

**MINUTES OF THE MEETING  
OF THE  
DEVELOPMENT REVIEW COMMITTEE  
July 16, 2014**

A meeting of the Development Review Committee was held on, July 16, 2014 at 1:00 p.m. in the Old Jail Building, located at 514 W. Liberty Street, Louisville, Kentucky.

**Committee Members present were:**

Chip White, Vice-Chairman  
Robert Peterson, Commissioner  
Jeff Brown, Commissioner  
Robert Kirchdorfer, Commissioner

**Committee Members absent were:**

David Tomes, Chairman

**Staff Members present were:**

Steve Hendrix, Planning Supervisor  
Latondra Yates, Planner II  
Jon Crumbie, Planner II  
Christopher Brown, Planner II  
Matthew R. Doyle, Planner I  
Sherie' Long, Landscape Architect  
Pamela M. Brashear, Management Assistant

**Others present:**

John Carroll, Legal Counsel

The following matters were considered:

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**APPROVAL OF MINUTES**

**NO MINUTES**

**DEVELOPMENT REVIEW COMMITTEE**  
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**NEW BUSINESS**

**CASE NO. 14MINORPAT1009**

Request: Minor Plat  
Project Name: Lake Forest – Tract A  
Location: Golf Course between 2123 and 2207 Highland Springs Place  
Owner: Lake Forest Country Club, Inc.  
Applicant: Lake Forest Country Club, Inc.  
Representative: Land Design and Development, Inc.  
Jurisdiction: Louisville Metro  
Council District: 19 – Jerry Miller  
**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 DRC meeting. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5<sup>th</sup> Street.)

**Agency Testimony:**

02:07 Mr. Doyle discussed the case summary, standard of review and staff analysis from the staff report.

**The following spoke in favor of this request:**

Bill Bardenwerper, Bardenwerper, Talbott and Roberts, 1000 Hurstbourne Parkway, Louisville, Ky. 40222  
David Winkler, Land Design and Development, 503 Washburn Avenue, Louisville, Ky. 40222  
Phil Gregory,

**Summary of testimony of those in favor:**

07:40 Mr. Bardenwerper said the applicant wants to create lots on holes 1 and 2. They wish to decrease their debt.

17:02 Mr. Winkler said the lots are large enough to build on. They will be comparable to the size of the homes around them.

**The following spoke in opposition to this request:**

Suzanne Zoeller, 2206 Highland Springs Place, Louisville, Ky. 40245  
Steve Otis, 2204 Highland Springs Place, Louisville, 40245  
Joseph Chandler, 2202 Highland Springs Place, Louisville, Ky. 40245  
Ron Sweitzer, 2207 Highland Springs Place, Louisville, Ky. 40245

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**NEW BUSINESS**

**CASE NO. 14MINORPAT1009**

Tom Power, 2123 Highland Springs Place, Louisville, Ky. 40245

**Summary of testimony of those in opposition:**

20:43 Ms. Zoeller, member of Lake Forest, said she paid premium for her lot across the street. The size of the proposed homes are not compatible with the neighborhood and will decrease the value of her home.

23:41 Mr. Otis said the proposal will be detrimental to his investment.

25:55 Mr. Chandler said he was told he was paying premium prices (for his home) for a premium view.

27:02 Mr. Sweitzer asked, "If they're going to build one house, why subdivide these two pieces? Also, if they're going to build this car path, it's going to go right through my driveway."

28:02 Mr. Power stated, "If their dimensions are right, they own part of my driveway and all of my pine trees. Can they get the house on there?" Mr. Winkler said the driveway and trees are located on the plat.

34:51 Mr. Gregory said there's no movement of the cart path on number 2. There is an easement on that for the irrigation water line.

**The following spoke neither for nor against the request:**

No one

**Summary of testimony of those neither for nor against:**

None

**Deliberation**

47:47 Commissioner Brown said there's no justification to deny the minor plat, which is typically staff approvable.

Commissioner Peterson said he wonders if any thought was given to building one home on two lots, making it a single lot. He's also concerned about the residents directly across the street because the view change will be very dramatic.

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**NEW BUSINESS**

**CASE NO. 14MINORPAT1009**

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

51:25 On a motion by Commissioner Brown, seconded by Commissioner Kirchdorfer, the following resolution was adopted.

**WHEREAS**, the Louisville Metro Development Review Committee finds that the motion failed.

**WHEREAS**, the Louisville Metro Development Review Committee further finds this case will be heard at the August 21, 2014 Planning Commission meeting.

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **SCHEDULE** this case to be heard at the August 21, 2014 Planning Commission meeting.

**The vote was as follows:**

**YES: Commissioners Brown, Kirchdorfer and White**

**NO: Commissioner Peterson**

**NOT PRESENT AND NOT VOTING: Commissioner Tomes**

**ABSTAINING: No one**

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**NEW BUSINESS**

**CASE NO. 14MINORPAT1010**

Request: Minor Plat  
Project Name: Lake Forest – Tract F  
Location: Golf Course between 2322 and 2400 Arnold Palmer Boulevard  
Owner: Lake Forest Country Club, Inc.  
Applicant: Lake Forest Country Club, Inc.  
Representative: Land Design and Development, Inc.  
Jurisdiction: Louisville Metro  
Council District: 19 – Jerry Miller  
**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 DRC meeting. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5<sup>th</sup> Street.)

**Agency Testimony:**

55:18 Mr. Doyle discussed the case summary, standard of review and staff analysis from the staff report.

**The following spoke in favor of this request:**

Bill Bardenwerper, Bardenwerper Talbott and Roberts, 1000 Hurstbourne Parkway, Louisville, Ky. 40222

**Summary of testimony of those in favor:**

56:22 Mr. Bardenwerper said it's good to bring this case to DRC so the neighbors can understand the plan better and the law, but the committee has no discretion on this case.

**The following spoke in opposition to this request:**

No one

**Summary of testimony of those in opposition:**

None

**The following spoke neither for nor against the request:**

No one

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**NEW BUSINESS**

**CASE NO. 14MINORPAT1010**

**Summary of testimony of those neither for nor against:**

None

**Deliberation**

1:3:42 Commissioner Peterson remarked, " I have a different view on this particular proposal. It appears that the lot size is very much in keeping with what's appropriate for the surrounding lots."

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

1:5:13 On a motion by Commissioner Brown, seconded by Commissioner Kirchdorfer, the following resolution was adopted.

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** the creation of a single lot based on the testimony heard today and the findings in the staff report.

**The vote was as follows:**

**YES: Commissioners Brown, Kirchdorfer, Peterson and White**

**NO: No one**

**NOT PRESENT AND NOT VOTING: Commissioner Tomes**

**ABSTAINING: No one**

**DEVELOPMENT REVIEW COMMITTEE**  
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**NEW BUSINESS**

**CASE NO. 14MOD1005**

Request: Amendment to Binding Element  
Project Name: 8213 Shelbyville Road  
Location: 8213 Shelbyville Road  
Owner: Neal Campbell  
Applicant: Neal Campbell  
Representative: N/A  
Jurisdiction: City of Lyndon  
Council District: 18 – Marilyn Parker  
**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 DRC meeting. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5<sup>th</sup> Street.)

**Agency Testimony:**

1:07:03 Mr. Doyle discussed the case summary, standard of review and staff analysis from the staff report.

**The following spoke in favor of this request:**

Neal Campbell, 8211 Shelbyville Road, Louisville, Ky.

**Summary of testimony of those in favor:**

1:14:55 Mr. Campbell requests the deletion of binding element 13, Docket No. 9-57-06, to wait for a unified development.

**The following spoke in opposition to this request:**

No one

**Summary of testimony of those in opposition:**

None

**The following spoke neither for nor against the request:**

No one

**Summary of testimony of those neither for nor against:**



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**CASE NO. 14MOD1005**

None

**Deliberation**

1:42:13        Commissioner White said he's in favor of waiting on a unified.

**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.**

1:43:36        On a motion by Commissioner Brown, seconded by Commissioner Kirchdorfer, the following resolution was adopted.

**WHEREAS**, Natural resources on the subject site would not be affected by the proposed change to the binding elements; and

**WHEREAS**, The intent of Guideline 7 of the Comprehensive Plan is to provide for safe and proper functioning of the street network with a coordinated hierarchy of arterial, collector and local roads; to ensure that new developments do not exceed the carrying capacity of streets; to ensure that internal and external circulation of all new development provides safe and efficient travel movement by all types of transportation; to provide improved public transportation facilities; to address congestion and air quality issues; to ensure that transportation facilities are compatible with form district goals and objectives. More specifically, policies 12, 13, and 15-17 call for standards to address driveway and curb cut spacing; require joint and cross access easements according to standards set forth in the Land Development Code, to reduce traffic on major thoroughfares and to reduce safety hazards; encourage design standards that address design issues such as the minimum and maximum length and width and the gradient of driveways to ensure that the driveway or curb cut functions properly and is safe; promote joint access and circulation systems for development sites comprised of more than one building site or lot; and prevent safety hazards caused by direct residential access to high speed roadways. The proposal does not provide for safe and efficient vehicular and pedestrian transportation both within the development and the community since the site would not provide cross access easements according to standards set forth in the Land Development Code, to reduce traffic on major thoroughfares and to reduce safety hazards; and

**WHEREAS**, Provisions for sufficient open space would not be affected by the proposed change to the binding elements; and

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**WHEREAS**, Provisions of adequate drainage of facilities on the subject sites would not be affected by the proposed change to the binding elements and they will remain as previously approved; and

**WHEREAS**, The compatibility of the overall site design (location of buildings, parking lots, screening, landscaping) and land use or uses with the existing and projected future development of the area would not be affected by the proposed change to the binding elements; and

**WHEREAS**, The intent of Guideline 7 of the Comprehensive Plan is to provide for safe and proper functioning of the street network with a coordinated hierarchy of arterial, collector and local roads; to ensure that new developments do not exceed the carrying capacity of streets; to ensure that internal and external circulation of all new development provides safe and efficient travel movement by all types of transportation; to provide improved public transportation facilities; to address congestion and air quality issues; to ensure that transportation facilities are compatible with form district goals and objectives. More specifically, policies 12, 13, and 15-17 call for standards to address driveway and curb cut spacing; require joint and cross access easements according to standards set forth in the Land Development Code, to reduce traffic on major thoroughfares and to reduce safety hazards; encourage design standards that address design issues such as the minimum and maximum length and width and the gradient of driveways to ensure that the driveway or curb cut functions properly and is safe; promote joint access and circulation systems for development sites comprised of more than one building site or lot; and prevent safety hazards caused by direct residential access to high speed roadways. The proposal would violate the intent and specific policies of the Comprehensive Plan since the site would not provide cross access easements according to standards set forth in the Land Development Code, to reduce traffic on major thoroughfares and to reduce safety hazards.

**RESOLVED**, that the Louisville Metro Planning Commission does hereby move to **AMEND** binding element number 13 and replace it with binding element 13a and 13b on pg. 4 of the staff report, based on the staff report and the testimony heard today.

#### Existing 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.

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2. The development shall not exceed 1,240 s.f. in size.
3. Signs shall be in accordance with Chapter 8.
4. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
5. 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.
6. 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 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.
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.

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9. The residential character, as well as the materials and design of the structure shall be maintained as shown in the photos presented at the Public Hearing on March 1, 2007. Exterior additions or alterations shall require prior approval by the Planning Commission's Development Review Committee or by Planning and Design Services staff.
10. The façade elevations shall be in accordance with applicable form district standards and shall be approved by PDS staff prior to construction permit approval.
11. 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.
12. All street name signs, traffic control signs and pavement markings shall conform to the manual on uniform traffic control devices (MUTCD) requirements and be installed prior to construction of the first residence or building on the street and shall be in place at the time of the bond release. (The address number shall be displayed on a structure prior to requesting a certificate of occupancy for that structure.)
13. The owner of 8213 Shelbyville Road shall grant a crossover access easement in a form acceptable to Planning Commission legal counsel, without requiring compensation of any kind, to the properties located at 8209, 8211, 8215, 8217, 8219, 8221, 8223, and 8225 Shelbyville Road. Such easement shall be recorded prior to transmittal of plans to the office responsible for permit issuance. The applicant further agrees to construct the access easement up to the common property lines with 8211 and 8215 Shelbyville Road within 180 days after the approval of this case by the City of Lyndon.

#### **Proposed Binding Element (by applicant)**

- ~~13. The owner of 8213 Shelbyville Road shall grant a crossover access easement in a form acceptable to Planning Commission legal counsel, without requiring compensation of any kind, to the properties located at 8209, 8211, 8215, 8217, 8219, 8221, 8223, and 8225 Shelbyville Road. Such easement shall be recorded prior to transmittal of plans to the office responsible for permit issuance. The~~

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~~applicant further agrees to construct the access easement up to the common property lines with 8211 and 8215 Shelbyville Road within 180 days after the approval of this case by the City of Lyndon.~~

**Proposed Binding Element (by staff)**

13a. The owner of 8213 Shelbyville Road shall grant a crossover access easement in a form acceptable to Planning Commission legal counsel, without requiring compensation of any kind, to the properties located at 8209, 8211, 8215, 8217, 8219, 8221, 8223, and 8225 Shelbyville Road. The applicant agrees to construct the access easement up to the common property lines with 8211 and 8215 Shelbyville Road within 180 days after the approval of this case by the City of Lyndon.

13b. A unified access system between adjoining properties shall be developed as the properties are redeveloped. The final design on the location and type of access shall be determined by Public Works and the Kentucky Transportation Cabinet as lots are redeveloped to ensure that future access complies with the Access Management Guidelines.

**The vote was as follows:**

**YES: Commissioners Brown, Kirchdorfer, Peterson and White**

**NO: No one**

**NOT PRESENT AND NOT VOTING: Commissioner Tomes**

**ABSTAINING: No one**

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**NEW BUSINESS**

**CASE NO. 14WAIVER1022**

Request: Landscape Waivers  
Project Name: Jefferson Post Apartments  
Location: 4600 Fern Valley Road  
Owner: Norman Noltemeyer, Noltemeyer Capital, LLLP  
Applicant: Same  
Representative: Mike Keal, Keal and Associates  
Jurisdiction: Louisville Metro  
Council District: 2 – Barbara Shanklin  
**Case Manager: Sherie' Long, Landscape Architect**

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

**Agency Testimony:**

1:45:22 Ms. Long discussed the case summary, standard of review and staff analysis from the staff report.

**The following spoke in favor of this request:**

Mike Keal, Keal and Associates, P.O. Box 5130, Louisville, Ky. 40255

**Summary of testimony of those in favor:**

1:50:31 Mr. Keal explained the need for the waiver. They will be providing plantings.

**The following spoke in opposition to this request:**

No one

**Summary of testimony of those in opposition:**

None

**The following spoke neither for nor against the request:**

No one

**Summary of testimony of those neither for nor against:**

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**NEW BUSINESS**

**CASE NO. 14WAIVER1022**

None

**Deliberation**

1:52:37      Planning Commission 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.**

1:53:35      On a motion by Commissioner Peterson, seconded by Commissioner Kirchdorfer, the following resolution was adopted.

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **GRANT** the Land Development Code waiver of section 10.2.4 to allow utility easements to encroach more than 50% of the required width of the perimeter landscape buffer areas as shown on the Landscape Plan Exhibit based on the staff report and presentations given today.

**The vote was as follows:**

**YES: Commissioners Brown, Kirchdorfer, Peterson and White**

**NO: No one**

**NOT PRESENT AND NOT VOTING: Commissioner Tomes**

**ABSTAINING: No one**

**DEVELOPMENT REVIEW COMMITTEE**  
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**NEW BUSINESS**

**CASE NO. 14DEVPLAN1061**

Request: Category 3 review to allow the construction of a retail store at the Dixie Manor Center  
Project Name: Hobby Lobby  
Location: 6801 Dixie Highway  
Owner: B.C. Woods Properties  
Applicant: Hobby Lobby  
Representative: Michael J. Keal  
Jurisdiction: Louisville Metro  
Council District: 12 – Rick Blackwell  
**Case Manager: Jon E. Crumbie, 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 DRC meeting. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5<sup>th</sup> Street.)

**Agency Testimony:**

1:54:38 Mr. Crumbie discussed the case summary, standard of review and staff analysis from the staff report.

**The following spoke in favor of this request:**

Mike Keal, Keal and Associates, P.O. Box 5130, Louisville, Ky. 40255

**Summary of testimony of those in favor:**

1:56:01 Mr. Keal represents Dixie Manor. The site is already developed and they tried to comply with all the requests that came from traffic for the island and for extension of a sidewalk from Dixie Hwy. back to the Hobby Lobby.

**The following spoke in opposition to this request:**

No one

**Summary of testimony of those in opposition:**

None

**The following spoke neither for nor against the request:**

No one



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**NEW BUSINESS**

**CASE NO. 14DEVPLAN1061**

**Summary of testimony of those neither for nor against:**

None

**Deliberation**

1:56:55        Commissioner Kirchdorfer said the Category 3 appears to be meeting the guidelines.

**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.**

1:57:21        On a motion by Commissioner Brown, seconded by Commissioner Kirchdorfer the following resolution was adopted.

**WHEREAS**, the Louisville Metro Development Review Committee finds the site is fully developed so there is no conservation of natural resources although a landscape island will be added at the front of the proposal. The site consists of buildings, parking, and some existing landscaping; and

**WHEREAS**, The provisions for safe and efficient vehicular and pedestrian transportation both within the development and the community are met. A 4-foot concrete sidewalk from Dixie Highway to Hobby Lobby will be provided for pedestrians; and

**WHEREAS**, Open space is not required for this proposal; and

**WHEREAS**, Adequate drainage facilities on the subject site have been reviewed and approved by MSD; and

**WHEREAS**, The compatibility of the overall site design and land use follow the projected future development of the area. The proposal will be an extension of the existing development and serve the surrounding community; and

**WHEREAS**, the Louisville Metro Development Review Committee further finds The development plan conforms to all Land Development Code requirements and therefore follows the guidelines of Cornerstone 2020. The proposed structure will have an attractive front facade with the appropriate fenestration and materials. Proposed sidewalk will create a safe environment for those visiting the site.

**DEVELOPMENT REVIEW COMMITTEE**

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**NEW BUSINESS**

**CASE NO. 14DEVPLAN1061**

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** the Category 3 Development Plan based on the testimony heard today and the staff report.

**The vote was as follows:**

**YES: Commissioners Brown, Kirchdorfer, Peterson and White**

**NO: No one**

**NOT PRESENT AND NOT VOTING: Commissioner Tomes**

**ABSTAINING: No one**

**DEVELOPMENT REVIEW COMMITTEE**  
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**NEW BUSINESS**

**CASE NO. 14DEVPLAN1071**

Request:	Category 3 Plan for building expansion
Project Name:	Bellarmine University - Horrigan Hall Addition
Location:	2001 Newburg Road
Owner:	Bellarmine University, Inc.
Applicant:	Same
Representative:	Mindel Scott and Associates
Jurisdiction:	Louisville Metro
Council District:	8 – Tom Owen
<b>Case Manager:</b>	<b>Latondra Yates, Planner III</b>

**NOTE: COMMISSIONER KIRCHDORFER RECUSED HIMSELF BECAUSE OF PERSONAL REASONS**

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

**Agency Testimony:**

1:59:07 Mrs. Yates discussed the case summary, standard of review and staff analysis from the staff report.

**The following spoke in favor of this request:**

Timothy W. Martin, Frost, Brown and Todd, 400 West Market Street, Suite 3200, Louisville, Ky. 40202

**Summary of testimony of those in favor:**

2:01:38 Mr. Martin represents Bellarmine and will answer any questions.

**The following spoke in opposition to this request:**

No one

**Summary of testimony of those in opposition:**

None

**The following spoke neither for nor against the request:**

No one

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**NEW BUSINESS**

**CASE NO. 14DEVPLAN1071**

**Summary of testimony of those neither for nor against:**

None

**Deliberation**

2:2:37            Commissioner Peterson said Bellarmine has been an asset to the community and the proposal seems to be in order.

**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.**

2:3:10            On a motion by Commissioner Peterson, seconded by Commissioner Brown, the following resolution was adopted.

**RESOLVED**, that the Louisville Metro Planning Commission does hereby recommend **APPROVAL** of the Category 3 Development Plan based on the staff report and the presentation today.

**The vote was as follows:**

**YES: Commissioners Brown, Peterson and White**

**NO: No one**

**NOT PRESENT AND NOT VOTING: Commissioners Kirchdorfer and Tomes**

**ABSTAINING: No one**

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**NEW BUSINESS**

**CASE NO. 14DEVPLAN1051&14MOD1006**

Case No: 14DEVPLAN1051/14MOD1006  
Request: Revised Detailed District Development Plan with  
Landscape Waivers and Amendment to General  
Plan Binding Element  
Project Name: OBC Lots C and D  
Location: 9840 and 9850 Von Allmen Court  
Owner: McMahan Group Ventures  
Applicant: McMahan Group  
Representative: Glenn Price, Frost, Brown, Todd  
BTM Engineering  
Jurisdiction: Louisville Metro  
Council District: 16 – Kelly Downard  
**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 DRC meeting. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5<sup>th</sup> Street.)

**Agency Testimony:**

2:4:44 Mr. Brown discussed the case summary, standard of review and staff analysis from the staff report.

**The following spoke in favor of this request:**

Glenn Price, Frost, Brown and Todd, 400 West Market Street, Louisville, Ky. 40202  
Ernie Dreer, Jeffersonville, In.

**Summary of testimony of those in favor:**

2:11:57 Mr. Price said the proposal is a Detailed District Development Plan for lots C and D of the general plan. Also, he doesn't know why the binding element was not updated as the development has been built out.

2:16:51 Mr. Dreer, the architect, spoke about the materials; 2 colors of panels (gray and white), brick, glass, balconies, patios, screens for signs, etc.

**The following spoke in opposition to this request:**

Barbara Kelly, 6009 Mint Spring Branch Road, Prospect, Ky. 40059  
Bob McCullough, 10607 Sleepy Hollow Road, Prospect, Ky. 40059

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**NEW BUSINESS**

**CASE NO. 14DEVPLAN1051&14MOD1006**

**Summary of testimony of those in opposition:**

2:21:10 Ms. Kelly remarked, "I'd like to applaud the developer for agreeing to incorporate some low impact development measures (bio-swales)."

Ms. Kelly objects to the following: scale of the lots; it's out of character with the other businesses; there's very little green space; the appearance of the building; and the signs. She requests continuing this case to a later date.

2:29:44 Mr. McCullough is concerned about the size and mass of the project.

**The following spoke neither for nor against the request:**

No one

**Summary of testimony of those neither for nor against:**

None

**Rebuttal:**

2:44:31 Mr. Price remarked, "I'm disappointed with Wolf Pen's opposition to this." Over the course of time things do change (such as population). The height is not out of character for the area.

**Deliberation**

3:7:22 Acting Chairman stated that the Architectural Review Committee, ARC, will look at the issues brought up by the opposition regarding size, scope, materials, etc.

**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.**

3:12:22 On a motion by Commissioner Brown, seconded by Commissioner Peterson, the following resolution was adopted.

**WHEREAS**, the Louisville Metro Development Review Committee finds the waiver will not adversely affect adjacent property owners since the required planting and screening materials will be provided within the required buffers; and

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**CASE NO. 14DEVPLAN1051&14MOD1006**

**WHEREAS**, Guideline 3, policy 9 calls for the protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigate when appropriate. Guideline 3, policies 21 and 22 calls for appropriate transitions between uses that are substantially different in scale and intensity or density, and to mitigate the impact caused when incompatible developments occur adjacent to one another through the use of landscaped buffer yards, vegetative berms and setback requirements to address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances. Guideline 3, policy 24 states that parking, loading and delivery areas located adjacent to residential areas should be designed to minimize the impacts from noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered. Guideline 13, policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. The intent of landscape buffer areas is to create suitable transitions where varying forms of development adjoin, to minimize the negative impacts resulting from adjoining incompatible land uses, to decrease storm water runoff volumes and velocities associated with impervious surfaces, and to filter air borne and water borne pollutants. The intent of the buffer will be met with the proposed planting and screening meeting the requirements of the Land Development Code; and

**WHEREAS**, The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant to allow the buffer to be provided with the required plantings while maintaining the location of the existing utility easements and providing needed parking; and

**WHEREAS**, The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant by requiring extension of the buffer into areas needed for parking for the proposed use.

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** Waivers 1 and 2 from chapter 10.2.4.B of the Land Development Code to allow utility easements to overlap required landscape buffers by more than 50% and chapter 10.2.10 of the Land Development Code to allow the proposed parking to encroach into a required 15 foot VUA LBA based on the staff report, evidence and testimony heard today.

**The vote was as follows:**

**YES: Commissioners Brown, Kirchdorfer, Peterson and White**

**NO: No one**

**NOT PRESENT AND NOT VOTING: Commissioner Tomes**

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**ABSTAINING: No one**

3:13:07 On a motion by Commissioner Brown, seconded by Commissioner Peterson, the following resolution was adopted.

**WHEREAS**, There does 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**, 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. The existing infrastructure can accommodate the proposed increase in commercial square footage; and

**WHEREAS**, The open space requirements are met with the current proposal; and

**WHEREAS**, 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

**WHEREAS**, the Louisville Metro Development Review Committee further finds the overall site design and land uses are compatible with the existing and future development of the area. Appropriate landscape buffering and screening will be provided to screen adjacent properties and roadways. Buildings and parking lots will meet all required setbacks.

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** the amendment to the General Plan binding element to revise the square footage as submitted by the applicant's attorney.

**General:**

2. The commercial and retail development shall not exceed ~~469,300~~ **501,567** square feet of gross floor area. The office development shall not exceed 420,000 square feet of gross floor area and 5,000 square feet of gross floor area for the preservation of the historic residence. ~~The hotel development shall not exceed a total of 44,000 square feet.~~ The medical diagnostic clinic **hospital and medical office buildings** shall not exceed a total of ~~80,000~~ **298,000** square feet. Outlet structures shall be generally oriented toward the internal roadways as shown on the General District Development Plan.



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**The vote was as follows:**

**YES: Commissioners Brown, Kirchdorfer, Peterson and White**

**NO: No one**

**NOT PRESENT AND NOT VOTING: Commissioner Tomes**

**ABSTAINING: No one**

3:14:03 On a motion by Commissioner Brown, seconded by Commissioner Peterson, the following resolution was adopted.

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** the Detailed District Development Plan based on the staff report and the testimony heard today **SUBJECT** to the following Binding Elements:

**Detailed:**

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. The development shall not exceed 40, 724 square feet of gross floor area.
3. Signs shall be in accordance with the Old Brownsboro Crossing Master Sign Plan.
4. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
5. 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.
6. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested:

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- a. The development plan must receive full construction approval from Construction Permits Review and Transportation Planning Review 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.
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 July 16, 2014 DRC 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.
  11. The address number shall be displayed on a structure prior to requesting a certificate of occupancy for that structure.

**The vote was as follows:**

**YES: Commissioners Brown, Kirchdorfer, Peterson and White**

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**NO: No one**

**NOT PRESENT AND NOT VOTING: Commissioner Tomes**

**ABSTAINING: No one**

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**CASE NO. 14DEVPLAN1068**

Case No: 14DEVPLAN1068  
Project Name: Honest-1 Autocare  
Location: 2801 North Hurstbourne Parkway  
Owner(s): S&L Ventures, LLC  
Applicant: S&L Ventures, LLC  
Representative(s): Mindel, Scott & Associates, Inc.  
Project Area/Size: 1.43 Acres  
Jurisdiction: Louisville Metro  
Council District: 17 – Glen Stuckel  
**Case Manager: Joseph Reverman, AICP, Planning Supervisor**  
**Presented By: 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 DRC meeting. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5<sup>th</sup> Street.)

**Agency Testimony:**

3:14:56 Mr. Brown discussed the case summary, standard of review and staff analysis from the staff report.

**The following spoke in favor of this request:**

Todd Lannig, Mindel, Scott and Associates, 5151 Jefferson Boulevard, Louisville, Ky.

**Summary of testimony of those in favor:**

3:17:50 Mr. Lannig stated, “The franchisee finds it necessary to have additional parking for their lot. They’re also thinking of having a retaining wall/berm combination. The biggest reason to have to put the parking in the buffer area is because it’s an irregular shaped lot.”

**The following spoke in opposition to this request:**

No one

**Summary of testimony of those in opposition:**

None

**The following spoke neither for nor against the request:**

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No one

**Summary of testimony of those neither for nor against:**

None

**Deliberation**

3:21:21 Acting Chairman White said the applicant is providing a 200% increase of shrubbery and plantings to mitigate the impact.

**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.**

3:23:07 On a motion by Commissioner Brown, seconded by Commissioner Peterson, the following resolution was adopted.

**WHEREAS**, the Louisville Metro Development Review Committee finds the waiver will not adversely affect adjacent property owners since the required screening will be provided, since the adjacent property to the south is an undeveloped part of a public park, and since the proposed parking spaces are approximately 70 feet from the edge of pavement of N Hurstbourne Pkwy.; and

**WHEREAS**, Guideline 3, policy 9 of Cornerstone 2020 calls for the protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigate when appropriate. Guideline 3, policies 21 and 22 calls for appropriate transitions between uses that are substantially different in scale and intensity or density, and to mitigate the impact caused when incompatible developments occur adjacent to one another through the use of landscaped buffer yards, vegetative berms and setback requirements to address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances. Guideline 3, policy 24 states that parking, loading and delivery areas located adjacent to residential areas should be designed to minimize the impacts from noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered. Guideline 13, policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. Guideline 13, Policy 7 calls for protection of the character of parkways and scenic byways and corridors through standards for buffers, landscape treatment, lighting and signs. The intent of parkway development standards is to protect existing scenic and aesthetic qualities, to ensure a quality visual experience on developing

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corridors and to protect and improve the visual experience on established corridors. The waiver will not violate guidelines and policies of Cornerstone 2020 since the required screening will be provided, and since the proposed parking spaces are approximately 70 feet from the edge of pavement of N Hurstbourne Pkwy, which will maintain the visual quality of the parkway; and

**WHEREAS**, The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since the required screening will be provided, and since the proposed parking spaces are approximately 70 feet from the edge of pavement of N Hurstbourne Pkwy, which will maintain the visual quality of the parkway; and

**WHEREAS**, the Louisville Metro Development Review Committee further finds The applicant should demonstrate that additional design measures have been provided that exceed the minimums to compensate for non-compliance.

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** the landscape waiver of section 10.3.5 of the Land Development Code to reduce the 30 foot parkway buffer along N. Hurstbourne Parkway to 11 feet based on the staff report , the testimony heard today and the other provisions they've provided to screen.

**The vote was as follows:**

**YES: Commissioners Brown, Kirchdorfer, Peterson and White**

**NO: No one**

**NOT PRESENT AND NOT VOTING: Commissioner Tomes**

**ABSTAINING: No one**

2:23:50 On a motion by Commissioner Brown, seconded by Commissioner Peterson, the following resolution was adopted.

**WHEREAS**, There does 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 proposal provides for safe and efficient vehicular and pedestrian transportation within and around the development and the community, which is unchanged from the previously approved plan; and

**WHEREAS**, There are no open space requirements with the current proposal; and

**WHEREAS**, The Metropolitan Sewer District has approved the preliminary development plan and will ensure the provisions of adequate drainage facilities on the subject site in

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order to prevent drainage problems from occurring on the subject site or within the community; and

**WHEREAS**, The proposal is compatible with the existing commercial development to the north, the existing church to the east, and with the public park to the south, all of which can be expected to remain for the foreseeable future; and

**WHEREAS**, The proposal conforms to the Comprehensive Plan based on the compliance statement used in the change in zoning under case number 13ZONE1013. The plan is largely the same as proposed with that change in zoning request.

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** the Revised Detailed District Development Plan based on the staff report and the testimony heard today with no changes to the existing binding elements.

**The vote was as follows:**

**YES: Commissioners Brown, Kirchdorfer, Peterson and White**

**NO: No one**

**NOT PRESENT AND NOT VOTING: Commissioner Tomes**

**ABSTAINING: No one**

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**CASE NO. 14DEVPLAN1075**

Case No: 14DEVPLAN1075  
Request: Revised General Plan and Detailed District Development Plan with Landscape Waivers  
Project Name: Middletown Commons  
Location: 13315 Shelbyville Road  
Owner: GBT Realty Corporation  
Applicant: GBT Realty Corporation  
Representative: Gresham Smith & Partners  
Jurisdiction: 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 DRC meeting. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5<sup>th</sup> Street.)

**Agency Testimony:**

3:24:41 Mr. Brown discussed the case summary, standard of review and staff analysis from the staff report.

**The following spoke in favor of this request:**

Bill Bardenwerper, Bardenwerper, Talbott and Roberts, 1000 North Hurstourne Parkway, Louisville, Ky.  
Jon Henney, Gresham Smith and Partners, 101 South 5<sup>th</sup> Street, Suite 1400, Louisville, Ky. 40202

**Summary of testimony of those in favor:**

3:28:52 Mr. Bardenwerper said these are amenity details and they will tweak it as they go along.

3:31:51 Mr. Henney explained the need for the waivers.

**The following spoke in opposition to this request:**

No one

**Summary of testimony of those in opposition:**

None



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**The following spoke neither for nor against the request:**

No one

**Summary of testimony of those neither for nor against:**

None

**Deliberation**

3:36:13      Planning Commission 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.**

3:37:12      On a motion by Commissioner Peterson, seconded by Commissioner Kirchdorfer, the following resolution was adopted.

**WAIVERS**  
**(North Property Perimeter Retaining Wall)**

**WHEREAS**, the Louisville Metro Development Review Committee finds The waiver will not adversely affect adjacent property owners since the property is a Louisville Water Company site used for a maintenance facility and industrially zoned beyond this property; and

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

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rural areas. Guideline 13, Policy 6 calls for screening and buffering to mitigate adjacent incompatible uses. The intent of landscape buffer areas is to create suitable transitions where varying forms of development adjoin, to minimize the negative impacts resulting from adjoining incompatible land uses, to decrease storm water runoff volumes and velocities associated with impervious surfaces, and to filter air borne and water borne pollutants. The adjacent areas to the site are not residential in nature and used for public infrastructure and industrial beyond the Louisville Water Company site. The retaining wall will still allow buffering to be provided to meet the intent of the guidelines; therefore, the waiver will not violate specific guidelines of Cornerstone 2020; and

**WHEREAS**, The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant to allow the proposed retaining wall as needed for the proposed development to the rear of the structures; and

**WHEREAS**, the Louisville Metro Development Review Committee further finds the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant by requiring the elimination of the needed retaining wall or extending the buffering into needed vehicular use area for access to the rear of the buildings.

**WAIVERS**  
**(Sidewalk Encroachment)**

**WHEREAS**, The waiver will not adversely affect adjacent property owners since the buffer is in an area adjacent to the interior access road; and

**WHEREAS**, Guideline 3, policy 9 of Cornerstone 2020 calls for the protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigate when appropriate. Guideline 3, policies 21 and 22 calls for appropriate transitions between uses that are substantially different in scale and intensity or density, and to mitigate the impact caused when incompatible developments occur adjacent to one another through the use of landscaped buffer yards, vegetative berms and setback requirements to address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances. Guideline 3, policy 24 states that parking, loading and delivery areas located adjacent to residential areas should be designed to minimize the impacts from noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered. Guideline 13, policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. Guideline 13, Policy 6 calls for screening and buffering to mitigate adjacent incompatible uses. The intent of landscape buffer areas is to create suitable transitions

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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 air borne and water borne pollutants. The adjacent areas to the out lot are along the access road and the overall site will be providing the required planting materials while meeting the pedestrian connection requirements; therefore, the waiver will not violate specific guidelines of Cornerstone 2020; and

**WHEREAS**, The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant to allow the needed pedestrian connectivity to be provided from the out lot; and

**WHEREAS**, The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant by requiring the elimination of the needed sidewalk or extending the buffer further into the site with elimination of parking or vehicular use area.

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the City of Middletown **APPROVAL** of Waiver 1, a landscape waiver from chapter 10.2.4 of the 2004 Land Development Code to allow a retaining wall to encroach into the required landscape buffer and Waiver 2, a landscape waiver from chapter 10.2.10 of the 2004 Land Development Code to allow a 5 foot sidewalk to encroach into the vehicular use area landscape buffer based on the staff report, testimony heard today and the exhibits.

**The vote was as follows:**

**YES: Commissioners Brown, Kirchdorfer, Peterson and White**

**NO: No one**

**NOT PRESENT AND NOT VOTING: Commissioner Tomes**

**ABSTAINING: No one**

3:38:34 On a motion by Commissioner Peterson, seconded by Commissioner Kirchdorfer, the following resolution was adopted.

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

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**WHEREAS**, Provisions for safe and efficient pedestrian transportation within and around the development and the community has been provided and the vehicular transportation meets the needs of the proposed development; and

**WHEREAS**, The open spaces requirements of the site are met with the focal point and amenity areas to be provided throughout the property; and

**WHEREAS**, 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

**WHEREAS**, 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. The buildings will follow the proposed pattern book to incorporate the property into the larger Regional Center; and

**WHEREAS**, the Louisville Metro Development Review Committee further finds the development plan conforms to applicable guidelines and policies of the Comprehensive Plan with the proposed master plan pattern book that establishes a unique character for the development and unifies the appearance of the lots in their building, landscape and amenities area design. It meets the requirements of the Land Development Code with the exception of the requested waivers. The requested waivers follow the intent of the Comprehensive Plan and the 2004 Land Development Code.

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the City of Middletown, **APPROVAL** of the amendment to the binding elements and a Revised General/Detailed District Development Plan based on the staff report; also, there is a change on page 11 of the staff report, binding element number 23 – July 16, 2014 DRC meeting, **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 and to the City of Middletown for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. Prior to development of each tract/building or phase of this project, the applicant, developer, or property owner shall obtain approval from the Planning Commission and City of Middletown of building design in accordance with

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Chapter 5 of the LDC. The façade elevations shall be in accordance with the Suburban Form District building design standards.

3. Use of the subject site shall be limited to office, retail, restaurants, bank and hotel, and other uses permitted in the C-1 district. There shall be no other use of the property unless prior approval is obtained from the Planning Commission. Notice of a request to amend this binding element shall be given in accordance with the Planning Commission's policies and procedures. The Planning Commission may require a public hearing on the request to amend this binding element.
4. The development shall not exceed 272,000 square feet of gross floor area.
5. Signs shall be in accordance with the City of Middletown sign regulations.
6. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
7. The access to the site must be provided from the curb cut on Shelbyville Rd, N. English Station Rd and Data Vault Drive as shown on the development plan.
8. 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.
9. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, or alteration permit or demolition permit is requested:
  - a. The development plan must receive full construction approval from Louisville Metro Department of Codes and Regulations Construction Permits and Transportation Planning Review and the Metropolitan Sewer District.
  - b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
  - c. The property owner/developer must obtain approval by the Planning Commission and the City of Middletown 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. Any landscaping shown in the scenic corridor must be installed and maintained as possible after

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- clearing. There shall be no removal of the existing landscaping or required landscaping without City Commission approval. In the event any tree or landscaping is removed without written consent of the City, the City may require the owner/applicant to replace with a tree of similar size and age (when cut), or as approved by the City Commission. Any replacement tree or trees shall be such as are deemed adequate by the City to mitigate the impact.
- 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. Approval of the Tree Preservation Plan and a Tree Inventory by Middletown is required prior to clearing or removal of trees.
  - e. A major record plat must be recorded creating Tracts 1, 2 and 3, private access easements and designate a portion of Data Vault Drive as public road as shown on the development plan.
  - f. The appropriate variances shall be obtained from the Board of Zoning Adjustment to allow the development as shown on the approved district development plan.
10. A certificate of occupancy must be received from the appropriate code enforcement department, after review and approval by the City of Middletown, 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 and the City of Middletown.
11. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line or permitted on the site.
12. 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.
13. 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

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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.

14. The final style and design of each building shall be reviewed and approved by the Planning Commission, DRC, or LD&T Committee and the City of Middletown and be consistent with the general style and design presented at the October 24<sup>th</sup> LD&T meeting, prior to obtaining building permits for individual buildings.
15. Construction plans, bond, and KTC permit are required by Metro Public Works prior to road construction approval and issuance of MPW encroachment permit. Construction approvals for the site shall not be granted until such time as Kentucky Transportation Cabinet (KTC) improvements as shown on the development plan have been let for construction and bonds have been secured and encroachment permits issued for improvements which are the responsibility of the developer. Developer shall not request a Certificate of Occupancy (CO) for the site until all offsite road improvements as shown on the development plan, approved road improvement exhibit dated 02/16/10 and included in the BTM Engineering Traffic Impact Study (TIS) have been constructed and any required signal installations and modification have been implemented.
16. Prior to submittal of a revised development plan (or a construction plan if no revised development plan is required) or approval of the office building, which shall also require the approval of the City of Middletown, shown on the detailed district development plan approved at the February 19, 2010 Planning Commission public hearing ("Plan") or any other construction generating a greater number of trips (as estimated by the most current version of the ITE Trip Generation Manual) than would be generated by the uses shown on the Plan, an updated traffic study shall be submitted and approved by Metro Public Works and the Kentucky Transportation Cabinet. If Metro Public Works or the Kentucky Transportation Cabinet determines that additional roadway improvements are required, based on the traffic study, such improvements shall be made by the applicant prior to the issuance of a certificate of occupancy. If such additional roadway improvements are not directly necessitated by the applicant's impact on the roadway network, the applicant shall contribute a proportionate share, based on trip generation, for those improvements to Metro Public Works, and shall delay construction until such time as the improvements have been constructed.

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17. Developer shall be responsible for any required utility relocations, final surface overlay, signage, signal installation and striping associated with required road improvements to Shelbyville Road, North English Station Road, Data Vault Drive and the portions of the proposed entrance drive within the right-of-way.
18. All street signs shall be installed by the Developer and shall conform to 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 structure with access from the street and shall be in place at the time of any required bond release. The address number shall be displayed on a structure prior to requesting a certificate of occupancy for that structure.
19. An encroachment permit and bond may be required by Metro Public Works for roadway repairs on all surrounding access roads to the site due to damages caused by construction traffic activities.
20. Per the approved road improvement exhibit dated 02/16/10, Metro Public Works requirements and KTC requirements, the applicant shall provide the following:

For Shelbyville Road, install a right turn lane for the proposed right-in-right-out access. Turn lane shall measure 150' in storage length with a 100' taper. The southbound approach from North English Station Road at its intersection with Shelbyville Road shall be widened to provide an additional southbound left turn lane. The widening shall continue northward on North English Station to accommodate required taper lengths as necessary.

Developer shall be responsible for signal installation at N. English Station and Data Vault Dr. and required modifications to the existing traffic signal at the intersection of N. English Station and Shelbyville Road.

If proposed KTC multiuse path along Shelbyville Road frontage has not been installed at the time of site construction, the area of the path shall be pregraded per KTC requirements. If path has been installed at the time of site construction, the path will be relocated to accommodate Shelbyville Road improvements per KTC requirements.
21. The applicant shall contribute a proportionate share, not to exceed \$10,000, to the cost of the installation of a traffic signal at the intersection of N. English Station Road and Aiken Road (N). This contribution shall be made at the request of Metro Public Works at such time as Metro Public Works is prepared to install this signal.
22. Once the site is cleared, it must be seeded with grass and kept free from overgrowth (weeds or grass over one foot high) and secured, as best is possible,



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from dumping. In any event the site must be kept in compliance with City of Middletown Ordinances #15, Series 1984; #5, Series 1987, #8, Series 1982.

23. The development shall be substantially in accordance with the "Development Design Guidelines & Pattern Book," as presented at the ~~October 24<sup>th</sup>, 2013 LD&T~~ **July 16<sup>th</sup>, 2014 Development Review Committee** meeting.
24. An irrevocable access easement required to the Louisville Water Company site adjacent to the proposed development is required to be submitted to staff and legal counsel for the Planning Commission for final approval prior to building permits.

**The vote was as follows:**

**YES: Commissioners Brown, Kirchdorfer, Peterson and White**

**NO: No one**

**NOT PRESENT AND NOT VOTING: Commissioner Tomes**

**ABSTAINING: No one**

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**CASE NO. 14DEVPLAN1076**

Case No: 14DEVPLAN1076  
Request: Revised Detailed District Development Plan with a Landscape Waiver  
Project Name: Jefferson Commons  
Location: 4901 Outer Loop  
Owner: GBT Realty Corporation  
Applicant: GBT Realty Corporation  
Representative: Gresham Smith & Partners  
Jurisdiction: Louisville Metro  
Council District: 24 – Madonna Flood  
**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 DRC meeting. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5<sup>th</sup> Street.)

**Agency Testimony:**

3:39:46 Mr. Brown discussed the case summary, standard of review and staff analysis from the staff report.

**The following spoke in favor of this request:**

Jon Henney, Gresham Smith and Partners, 101 South 5<sup>th</sup> Street, Suite 1400, Louisville, Ky. 40202

**Summary of testimony of those in favor:**

3:42:35 Mr. Henney stated, "Because our construction document design since the original development plan was approved has changed, it required a retaining wall in the rear to make the grades work and because we have a structure in a required landscape buffer is what brought us back today for the waiver request."

**The following spoke in opposition to this request:**

No one

**Summary of testimony of those in opposition:**

None

**The following spoke neither for nor against the request:**

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No one

**Summary of testimony of those neither for nor against:**

None

**Deliberation**

3:44:02      Planning Commission 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.**

3:44:40      On a motion by Commissioner Brown, seconded by Commissioner Kirchdorfer, the following resolution was adopted.

**WHEREAS**, the Louisville Metro Development Review Committee finds The waiver will not adversely affect adjacent property owners since all required planting and screening materials will be provided; and

**WHEREAS**, Guideline 3, policy 9 calls for the protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigate when appropriate. Guideline 3, policies 21 and 22 calls for appropriate transitions between uses that are substantially different in scale and intensity or density, and to mitigate the impact caused when incompatible developments occur adjacent to one another through the use of landscaped buffer yards, vegetative berms and setback requirements to address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances. Guideline 3, policy 24 states that parking, loading and delivery areas located adjacent to residential areas should be designed to minimize the impacts from noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered. Guideline 13, policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. The intent of landscape buffer areas is to create suitable transitions where varying forms of development adjoin, to minimize the negative impacts resulting from adjoining incompatible land uses, to decrease storm water runoff volumes and velocities associated with impervious surfaces, and to filter air borne and water borne pollutants. The intent will be met with the required planting and screening materials of the Land Development Code; and

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**WHEREAS**, The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since the buffer area will be provided with the screening and planting materials despite the retaining wall construction within the buffer; and

**WHEREAS**, the Louisville Metro Development Review Committee further finds The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant by restricting the area needed for circulation to the rear of the site with the need to extend the buffer to accommodate the retaining wall in accordance with the Land Development Code regulations.

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** the landscape waiver from chapter 10.2.4.B of the Land Development Code to allow a retaining wall to be placed in the required landscape buffer area based on the staff report and the testimony heard today.

**The vote was as follows:**

**YES: Commissioners Brown, Kirchdorfer, Peterson and White**

**NO: No one**

**NOT PRESENT AND NOT VOTING: Commissioner Tomes**

**ABSTAINING: No one**

3:45:16 On a motion by Commissioner Brown, seconded by Commissioner Kirchdorfer, the following resolution was adopted.

**WHEREAS**, The proposal preserves the 25' streamside buffer along the Southern Ditch at the southwestern corner of the property and the historic resources of the property were to be recorded prior to any demolition or site disturbance on the property. Tree canopy requirements of the Land Development Code will be provided on the subject site; and

**WHEREAS**, 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 open spaces requirements of the site are met with the focal point and amenity areas to be provided throughout the property; and

**WHEREAS**, The Metropolitan Sewer District has approved the preliminary development plan and will ensure the provisions of adequate drainage facilities on the subject site in

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order to prevent drainage problems from occurring on the subject site or within the community; and

**WHEREAS**, 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. The buildings will follow the proposed pattern book to incorporate the property into the larger Regional Center; and

**WHEREAS**, The development plan conforms to applicable guidelines and policies of the Comprehensive Plan with the proposed master plan pattern book that establishes a unique character for the development and unifies the appearance of the lots in their building, landscape, amenities and signage design. It meets the requirements of the Land Development Code with the exception of the requested landscape waiver. The requested waiver follow the intent of the Comprehensive Plan by providing all required screening and planting materials.

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** the Revised Detailed District Development Plan and the binding element (no. 8) amendment on page 10 of the staff report; based on the staff report and the testimony heard today for Case No. 14DEVPLAN1076, **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. The development shall not exceed 226,855 square feet of gross floor area.
3. Signs shall be in accordance with Chapter 8 or as presented at the public hearing.
4. Before any permit (including but not limited to building, parking lot, change of use, alteration 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 for the areas under construction.

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- 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 for the areas under construction. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
  - c. A minor subdivision plat shall be recorded creating the lot lines as shown on the development plan and dedicating additional right-of-way. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
  - d. The appropriate variances shall be obtained from the Board of Zoning Adjustment to allow the development as shown on the approved district development plan.
5. A reciprocal access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be created between the adjoining property owners and recorded. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
6. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
7. Within 200 feet of the common property boundary of the residential lots fronting on Monaco Drive or Buena Vista Court no building or parking garage shall exceed thirty-five (35) feet in height excluding design/architectural elements which shall not exceed forty-five (45) feet in height.
8. The perimeter buffer areas shown on the approved General District Development Plan shall be binding on all approved Detailed District Development Plans. The width of the perimeter buffer areas shown on the plan approved on ~~October 24<sup>th</sup>, 2013~~ **July 16, 2104** at the ~~LD&T~~ **Development Review Committee** meeting shall be deemed minimum widths. Except for tapers and breaks for pedestrian access the minimum height of berms within the perimeter buffer areas shall be as shown on the General District Development Plan.
9. Loading docks. Loading docks which are located within 200 feet of the common property boundary of the residential lots fronting on Monaco Drive or Buena Vista

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Court or which face a public right-of-way shall be screened with a wall ("screen wall") which is integrated into the building or building extension through the placement of its façade.

10. Building materials. The building materials of all facades facing public areas shall be brick, stone, stucco, cementitious siding, glass or a combination thereof.
11. (A). Prohibited Uses. The following uses otherwise permitted in Commercial District C-2 shall be prohibited:

- Auction sales
- Automobile repair garages
- Automobile sales agencies
- Billiard parlors, game rooms and similar entertainment uses
- Bingo halls and parlors
- Boat sales and related storage
- Bookbinding
- Contractor's shop, including but not limited to building, electrical, HVAC, landscaping, and plumbing contractors
- Dance halls
- Exposition building or center
- Flea markets
- Fraternities, sororities, clubs and lodges excluding those where the chief activity of which is a service customarily carried on as a business
- Furniture, storage
- Indoor paint ball ranges
- Plasma, blood collection centers, for profit
- Plumbing and heating shops, storage and sales
- Printing, lithographing, or publishing establishments
- Public transportation passenger terminals
- Public utility buildings and facilities
- Refrigerated lockers
- Rubber stamp manufacture
- Sign painting
- Skating rinks (ice or roller)
- Tattoo, body art, and piercing parlors
- Telephone exchanges
- Tourist homes
- Training schools
- Used car sales
- Uses located within caverns developed under a Conditional Use Permit for underground space

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- (B). Conditional Uses. Certain uses may be permitted in this district upon the granting of a conditional use permit by the Board of Zoning Adjustment. Refer to Chapter 4 Part 2 of the Land Development Code for a listing of uses and requirements that apply to specific uses.
12. The development shall be substantially in accordance with the "Development Design Guidelines & Pattern Book," as presented at the October 24<sup>th</sup>, 2013 LD&T meeting. Architectural renderings of proposed structures shall be reviewed by staff.
13. Prior to issuance of a demolition permit or ground disturbance of the site:
- (a). Applicant shall photographically document the subject property using the National Parks Service archival photographic standards (see <http://www.nps.gov/history/nr/policyexpansion.htm#basic>). Applicant shall consult with Landmarks Commission professionals prior to undertaking the documentation of the subject site.
  - (b). Applicant shall also complete a Kentucky Historic Resources Inventory Form available from the Kentucky Heritage Council.
  - (c). Testing of or probing the ground surface for purposes of environmental, engineering, geo-technical or other analysis shall not constitute ground disturbance.
14. A roadway connection from the development to Private Road "A" of the Jefferson Mall Company II, LLC property shall be made if and when permitted by Jefferson Mall. The location of this connection shall be subject to the prior approval of the Metro Department of Public Works.
15. The applicant shall provide road improvements to Outer Loop, Robbs Lane, and Buena Vista per the approved road schematics and Metro Public Works (MPW), and Kentucky Transportation Cabinet (KYTC) standards. The applicant shall be responsible for final surface overlay, signage, striping, utility relocation and signal modifications associated with the improvements. (KYTC) permit and bond shall be obtained prior to construction approval and issuance of encroachment permit by (MPW). Improvements except those to Buena Vista Court shall be completed prior to the request for certificate of occupancy for the detailed areas being developed in Phase I (west side). Improvements to the southbound approach of Buena Vista Court shall be completed prior to the request for certificate of occupancy for the detailed areas being developed in Phase II (east side).



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

**The vote was as follows:**

**YES: Commissioners Brown, Kirchdorfer, Peterson and White**

**NO: No one**

**NOT PRESENT AND NOT VOTING: Commissioner Tomes**

**ABSTAINING: No one**

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**ADJOURNMENT**

The meeting adjourned at approximately 5:03 p.m.

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**Chair**

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**Planning Director**