

**DEVELOPMENT REVIEW COMMITTEE OF THE LOUISVILLE  
METRO PLANNING COMMISSION  
MINUTES**

**March 19, 2014**

**MEMBERS PRESENT**

\*David Tomes, Chairman  
Robert Kirchdorfer, Commissioner  
Jeff Brown, Commissioner  
Donnie Blake, Commissioner  
Robert Peterson, Jr., Commissioner

**MEMBERS ABSENT**

Chip White, Vice Chairman

**STAFF MEMBERS PRESENT**

Emily Liu, Director of Planning and Design Services  
April Robbins, Code Enforcement Supervisor  
Steve Hendrix, Planning and Design Supervisor  
Joe Reverman, Planning and Design Supervisor  
David Wagner, Planner II  
Julia Williams, Planner II  
Matthew R. Doyle, Planner I  
Tammy Markert, Traffic Planning Coordinator  
Jessica Wethington, Planning Information Specialist  
John Carroll, Legal Counsel  
Pamela M. Brashear, Management Assistant

**APPROVAL OF MINUTES FROM MEETING**

4:38 (Digital Recording) Commissioner Peterson moved to **APPROVE** the minutes from March 5, 2014. Commissioner Brown seconded the motion. Unanimously approved.

**The vote was as follows:**

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

**NO: No one**

**NOT PRESENT: Commissioners Tomes and White**

**ABSTAINING: No one**

\*Chairman Tomes arrived at 1:35 p.m.

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**NEW BUSINESS:**  
**CASE NO. 14WAIVER1005**

Project Name: Locust Creek Villa Homes  
Location: 18315 Shelbyville Road  
Owner(s): Creek Partners LLC  
Applicant: Creek Partners LLC  
Representative(s): Sabak Wilson and Lingo Inc.  
Project Area/Size: 8.12 Acres  
Existing Zoning District: R-4  
Existing Form District: Neighborhood  
Jurisdiction: Louisville Metro  
Council District: 19-Jerry Miller  
**Case Manager: Julia Williams, AICP, Planner II**

**An audio/visual recording of the Development Review Committee related to this case is available in the Planning and Design Services offices. Please contact the Customer Service staff to view the recording or to obtain a copy. The recording of this meeting will be found on the cd of the March 19, 2014 proceedings.**

**SUMMARY OF STAFF PRESENTATION:**

5:31 (Digital Recording) The applicant requests a waiver from chapter 5.8.1.B to not provide sidewalks along lots 1-13 and open space lot 26 as indicated on the plan.

The proposal is for 25 buildable lots and 1 open space lot. The land is relatively flat with no distinguishing features.

All technical review comments have been addressed and staff found the proposal does not meet the requirements of the Land Development Code or the guidelines of the Comprehensive Plan. There was no evidence submitted that indicated that sidewalks cannot be constructed.

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

Pat Dominik, Sabak, Wilson and Lingo, 608 South 3<sup>rd</sup> Street, Louisville, Ky. 40202

**The following spoke in opposition:**

No one

**SUMMARY OF TESTIMONY OF PROPONENTS:**

6:49 Mr. Dominik stated Public Works proposed a compromise at the public hearing in September – a single route to what’s being proposed now. Transportation Planning is in support of the proposal and there’s an email in the file to that effect.

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Mr. Dominik indicated that the plan shows a perimeter road around the outside so the houses face the street and that a sidewalk is being provided around the interior and out to Locust Creek Blvd. The applicant thought that providing sidewalks on both sides of the street where there are no houses is a hardship. Commissioner Blake asked to see the email from Tammy Markert. Mrs. Williams confirmed the email was sent as Mr. Dominik indicated.

9:50 Commissioner Brown stated that he would like to see sidewalks everywhere but if the applicant were to break the loop road then there would be 2 cul-de-sacs which wouldn't have to provide sidewalks. Sidewalks on the internal island allows for some connectivity.

11:15 Mr. Dominik said it would be very difficult to prove a hardship for constructing the sidewalks. There are steep driveways but they could be built.

11:53 Ms. Markert stated that the design was similar to what they discussed when the proposal came with the change in zoning. It was a compromise to providing sidewalks on every frontage.

**SUMMARY OF TESTIMONY OF OPPONENTS:**

None

**DISCUSSION:**

12:22 Commissioner Peterson said the proposal makes sense based on the layout of the lots.

12:30 Commissioner Kirchdorfer said he likes the compromise and the applicant will be providing sidewalks on the majority of the lots. There's a nice flow and he's in support of the project.

13:04 Commissioner Brown requests a handicap ramp. Mr. Dominik said they will provide it.

**REBUTTAL:**

None

**ACTION**

14:22 Commissioner Peterson moved to **APPROVE** the waiver based on Transportation Planning's report, the process for the sidewalks as presented along with the handicap access ramp at that intersection, testimony heard today and the applicant's justification. Commissioner Kirchdorfer seconded the motion. Motion carried unanimously.

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**WHEREAS**, the sidewalk waiver is internal to the development. There are no through streets that require sidewalks for connectivity to other parts of the subdivision. The residents of this community will still be provided pedestrian access to the greater Locust Creek sidewalk network along Locust Creek Boulevard; and

**WHEREAS**, there are no through streets in this development and there are only 25 buildable lots. Sidewalks are already not required on streets containing 20 or fewer units. An initial concept plan for the site, shown in Exhibit “B” proposed a discontinuous roadway plan that would have complied with the 20-lot requirement. However, by connecting the street and creating through vehicular circulation, the 25 total lots exceeded the minimum street standard for avoiding sidewalks. A sidewalk will be provided along one side of the interior loop road with a sidewalk connection to Locust Creek Boulevard and the larger Locust Creek sidewalk network, therefore this waiver will not violate the Comprehensive Plan and both vehicular and pedestrian connectivity is maintained; and

**WHEREAS**, the applicant is proposing sidewalks along the one side of the interior loop road with a sidewalk connection to Locust Creek Boulevard in keeping with the character of the overall neighborhood. The relief sought by the applicant is only for interior streets within the development; and

**WHEREAS**, the development plan for the Locust Creek Villas was designed so that the fronts of houses face exterior streets – Locust Creek Boulevard and Shelbyville Road (U.S. 60). As a result, the perimeter streets are single-loaded with houses on only one side of the street. By incorporating this design measure, the plan is more visually appealing from perimeter streets and complements the existing Locust Creek neighborhood. The development is compact with no through access proposed.

All residents in the neighborhood will either have sidewalk access directly in front of their home or on the other side of the street. Requiring the developer to construct sidewalks on both sides of the street, in some cases where there are no homes, represents an unnecessary hardship.

**RESOLVED**, that the Development Review Committee does hereby **APPROVE** the sidewalk waiver for Case No. 14WAIVER1005.

**The vote was as follows:**

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

**NO: No one**

**NOT PRESENT: Commissioners Tomes and White**

**ABSTAINING: No one**

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**NEW BUSINESS:**  
**CASE NO. 13DEVPLAN1124**

Request: Revised Detailed District Development Plan and Amendment to Binding Elements for the Herald Development. There are no changes to the plan or binding elements as this is for the sole purpose to reapprove an expired plan.

Project Name: Herald Development  
Location: 3610 Lexington Road  
Owner: Herald Development Group, LLC  
Applicant: Herald Development Group, LLC  
Representative: Bardenwerper, Talbott & Roberts, PLLC  
Jurisdiction: Louisville Metro  
Council District: 9 – Tina Ward-Pugh  
**Case Manager: David B. Wagner – Planner II**

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**SUMMARY OF STAFF PRESENTATION:**

16:59 (Audio Recording) The applicant requests a Revised Detailed District Development Plan and amendment to the binding elements.

This request is for the re-approval of the Detailed District Development Plan approved by the Planning Commission in conjunction with the re-zoning to OR (Office/Residential) in 2011. The approved plan for the site was never implemented and the property was cited for non-compliance. On November 7, 2013, Planning Commission legal counsel recommended the case to enter a binding element final order be deferred indefinitely since code enforcement was working with the owner to come into compliance. The owner has since submitted this application to re-approve the expired plan, stating she has had health issues and does not have the financial resources to implement the plan. The property has been put up for sale in hopes that with this re-approved plan, the site can be sold to someone that can bring the site into compliance with the plan and binding elements.

20:05 Ms. Robbins is here to answer any questions dealing with enforcement. “Once this presented in December, everything was put on hold as far as the binding element citation we sent concerning the inability for the owner to get all of their required binding elements addressed.”

20:54 Commissioner Kirchdorfer asked if the building was occupied when Code Enforcement went to the site. Ms. Robbins said yes. ‘The building was occupied by Commercial and the owner was living on the residence as well. They have not lived up

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to several binding elements concerning landscaping, the parking lot reconfiguration and some fencing issues. The sign was never an issue.”

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

Bissell Roberts, Bardenwerper, Talbott and Roberts, 1000 North Hurstbourne Parkway, Louisville, Ky.  
Dorothy R. Inman, 406 Cornell Place, Louisville, Ky. 40207

**The following spoke in opposition:**

Steve Porter, 2406 Tucker Station Road, Louisville, Ky. 40299  
Robert Webb, 224 Cornell Place, Louisville, Ky. 40207  
Dana Webb, 224 Cornell Place, Louisville, Ky. 40207  
Marilynn Hettich, 3316 Lexington Road, Louisville, Ky.  
Diane Cooke, 3318 Lexington Road, Louisville, Ky.

**SUMMARY OF TESTIMONY OF PROPONENTS:**

22:17 Mr. Roberts represents Herald Development with Dottie Inman as the sole owner. The property has always been used as commercial.

Mr. Roberts handed out booklets. He asked the committee members to look at before and after pictures to show the applicant did spend approximately \$50,000 for improvements. Ms. Inman also had to spend about \$35,000 for the zoning change process. She had financial and health issues. The property is for sale but the potential buyers are waiting for the binding element disputes to be settled.

Mr. Roberts remarked, “What we’re asking for today is basically for you to approve the exact plan that was approved in 2011. We’d like 2 years because it will take some time for a new owner to come in and do this.”

27:30 Ms. Inman remarked, “I’m sorry that things turned out the way they did for myself and my neighbors. I certainly didn’t plan it to be that way but it is what it is. This is the only property I have left and I sold the house I was in and I’m living in 500 square feet in the back. If I had any money at all trust me I’d be doing this so I could keep that property. I believe I’m selling it well under what its valued and we still haven’t had a single offer. There are a couple of issues that have to be resolved with the binding elements and until they’re resolved, no one wants to make an offer. It’s in the heart of St. Matthews.”

28:44 Mr. Roberts remarked, “I guess there are some people here from the neighborhood association, but no one has approached my client, at any time she’s owned it, to complain about the way she’s maintained or used this property. It looks better today than when she purchased it. It has been a financial struggle and she basically is unable to come up with the \$30,000 or \$40,000 needed to implement the binding elements.” Commissioner Blake asked which binding elements are in question. Mr. Roberts said landscaping is one. Ms. Inman added, fencing needs to be put up and parking lot reconfiguration.

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40:46 Mr. Porter represents the Lexington Road Preservation Association. "Planning Commission minutes November 7, 2013 was brought up to enter a binding element final order by Jon Baker. It was agreed upon at that time that a grace period would be allowed – previously there had been a grace period allowed and there was no compliance. Jon advised Code Enforcement to re-cite the owner. Has that happened since November 7<sup>th</sup>?" Ms. Robbins said she cited them again on November 8<sup>th</sup>.

Mr. Porter said the parking is a major concern as it is unsightly and illegal. "We understand Ms. Inman's financial problem but she does have a tenant paying rent (I assume). It's a real estate company which would be o.k. under the OR zoning if everything had been complied with but nothing has been complied with. Our major concern from a safety standpoint, appearance standpoint and code violation standpoint are the parking spaces over the sidewalk and into the right-of-way. This plan was supposed to get rid of those and they're still being used. The non-conforming use was lost in the past and that's why it went through rezoning. We don't want to see a 2 year extension – it's been going on since 2009. The improvements that were made (that Bissell shows) were made prior to the rezoning application (2006 or 2007)." The parking situation needs to be changed immediately, then the landscaping and fence.

49:35 Mr. Webb has lived in his home almost 40 years. The plan did not include the basement and there are people living in the basement right now.

Mr. Webb suggests reverting the building back to R-7 and it will sell in one week. "I want to live in a residential area that I can walk a couple of blocks to restaurants and so forth but I don't want all this traffic, noise and offices around me. Also, there's no way they can have enough parking for the amount of square footage she's talking about putting in there."

53:18 Mrs. Webb remarked, "I do believe there's a little bit of discrepancy in what Ms. Inman said today implying that the basement square footage is and has always been for storage. We take walks frequently and have noticed someone living down there. Also, during the past year, prior to putting the property on the market for sale, there was advertising for leasing and there was a little for rent sign indicating the lower level." There's more square footage in the basement, therefore it will affect the parking.

54:44 Ms. Hettich said she's a walker and has witnessed people having to walk in the street because of the cars being parked on the sidewalk.

55:17 Ms. Cooke, President of the Lexington Rd. Preservation, stated "We had over 500 signatures against the zoning change so the neighbors don't really want

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commercial property going down the street. I don't know if there's a procedure to revert that (zoning) back because the binding elements were never implemented, but we would love to see it changed back to the original zoning."

**DISCUSSION:**

32:39 Commissioner Blake asked, "What's the status of the fine?" Ms. Robbins replied, "It's a requested fine. I don't have the authority to put a fine on it, the Planning Commission does. Our proposal was \$1,000 a day but you haven't heard it. After the citation was hand delivered to the owner, they came in with the application."

36:39 Commissioner Tomes asked if the building is currently occupied. Mr. Roberts said yes, Ms. Inman is staying in the small building and the building in the front is occupied by a real estate office on the first floor. Mr. Roberts added, "At the time of the original zoning application, my client had a real estate office there. Because she was told she wasn't in compliance with zoning, she had to close down that office from which she had 2 or 3 agents working for her, and relocate her own license so the building basically was not occupied for about a year and a half." Ms. Inman added, "It was mostly not occupied. I did have one tenant move in upstairs for a brief time but no one has occupied the small building where I live. There are 3 separate metered units and the basement floor cannot be leased for an apartment as it was. I had to have him leave because the windows in the back were too small to get out of. It has to be leased for storage or an office."

59:03 Commissioner Blake said the parking was a major issue regarding this case (in past) – backing out on Cornell, parking and traffic. Mr. Wagner added, "Concerning the binding elements on page 6 (staff report), the uses, even though zoned OR Office Residential are more restrictive in binding element 6 to accessory uses, single family dwelling, professional business offices, Dr. offices and a home occupation." Commissioner Blake said the applicant agreed to it and it was a part of the process to grant the rezoning.

1:01:21 Mr. Wagner remarked, "The plan shows one story and does not mention a basement in the parking calculations or on the actual site."

1:01:44 Commissioner Peterson asked how long would it take to sell the property if granted the 2 year extension. Ms. Inman said 2 years. Mr. Roberts thinks it can be sold in 1 year giving the new owner some time to implement the plan - a bare minimum of 18 months.

1:05:03 Mr. Porter remarked, "The complaints on this came in 2009. The violation of the parking was the first thing that was so obvious. It was supposed to be residential but there was a sign saying it was a real estate company. We have no reason to think a



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2 year extension will be sufficient unless you put in a condition that immediately the parking needs to be resolved.”

1:07:14 Commissioner Peterson is concerned with the parking issue and wants it rectified as soon as possible.

1:08:51 Commissioner Brown suggests having the applicant post an Encroachment Bond.

1:09:44 Commissioner Kirchdorfer suggests installing bumper blocks.

1:10:52 Commissioner Tomes suggests closing 3 or 4 parking spaces and letting people park on the street.

1:13:00 Commissioner Blake said he’s extremely uncomfortable with approving the extension. The case was very contentious and there was an understanding, as part of the process, to do everything that was agreed upon to make it more compatible with the neighborhood. “It hasn’t been done and I have no confidence that if we do an extension for 2 years, that it’s going to get done. When we did this through the Planning Commission, if we didn’t think these things were going to be done, I don’t think it would have been approved. We have a reasonable expectation that when we create these binding elements, they’re going to be done in a timely fashion. Now we’re 3 years out and I have a problem with it.”

1:14:42 Ms. Robbins stated, “If the case is not approved today with a 2 year extension, or whatever time frame, what is the Enforcement end of this?”

1:15:10 Mr. Roberts suggests less than a 2 year extension, a requirement to report back quarterly regarding the sale of the property, provide parking blocks and shrubbery. These would be conditions of approval for the extension. “Denying the application completely would create a bigger problem.”

**REBUTTAL:**

56:03 Mr. Roberts said the property is not zoned commercial, but for office use. “The very reason we’re here is because my client doesn’t have the resources to implement this plan so if the people have concerns about the parking, which to my knowledge has been this way for 40 years, the way to correct it is to let somebody go ahead implement the plan that’s been approved. By not giving us an extension, you’re just going to maintain the status quo. Several years ago Metro government allowed 4 year extensions for implementing development plans. My client could have had 4 years if she would have requested it at the correct time but didn’t.” Commissioner Blake said it’s been 3 years.

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1:02:10 Ms. Inman said the basement is vacant and has never been rented commercially.

**ACTION**

1:28:14 Commissioner Brown moved to **APPROVE** the RDDDP and the amendment to the binding elements **ON CONDITION** that the applicant post an Encroachment Bond for Public Works – for work in the public right-of-way removing asphalt and restoring the sidewalk - prior to approval of the minutes of this meeting, April 2, 2014, and that we **GRANT** a 6 month extension on the RDDDP for the applicant to come into compliance with all the requirements of the original rezoning development plan. Commissioner Peterson seconded the motion. Motion carried with one abstention.

**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 has been provided. Changes to the parking along Cornell Place will improve the safety of vehicular and pedestrian transportation. Metro Public Works has approved the preliminary development plan; and

**WHEREAS**, Open Space is not required for this 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 overall site design and land uses are compatible with the existing and future development of the area. Landscaping will be provided to screen adjacent properties and roadways; and

**WHEREAS**, The development plan appears to conform to the intent of guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code.

**RESOLVED**, that the Development Review Committee does hereby **APPROVE** the RDDDP for Case No. 13DEVPLAN1124, subject to the following binding elements:

**Binding Elements**

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1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
3. Before any permit (including but not limited to building, parking lot, change of use, site disturbance or alteration 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.
4. 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.
5. 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.
6. The only permitted uses on this property shall be:
  - A. Accessory uses;
  - B. Single family dwelling;
  - C. Offices, professional and business;

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- D. Doctors' offices (including physicians, dentists, psychologists, chiropractors or podiatrists, but not including veterinarians); and
  - E. Home occupation provided not more than one non-resident employee shall be permitted to be at the site at any one time. (Additional non-resident employees shall not be permitted to be at the site at any one time)
7. No conditional uses shall be permitted on this property except those that are specifically permitted in the OR District as "permitted uses".
  8. Only one free-standing sign shall be permitted. The sign shall be located on the Lexington Road frontage of the property and shall be monument style. The sign area shall not exceed 18.5 square feet; the sign shall not exceed 4 feet in height.
  9. A privacy fence and landscaping (per Chapter 10) shall be located in the f-foot landscape buffer area between the parking lot and the south property line, the design of which shall be approved by the DPDS landscape architect.

**The vote was as follows:**

**YES: Commissioners Blake, Brown, Kirchdorfer and Peterson**  
**NO: No one**  
**NOT PRESENT: Commissioner White**  
**ABSTAINING: Commissioner Tomes**

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**NEW BUSINESS:**  
**CASE NO. 14DEVPLAN1009**

Project Name: East Oak Street Laundromat and Grocery  
Location: 331 East Oak Street  
Owner: MWA Investments, LLC  
Applicant: Samir Faraj  
Representative: Mike Evans  
Project Area/Size: 0.51 acre  
Existing Zoning District: C-3, Commercial  
Existing Form District: TN, Traditional Neighborhood  
Jurisdiction: Louisville Metro  
Council District: 6 – David James  
**Case Manager: Matthew R. Doyle, Planner I**

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**SUMMARY OF STAFF PRESENTATION:**

1:38:41 The applicant requests the following: a waiver of section 5.6.1.D to permit the sloping roof's vertical rise to exceed the average height of supporting walls; a waiver of section 5.5.1.A.3.a to permit the parking lot in front of the expansion and closer to the right-of-way line than the proposed structure, as well as not construct a 3 foot masonry, stone or concrete wall in front of the parking area along both roadways; a waiver of section 5.9.2.A.1.b.i to preclude pedestrian access from South Preston Street to the building entrance and to allow the pedestrian access from East Oak Street to the building entrance to be greater than 50 feet from the nearest transit stop; and a Revised Detailed District Development Plan (RDDDP).

The site is located on the northwest corner of East Oak Street and South Preston Street, near I-65, and on the western edge of the Shelby Park Neighborhood. It is plan certain and the zoning was changed to C-3 in 1981. There were three separate uses proposed on the approved plan: a drug store, a liquor store, and a food mart – each had their square footages indicated on the plan and total square footage restricted to 6,840 S.F. by binding element. Only a portion of the approved plan from 1981 was ever constructed and that is the existing building on the site. No construction has taken place since the 1980s and so the entirety of the proposal was never implemented. The existing structure is nonconforming and the current use is the food mart that was one of the uses originally approved.

The current proposal is a 2,502 square foot addition to the existing structure. The design of the addition would be substantially similar to the existing building. The renderings of the proposed addition meet the building façade treatment and window

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design criteria in section 5.6.1 of the Land Development Code (LDC); however, the sloping roof has a vertical rise that exceeds the average height of the supporting walls, which is specifically not allowed in the last sentence of section 5.6.1.D. The applicant requests a waiver of this design requirement.

Sufficient on-site parking would be provided by the existing parking lot. The location and design of the parking lot with respect to the existing structure is nonconforming. The proposed addition would increase the nonconformity. In traditional form districts, the current LDC in section 5.5.1.A.3.a does not permit parking lots in front of buildings and does not allow parking lots at or within the maximum setback to be closer to the right-of-way line than the principal structure. The applicant requests a waiver of this requirement.

Section 5.9.2.A.1.b.i of the LDC requires non-residential developments to provide a clearly defined, safe pedestrian access from adjacent public rights-of-way (public sidewalk) through off-street parking area to non-residential building entrances. Furthermore, it requires that the safe pedestrian access connect to the public sidewalk within 50 feet of the transit stop, if it exists or is proposed adjacent to the site. The proposed development provides a clearly defined, safe pedestrian access from the sidewalk along East Oak Street through the off-street parking area to the addition's entrance; however, one is not provided from the sidewalk along South Preston Street. Additionally, TARC requested that the applicant construct a 3 feet x 8 feet concrete pad at the back of sidewalk along South Preston Street where a transit stop currently exists. TARC will then install a bench and trash receptacle at this location. The distance between the transit stop and the pedestrian access provided from East Oak Street to the addition's building entrance is greater than 50 feet. The applicant requests a waiver of the two requirements.

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

Michael Evans, 6625 Colonial Drive, Evansville, Indiana 47725

**The following spoke in opposition:**

No one

**SUMMARY OF TESTIMONY OF PROPONENTS:**

1:44:35 Mr. Evans remarked, "The reason for the waiver on the vertical rise is because we're trying to match the existing roof. The parking lot is an existing lot and we're reconfiguring it to match the Code as much as possible. We're tearing out asphalt and putting in a landscape island and bringing the handicap parking up-to-date. The pedestrian access from S. Preston requires a waiver because we have an existing wall (~2 ft. ht.) and I'd like to take access points from one sidewalk to another sidewalk." The applicant/representatives agreed to provide the slab for the bus stop. The proposal is a laundromat and a positive asset to the community.

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1:47:34 Mr. Evans said Mr. Doyle has been a great help in explaining the process and helping work things out with his proposal.

**SUMMARY OF TESTIMONY OF OPPONENTS:**

None

**REBUTTAL:**

None

**ACTION**

1:48:58 Commissioner Kirchdorfer moved to **APPROVE** the 3 Land Development Code waiver requests and the Revised Detailed District Development Plan based on the testimony heard today, the development plan as submitted and the staff report. Commissioner Peterson seconded the motion. Motion carried with one abstention.

**Waiver of section 5.6.1.D to permit the sloping roof's vertical rise to exceed the average height of supporting walls:**

**WHEREAS**, The waiver will not adversely affect adjacent property owners since the pitch of the roof will match that of the existing structure; and

**WHEREAS**, The waiver request will not violate specific guidelines of Cornerstone 2020 as the proposed addition maintains the site's existing form; and

**WHEREAS**, The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since the pitch of the roof will match that of the existing structure; and

**WHEREAS**, The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land since the pitch of the roof will match that of the existing structure.

**Waiver of section 5.9.2.A.1.b.i to preclude pedestrian access from South Preston Street to the building entrance and to allow the pedestrian access from East Oak Street to the building entrance to be greater than 50 feet from the nearest transit stop:**

**WHEREAS**, The waiver will not adversely affect adjacent property owners since a pedestrian connection from East Oak Street to the building entrance is being provided and it is within a safe and reasonable distance of the transit stop; and

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**WHEREAS**, The waiver request will not violate specific guidelines of Cornerstone 2020 as a pedestrian connection from East Oak Street to the building entrance is being provided and it is within a safe and reasonable distance of the transit stop; and

**WHEREAS**, The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since a pedestrian connection from East Oak Street to the building entrance is being provided and it is within a safe and reasonable distance of the transit stop; and

**WHEREAS**, The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land since a pedestrian connection from East Oak Street to the building entrance is being provided and it is within a safe and reasonable distance of the transit stop.

**Waiver of chapter 5.5.1.A.3.a to allow the parking lot to be in front of the building and closer to the right-of-way line than the principal structure, as well as not construct a 3 foot masonry, stone or concrete wall in front of the parking area along both roadways:**

**WHEREAS**, The waiver will not adversely affect adjacent property owners since the proposed addition will be using the existing parking lot; and

**WHEREAS**, The waiver request will not violate specific guidelines of Cornerstone 2020 as the proposed addition will be using the existing parking lot; and

**WHEREAS**, The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since the proposed addition will be using the existing parking lot; and

**WHEREAS**, The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land since the proposed addition will be using the existing parking lot.

**RDDDP and**  
**AMENDMENT TO BINDING ELEMENTS**

**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. Transportation and the Kentucky Transportation Cabinet have approved the preliminary development plan; and

**WHEREAS**, All open space and landscape buffer areas will be provided; and



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**WHEREAS**, MSD 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 building and parking lot will retain their existing form; and

**WHEREAS**, The development plan conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code.

**RESOLVED**, that the Development Review Committee does hereby **APPROVE** the RDDDP for Case No. 14DEVPLAN1009, subject to the following binding elements:

**Existing Binding Elements**

1. The development will not exceed 6,840 square feet of gross leasable area.
2. The appropriate variances must be obtained from the Board of Zoning Adjustment to allow the development as proposed. If such variances are not obtained the property may not be used for any new use until a revised district development plan has been approved by the Planning Commission.
3. The lots involved in this request will be consolidated by deed or minor subdivision plat prior to issuance of any building permits.
4. The size and location of any business identification sign shall be submitted to the Planning Commission for approval prior to issuance of any sign permits.
5. The plan must be reapproved by the Water Management Section of the Jefferson County Department of Public Works and Transportation, the Department of Traffic Engineering, and the City of Louisville Public Works Department before building permits are issued.
6. Unless use in accordance with the approved plan and binding elements has been substantially established within two years from the date of approval of the plan or rezoning whichever is later, the property may not be used in any manner until such time as a district development plan has been approved by the Planning Commission.
7. A certificate of occupancy must be received from the appropriate code enforcement office prior to occupancy of a structure or land for the proposed use.

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All binding elements must be implemented prior to issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.

**Proposed Binding Elements**

1. ~~The development will not exceed 6,840 square feet of gross leasable area.~~
2. ~~The appropriate variances must be obtained from the Board of Zoning Adjustment to allow the development as proposed. If such variances are not obtained the property may not be used for any new use until a revised district development plan has been approved by the Planning Commission.~~
3. ~~The lots involved in this request will be consolidated by deed or minor subdivision plat prior to issuance of any building permits.~~
4. ~~The size and location of any business identification sign shall be submitted to the Planning Commission for approval prior to issuance of any sign permits.~~
5. ~~The plan must be reapproved by the Water Management Section of the Jefferson County Department of Public Works and Transportation, the Department of Traffic Engineering, and the City of Louisville Public Works Department before building permits are issued.~~
6. ~~Unless use in accordance with the approved plan and binding elements has been substantially established within two years from the date of approval of the plan or rezoning whichever is later, the property may not be used in any manner until such time as a district development plan has been approved by the Planning Commission.~~
7. ~~A certificate of occupancy must be received from the appropriate code enforcement office prior to occupancy of a structure or land for the proposed use. All binding elements must be implemented prior to issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.~~
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 5,579 square feet of gross floor area.**

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3. Before any permit including but not limited to building, parking lot, or site disturbance permit is requested:
  - a) The development plan must receive full construction approval from Louisville Metro Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.
  - b) The appropriate variance shall be obtained from the Board of Zoning Adjustment to allow the development as shown on the approved district development plan.
  - c) The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
4. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the March 19, 2014 Development Review Committee meeting.
5. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
6. The applicant, developer, or property owner shall provide 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 Tomes**

**NO: No one**

**NOT PRESENT: Commissioner White**

**ABSTAINING: Commissioner Blake**

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**NEW BUSINESS:**  
**CASE NO. 14DEVPLAN1010**

Project Name: Noah's for All Life's Events  
Location: 12451 Plantside Drive  
Owner(s): Hosts Development LLC  
Applicant: Guggenheim Real Estate Partners Inc  
Representative(s): Bardenwerper Talbott and Roberts;  
Mindel Scott and Associates  
Project Area/Size: 2.13 acres  
Existing Zoning District: PEC  
Existing Form District: SW  
Jurisdiction: Louisville Metro  
Council District: 20-Stuart Benson  
**Case Manager: Julia Williams, AICP, Planner II**

**An audio/visual recording of the Development Review Committee related to this case is available in the Planning and Design Services offices. Please contact the Customer Service staff to view the recording or to obtain a copy. The recording of this meeting will be found on the cd of the March 19, 2014 proceedings.**

**SUMMARY OF STAFF PRESENTATION:**

1:50:30 The applicant requests a waiver from chapter 10.2.4.B to permit over 50% overlap of an easement into a LBA along south property line and a Detailed District Development plan.

The proposal is for a conference center/reception hall on a vacant parcel within the Blankenbaker Station II development. A 10,300 square foot building is proposed with 90 parking spaces to be provided. The only identified natural feature is hydric soils.

The proposal complies with the Land Development Code and Cornerstone 2020. The proposed use is a use that compliments other office types within the overall general plan development.

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

Kent Gootee, Mindel, Scott and Associates, 5151 Jefferson Boulevard, Louisville, Ky. 40219  
Greg Oakley, P.O. Box 73670, Louisville, Ky. 40257  
Steve Porter, 2406 Tucker Station Road, Louisville, Ky. 40299

**The following spoke in opposition:**

No one

**SUMMARY OF TESTIMONY OF PROPONENTS:**

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1:52:33 Mr. Gootee provided exhibits for the commissioners. The waiver is to allow the overlapping LBA with existing underground electric easements. The utilities are concrete encased and already installed so there shouldn't be any conflicts with the plantings to be held up against the curb. The drainage will not be affected. There is great connectivity with the adjoining properties.

1:55:11 Mr. Oakley said he's here to answer any questions.

1:55:25 Mr. Porter represents the Tucker Station Neighborhood Association and they are in support of the project.

**SUMMARY OF TESTIMONY OF OPPONENTS:**

None

**REBUTTAL:**

None

**ACTION**

1:56:22 Commissioner Blake moved to **APPROVE** the waiver from 10.2.4.B to permit over 50% overlap of an easement into a LBA along the south property line, the Detailed District Development Plan and associated binding elements based on the staff report and testimony heard today. Commissioner Kirchdorfer seconded the motion. Motion carried unanimously.

**Waiver 10.2.4.B to permit over 50% overlap of an easement into a LBA along the south property line**

**WHEREAS**, The easement overlap will not affect adjacent property owners because the landscape requirements will still be met within the buffers; and

**WHEREAS**, The proposal meets the compatibility guidelines of the Comprehensive Plan because the landscape requirements will still be met within the required buffer; and

**WHEREAS**, The entire frontage of the property is within easement and required yard. The parking is located 30' away from the right of way which is already 50% more green space along the front of the property than the required 15'. A proposed sewer and drainage would further be conflicting with the LBA if the frontage was extended further therefore the overlap provides a necessary relief; and

**WHEREAS**, The strict application of the provisions would deprive the applicant of reasonable use of the land. A 30' buffer is being provided between the 15' LBA and 25' required yard. Additional yard would take up an unreasonable amount of land when the buffer has more green space than required and due to the planting materials being able to be met within the buffer.

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**STANDARD OF REVIEW FOR DEVELOPMENT PLAN**

**WHEREAS**, There is an area of the site that has the potential for hydric soils which are typically associated with a wetland. There are no existing trees and soils are not an issue with the proposal; and

**WHEREAS**, Safe vehicular and pedestrian movement is provided on the site; and

**WHEREAS**, Open space on the site is provided for in the form of the buffer areas and ILAs which is similar to the other similar office type businesses in the area; and

**WHEREAS**, MSD has preliminarily approved the drainage for the site; and

**WHEREAS**, The proposals office type use is consistent with the office/industrial development found throughout the Blankenbaker Station II development; and

**WHEREAS**, The proposal complies with the LDC and Cornerstone 2020 as the site is still meeting the planting requirements within the LBAs and is a use that compliments the other office type uses within the overall general plan development.

**RESOLVED**, that the Development Review Committee does hereby **APPROVE** the DDDP for Case No. 14DEVPLAN1010, subject to the following binding elements:

**Proposed Binding Elements**

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

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. The development shall not exceed 10,300 square feet of gross floor area.
3. No outdoor pennants, balloons, or banners shall be permitted on the site.
4. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall

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remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.

5. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition 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. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
  - c. A minor subdivision plat or legal instrument shall be recorded creating the lot lines as shown on the development plan. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
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 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 March 19, 2014 DRC meeting.

**The vote was as follows:**

**YES: Commissioners Blake, Brown, Kirchdorfer, Peterson and Tomes**

**NO: No one**

**NOT PRESENT: Commissioner White**

**ABSTAINING: No one**



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**NEW BUSINESS:**  
**CASE NO. 14MOD1001**

Project Name: Mulloy Property Management  
Location: 8303 Shelbyville Road  
Owner: Tim Mulloy  
Applicant: Rueff Sign Company  
Representative: John Lepping  
Project Area/Size: 0.26 acre  
Existing Zoning District: OR-1, Office/Residential  
Existing Form District: N, Neighborhood  
Jurisdiction: City of Lyndon  
Council District: 18 – Marilyn Parker  
**Case Manager: Matthew R. Doyle, Planner I**

**An audio/visual recording of the Development Review Committee related to this case is available in the Planning and Design Services offices. Please contact the Customer Service staff to view the recording or to obtain a copy. The recording of this meeting will be found on the cd of the March 19, 2014 proceedings.**

**SUMMARY OF STAFF PRESENTATION:**

1:57:21 The applicant is requesting to delete binding element 8 of the approved development plan under Case No. 9-64-92, which states the following:

8. The only permitted sign shall be located as shown on the approved district development plan. The sign shall not exceed six square feet in area and 4 feet in height.

The site is located at the northeast corner of Shelbyville Road and Holley Road. It is plan certain and the zoning was changed to OR-1 in 1993. This particular binding element was commonly added to the properties that rezoned in the 1980s and '90s along this frontage of Shelbyville Road as the Planning Commission and the City of Lyndon wanted to maintain the residential character of the existing buildings. Recently, the Development Review Committee approved an amendment to the binding element regarding the signage at 8211 Shelbyville Road. That binding element was deleted so that it would be allowed as permitted in chapter 8 of the 2006 Land Development Code (LDC).

The applicant wishes to construct a monument-style sign that is 18 square feet in area. The height dimension was not stated and no rendering of the sign was submitted. The 2006 LDC would allow the area of a sign along Shelbyville Road to be no more than 80 square feet and the height of the sign to be no more than 12 feet. The 2006 LDC would allow the area of a sign along Holley Road to be no more than 40 square feet and the height of the sign to be no more than 6 feet.

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Staff suggests amending binding element 8 to read as follows:

8. The only permitted sign shall be a monument style sign located along Shelbyville Road.

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

John Lepping, Rueff Sign Company, 1530 East Washington Street, Louisville, Ky.

**The following spoke in opposition:**

No one

**SUMMARY OF TESTIMONY OF PROPONENTS:**

2:01:05 Mr. Lepping stated, "The proposed signage is a double-face sign but only located on Shelbyville Rd. side. It has no exposure whatsoever to Holley Rd. The LDC allows up to 80 square feet now and we're only asking for 18 square feet."

**SUMMARY OF TESTIMONY OF OPPONENTS:**

None

**REBUTTAL:**

None

**ACTION**

2:01:58 Commissioner Kirchdorfer moved to **AMEND** binding element number 8 to read as follows: The only permitted sign shall be a monument style sign located along Shelbyville Road; based on the testimony heard today. Commissioner Brown seconded the motion. Motion carried unanimously.

**WHEREAS**, The requested amendment to the binding element will not affect natural resources on the subject site; and

**WHEREAS**, Provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community are being provided; and

**WHEREAS**, Provisions for open space are not required for the existing development plan; and

**WHEREAS**, The requested amendment to binding element will not alter the drainage facilities. MSD will continue to 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 overall site design and land use are compatible with the existing and future development of the area; and

**WHEREAS**, The requested amendment to binding element would allow a sign to be permitted in accordance with Chapter 8 of the 2006 LDC.

**RESOLVED**, that the Development Review Committee does hereby **APPROVE** the amendment of binding element 8 for Case No. 14MOD1001.

**Existing Binding Elements**

1. The development shall be in accordance with the approved district development plan. Any changes/additions/alterations of any binding element(s) shall be referred by the Planning Commission to the City of Lyndon for approval, and any changes/additions/alterations not so referred shall not be valid.
2. No residential structure shall be removed and each structure shall retain its residential appearance. Exterior additions or alterations shall not be made without prior approval of the Planning Commission's Land Development and Transportation Committee and the City of Lyndon.
3. The property shall be used for general office use, except for medical offices, barber shops or beauty shops.
4. The development shall not exceed 1,833 square feet of gross floor area. The garage shall be used as two parking spaces and not as an office.
5. There shall be no access to U.S. 60.
6. The property owner shall grant without compensation of any kind, to properties located at 8307 and 8311 Shelbyville Road, which are used for nonresidential purposes, an easement of ingress and egress to, onto and through all portions of the applicable properties. The instrument shall be signed and submitted to the Planning Commission counsel for approval prior to the granting of a building or an occupancy permit, whichever shall first occur.
7. Before a building, alteration or paving and parking permit and/or certificate of occupancy is requested, the property owner/developer shall submit to the Planning Commission, in form and substance satisfactory to Planning Commission staff or counsel, a crossover buffer agreement demonstrating compliance with Article 12 of the Development Code.

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8. The only permitted sign shall be located as shown on the approved district development plan. The sign shall not exceed six square feet in area and 4 feet in height.
9. All outdoor lighting shall be directed down and away from adjacent residential properties.
10. Before a building, alteration or paving and parking permit and/or certificate of occupancy is requested:
  - a. The development plan must be reapproved by the Jefferson County Department of Public Works and Transportation and the Metropolitan Sewer District.
  - b. The property owner/develop must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Article 12. Such plan shall be implemented prior to requesting a certificate of occupancy and maintained thereafter.
  - c. A minor plat or legal instrument shall be recorded consolidating the property into one lot. A copy of the recorded instrument shall be submitted to the Planning Commission.
11. No outdoor advertising signs (billboards), small freestanding (temporary) signs, pennants or banners shall be permitted on the site.
12. If a certificate of occupancy or paving and parking permit is not issued within one year of the date of approval of the plan or rezoning, whichever is later, the property shall not be used in any manner unless a revised district development plan is approved or an extension is granted by the Planning Commission.
13. A certificate of occupancy must be received from the appropriate code enforcement office prior to occupancy of the structure or land for the proposed use. All binding element requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
14. The above binding elements may be amended as provided for in the Zoning District Regulations.

**Proposed Binding Element**

- ~~8. The only permitted sign shall be located as shown on the approved district development plan. The sign shall not exceed six square feet in area and 4 feet in height.~~

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**Amended Binding Element**

8. The only permitted sign shall be a monument style sign located along Shelbyville Road.

**The vote was as follows:**

**YES: Commissioners Blake, Brown, Kirchdorfer, Peterson and Tomes**

**NO: No one**

**NOT PRESENT: Commissioner White**

**ABSTAINING: No one**

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**The meeting adjourned at 3:06 p.m.**

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**David Tomes, Chairman**

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**Emily Liu, Director of Planning and Design Services**