the site plan to give a brief history of the site and the development.

Kent Gootee, an applicant's representative, used the site plan to discuss traffic patterns and access, as well as drainage. He said Sycamore Station already has infrastructure and basins in place. Sidewalks are throughout the development, each connecting to the main road.

Mr. Bardenwerper discussed the traffic study, and the relation of traffic from this development to the surrounding area. He said that there are recommendations in the study to provide turn lanes at Sycamore Station; to continue monitoring the intersection of Lakefront Place at Bluegrass Parkway; and other intersection improvements that had been previously planned.

Chance Ragains, representing the theater company, presented some of the renderings of the proposed building (on file). He said the company is proposing a fourteen-screen theater complex with recliner seats. This has reduced the seat-count per screen by about 40%, and therefore the parking requirements have been lessened. Operating hours would be from 11:00 a.m. to 10-11 p.m. Twenty to forty people would be employed, depending on the time of year.

Walter Lovell, representing Main Event Entertainment, showed some renderings of the building and said this will be a family-oriented, bowling-centered entertainment complex. Restaurants, Laser Tag, and a game room are also

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being proposed. Mr. Lovell discussed the west elevation that required a waiver. He said no windows are planned that would affect the lighting and ambience in the center. He said the applicant is willing to work with staff to add some enhancements to that elevation. He discussed the north façade, which faces the highway.

In response to a question from Commissioner Jarboe, Mr. Lovell described some of the proposed building materials.

Mr. Gootee said they can plant trees in the additional parking islands, about 1 per 50 feet.

Commissioner Brown asked if an expressway buffer and fencing was required in this area. Greg Oakley, the developer, said there is a 25-foot buffer, but no structure buffer required. He said the waiver requests facing Sycamore are consistent with a couple other facilities in the development.

Commissioner Proffitt asked if the proposed tree planting would be substantially the same as what is being shown today. Mr. Gootee said yes, and that there might be an additional one next to the dumpsters. He added that trees are proposed for every parking island. The ratio is one per every 4,000 square feet of paved surface. Commissioner Proffitt also asked if there could be any additional consideration given to the south elevation of the Main Event building. He said that, even though trees are going to be there, he was concerned that they might be of varieties that would not grow over 20-25 feet tall and that this is a "big, flat wall". He asked if some architectural features could be added. Mr. Oakley said that more detailed renderings would be brought to the public hearing showing building materials, design features, colors, etc. Adam Smith, an applicant's representative, agreed that renderings and hopefully photos of recent prototypes would be brought to the public hearing.

Bruce Allen, a Tucker Station Road resident, said the increase in traffic has not been addressed. He said the residences along Tucker Station Road are all R-4 properties in a rural area. He said additional traffic from this development will be using Tucker Station Road to come in the back way.

Mr. Bardenwerper said there have been neighborhood meetings about this development, both recently and throughout the development's history. He said traffic studies are usually done to examine peak-hour traffic, since that seems to

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be the main point of concern. However, this is not a “peak-hour” type of use – the theater complex will probably generate traffic after peak hours. He said the applicant has been honest about the fact that there will probably be more traffic along Tucker Station Road, Bluegrass Parkway, and Blankenbaker Parkway on weekends. He said there are other road improvements coming to the area due to nearby development projects. He discussed the neighborhood meeting and questions that had been asked about the traffic increase. He said Ellingsworth and Tucker Station would be improved.

Mr. Allen said the developer is “exploiting the non-peak hour” use because the road capacity. He said he is already picking up trash in his yard, and now more customers will be coming in to this development. He asked how the developer will keep this under control. He also said there are already potholes in the road.

Commissioner Proffitt said the pothole issue should be addressed with Mr. Allen’s Councilmember; regarding the trash, he said the LD&T Committee cannot require a developer to pick up trash in the neighborhood. He said Mr. Allen had stated that he was getting trash in his yard from a major intersection. Mr. Allen said he had addressed the road issue with his Councilmember (Councilman Stuart Benson). Commissioner Jarboe asked how the Councilman Benson had responded. Mr. Allen said “positively”, but reiterated that this is a rural, narrow road.

Steve Porter, representing the Tucker Station Neighborhood Association, said the Association does not have objections to the rezoning request. In response to a question from Mr. Porter, Mr. Bardenwerper said that the Detailed District Development Plan is “for everything”. Mr. Porter said there are only renderings for the two big buildings, and there were some concerns about lighting on those, but there were no renderings of the others. Ms. Williams said that, if the applicant was agreeable to coming back with the renderings for the other lots, then a binding element can be changed to state this. Mr. Porter said that he would request that renderings for the remaining buildings be presented at a public meeting (DRC).

Mr. Porter also said he just received a copy of the traffic impact study. First, he said Blankenbaker Parkway does not serve as the major connection to Taylorsville Road – Tucker Station Road does. He said Tucker Station Road is the main connector going north to Middletown. Regarding the evening peak analysis, he said Blankenbaker Parkway and Bluegrass Parkway is already an

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“E” intersection and this development would take it to an “F” east and west bound. He named other intersections in the area that would be worsened. Mr. Oakley said a stoplight is proposed in Phase II.

On behalf of the Tucker Station Neighborhood Association, Mr. Porter requested:

- The removal of a proposed LED strip light across the top of the Main Event building, which he said would be seen “for miles”.
- The side of the Main Event building facing Sycamore Station have some architectural features added.
- That the south side of the Escape [theater] building not have any lights pointed south down Tucker Station Road.

Mr. Bardenwerper said their traffic engineer, Paul Slone, would be present for the June 5, 2014 Planning Commission public hearing.

Commissioner Proffitt asked that details of the lighting and landscaping be presented at the public hearing.

The Committee by general consensus scheduled Case No. 16777 to be heard at the June 5, 2014 Planning Commission public hearing.

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CASE NO. 13ZONE1030

Project Name: MAPCO Ellingsworth
Location: 1005/11805 Ellingsworth & 915 Blankenbaker Parkway
Owner: Bruce M. Williams Trust Fund and Clara Jo Zehnder
Applicant: NTI Investments LLC
Representative: Bardenwerper, Talbott & Roberts PLLC
Mindel Scott & Associates
Jurisdiction: City of Middletown
Council District: 20 – Stuart Benson
Case Manager: **Julia Williams, AICP, Planner II**

The staff report prepared for this case was incorporated into the record. This report was available to any interested party prior to the LD&T meeting. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Request:

Change in zoning from R-4 Residential to C-1 Commercial; building setback Variances, and a Landscape Waiver.

The following spoke on behalf of Case No. 13ZONE1030:

William Bardenwerper, Bardenwerper Talbot & Roberts PLLC, 1000 North Hurstbourne Parkway Suite 200, Louisville, KY 40223

Kent Gootee, Mindel Scott & Associates, 5151 Jefferson Boulevard, Louisville, KY 40219

DISCUSSION:

Julia Williams presented the case (see staff report for detailed presentation.) She explained that there is a small portion of the senior care facility that comes out to Blankenbaker Road, creating a small piece of R-4 property that is located between the King Southern Bank (which is C-1) and the proposed site. The waivers and variances are due to that strip of R-4 zoned property. She said that, at the time the staff report was issued she had not received any public comment on the case; since then, she has received an e-mail from an adjacent property

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owner requesting that a wall be constructed in this 25-foot landscape buffer area (LBA) along with some plantings. She said this is a buffer that requires a screen and plantings.

She added that the applicant still needs to show the waivers on the plan and that the applicant is aware of this.

She said Mayor Chapman (Mayor of the City of Middletown) had called asking about the possibility of road improvements along Ellingsworth Lane and partnering with the Ellingsworth Apartments and this applicant to get some of those road improvements done. Since the apartments are not yet ready to start construction, Mayor Chapman has changed his request to partnering with this applicant.

In response to a question from Commissioner Brown, Ms. Williams said the minimum screening requirements are a 25-foot buffer and an 8-foot screen (fencing, landscaping, wall, etc.) and trees.

William Bardenwerper, the applicant's representative, introduced the case and showed pictures of what the store would look like. He said the City of Belmont had asked that their wall be continued down the property line, and the applicant has agreed to this. He said further analysis of drainage issues will be done. He discussed sharing the costs of road improvements in the area. Ms. Williams said this request came from the Mayor of the City of Middletown and that has been relayed to Tammy Markert in Transportation Planning. She added that this is a private agreement between the applicant and the City of Middletown.

Mr. Bardenwerper discussed the ways that the proposals for this site have changed.

He asked Commissioner Brown about why a raised median was recommended here. Commissioner Brown said Metro Public Works had requested this because full access could not be allowed this close to Blankenbaker Parkway. Commissioner Brown said what was recommended was "Quick Curb", a pre-formed metal curb that bolts to the asphalt; it is not poured concrete. Regardless of what is used, the intent is to prohibit full access.

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Mr. Bardenwerper asked if a binding element could be added stating that the City of Middletown would have final say in the designs of these two buildings. This is at the request of the City of Middletown.

Commissioner Proffitt asked about a right-turn-in only intersection and how to prevent drivers from turning left (possibly adding a raised concrete island.)

Larry Potts, recommending the City of Belmont HOA, discussed the requested wall along the property line. He said the applicant has agreed to this. He discussed water/drainage issues and what the applicant has talked about doing to alleviate this. He asked that the applicant complete the screening/landscaping before construction. Mr. Bardenwerper said he would ask the applicant about this, and the detention basin.

Pat Barry, representing MSD, gave a brief history of the drainage issues on the site and in the City of Belmont. He said MSD will fix the issue with this development.

The Committee by general consensus scheduled Case No. 13ZONE1030 to be heard at the June 5, 2014 Planning Commission public hearing.

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The meeting adjourned at approximately 3:30 p.m.

Chairman

Division Director