

# Attachment #2: Summary of LDC Main Committee's Actions Related to Development Review Process Sub-committee Report & Recommendations

Planning Commission Meeting Date: 8/11/14



<b>Case No:</b>	14AMEND1003
<b>Project Name:</b>	Development Review Process Sub-committee Final Report
<b>Case Manager:</b>	Michael Hill, AICP, Planning Coordinator

**AT THEIR 8/11/14 MEETING THE PLANNING COMMISSION RECOMMENDED APPROVAL OF ALL OFFICIAL RECOMMENDATIONS (#1-8, 10-22 & 31) AND ALL STAFF RECOMMENDATIONS (A & B) LISTED IN THIS REPORT.**

**LDC MAIN COMMITTEE REVIEW & ACTION SUMMARY**

The recommendations of the Development Review Process LDC Sub-committee were discussed at various LDC Main Committee meetings, the last one occurring on 9/17/13. Items #1-8, 10-22 & 31 listed below in this report have all been recommended for approval by the LDC Main Committee. Items #9 & 23 listed below were debated by the LDC Main Committee, but did not result in an official recommendation. Items #24-30 were recommended for approval by the LDC Main Committee, but do not involve an LDC text amendment. Two staff recommendations are also included in this report.

### TASKS ASSIGNED TO THE DEVELOPMENT REVIEW PROCESS SUB-COMMITTEE

This sub-committee was charged with reviewing Chapter 11 (Development Review Procedures) of the Land Development Code (LDC) with the objective of making suggestions to improve various procedures and polices related to development review.

### DEVELOPMENT REVIEW PROCESS SUB-COMMITTEE BACKGROUND INFORMATION

Between June 11, 2012 and April 8, 2013 the Development Review Process Sub-committee met 19 times. The meetings averaged 10 participants per meeting. The 37 individuals listed below participated in this sub-committee.

Mark Helm – Helm Properties	Tim Corrigan – The Rotunda Group
Scott Kremer – Studio Kremer Architects	Gabe Fritz – The Housing Partnership, Inc.
Bradley Coomes – Air Pollution Control District	Nick Pregliasco – Bardenwerper, Talbott & Roberts
Julia Williams – Metro Planning & Design Services	Chuck Kavanaugh – Homebuilders Association of Louisville
Jennifer Caummisar – Metro Transportation Planning	Latondra Yates – Metro Planning & Design Services
Mike Wilcher – Metro Planning & Design Services	Daniel Makela – Bloomberg Innovation Delivery Team
Donnie Blake – Planning Commissioner	Steve Porter – Attorney, OPEN Louisville
Phil Bills – Metro Planning & Design Services	Jim Mims – Metro Codes & Regulations
Tim Martin – Frost Brown Todd	Martina Kunnecke – Neighborhood Planning & Pres. Inc.
Steve Rusie – Dunaway Engineering	David Proffitt – Planning Commission and BOZA Member
Paul Whitty – Goldberg Simpson	Deborah Bilitski – Wyatt Tarrant & Combs
Chris Brown – Metro Planning & Design Services	Cliff Ashburner – Wyatt, Tarrant & Combs
Jack Will – Jefferson County League of Cities	Glenn Price – Frost Brown Todd
Michael Tigue – Middleton Reutlinger	Bill Bardenwerper – Bardenwerper, Talbott & Roberts
Lisa Chapman – The Rotunda Group	Theresa Zawacki – Metro Economic Growth & Innovation
Emily Liu – Metro Planning & Design Services	Mike King – Metro Economic Growth & Innovation
Scott Rendor – Louisville Metro Government	Sharon Meador – Louisville Metro Government
Connie Ewing – Metro Planning & Design Services	Paul Nicholson – Louisville Metro Government
Joe Reverman – Metro Planning & Design Services	

## SUMMARY OF RECOMMENDATIONS

The 31 recommendations listed in this report are the result of the efforts of this sub-committee. Items 1-23 & 31 are directly related to changes to the Land Development Code. Items 24-30 are related to policies of Planning & Design Services and/or the Planning Commission and will not require a change to the text of the Land Development Code. Each of the 31 items has been acted on separately by the LDC Main Committee.

### **DEVELOPMENT REVIEW PROCESS LDC SUB-COMMITTEE** **FINAL RECOMMENDATIONS**

#### **OFFICIAL RECOMMENDATIONS**

The following LDC text amendments were recommended by the Development Review Process LDC sub-committee and have been recommended for approval by the LDC Main Committee:

#### **DRP ITEM #1 – Administrative Official Designation (Approved on 5/21/13)**

Additional clarifying language is needed in the LDC section that outlines how the administrative official responsible for implementing and enforcing the LDC is to be designated. Language is also proposed to handle a situation where the designation of an interim administrative official is necessary. Updated terminology with regard to the title of Planning & Design Services is also included in this section. The title of Chapter 11, Part 1 should be changed from Administrative Officials to Administrative Provisions. Proposed revisions are shown below.

##### 11.1.1 Planning Director

- A. Designation of Planning Director as Administrative Official  
Pursuant to KRS 100.271, the Director of ~~Jefferson County~~ **Louisville Metro** Planning and Design Services (or successor agency) is designated as the principal administrative official for the implementation and enforcement of regulations contained in this Code. Unless specifically stated to the contrary, the term "Director" or "Planning Director" shall include his or her designees. **In the event the Planning Director position is vacant, the Mayor of Louisville/Jefferson County Metro Government may appoint an Administrative Official within 30 days of the Planning Director position being vacated. If an Administrative Official is not named by the Mayor in accordance with this section, then the Planning Commission will be authorized to appoint the interim Administrative Official. When appointed by the Planning Commission the interim Administrative Official shall be a current member of Planning & Design Services staff.**
- B. General Functions, Powers and Duties
1. Written Records – For purposes of KRS 61.870 et seq., the Planning Director shall serve as the custodian of official records.
  2. Files and Applications - The Planning Director shall be responsible for the receipt, review for completeness and substantial compliance, official acceptance, and maintenance of current and permanent files, applications and records for all permits and approvals required by this Code and including but not limited to Zoning and Form District Map Amendments, Conditional Uses, Subdivision Plats, and Development Plans. For purposes of beginning the notice and review process, the Planning Director shall determine when all necessary applications and supporting documents are complete and in sufficient detail.
  3. Other - The Planning Director shall perform such other duties and functions as are required by the provisions of this Chapter.

#### **DRP ITEM #1 – VOTE**

Motion to approve DRP Item #1 made by Teena Halbig and seconded by Steve Porter at 5/21/13 meeting.

**YES:** Donnie Blake, Chuck Kavanaugh, Pat Dominik, Glenn Price (alternate for Deborah Bilitski), Barbara Sinai, Steve Porter, Tom FitzGerald, Teena Halbig, Kevin Dunlap and Matt Meunier

**NO:** None

**ABSTAIN:** None

**ABSENT:** Jim King, James Peden, David Proffitt, Kathy Linares and Gabe Fritz

**DRP Item #1 recommended for approval by a vote of: 10 in favor, 0 opposed, 0 abstentions and 5 absent.**

## **DRP ITEM #2 – Technical Review Committee Duty Assignments (Approved on 5/21/13)**

Section 11.1.2.D.2 lists other duties that may be assigned to the Technical Review Committee, but does not include a reference as to who would assign these duties. Additional clarifying language has been added. Also, the titles of some of the agencies listed below have changed and are being updated. Proposed revisions are shown below.

### 11.1.2 Technical Review Committee

#### A. Establishment of Technical Review Committee

There is hereby established a Technical Review Committee. The word “Committee” when used in this Part shall be construed to mean the Technical Review Committee. The structure, membership, and duties may be modified by the Planning Commission.

#### B. Committee Membership and Officers

The Committee shall be composed of members representing departments and agencies (and their successor agencies) responsible for reviewing land development proposals. The Planning Commission, at the request of the Planning Director, may modify the makeup of the Committee. Membership includes but is not limited to the following:

##### 1. Core Members

- a. Louisville Metro Planning and Design Services
- b. Louisville and Jefferson County Metropolitan Sewer District
- c. Louisville Metro Departments of Public Works
- d. Louisville Metro Department of ~~Inspections, Permits and Licenses~~ **Louisville Metro Construction Review, Department of Develop Louisville**

##### 2. Full Members

- a. Kentucky Department of Transportation
- b. Louisville Metro Historic Landmarks and Preservation District
- c. Metropolitan Development Authority
- d. ~~Jefferson County Environmental Health and Protection~~ **Louisville Metro Public Health & Wellness**
- e. Louisville Metro Air Pollution Control District
- f. Fire Department having jurisdiction

##### 3. Advisory Members

- a. Louisville Gas and Electric
- b. Louisville Water Company
- c. Cable Utilities
- d. Kentucky Division of Water
- e. ~~Bell South~~ **AT&T**
- f. Natural Resources Conservation Service (NRCS)
- g. Transit Authority of River City (TARC)

#### C. Officers and Committees

The Chairman of the Committee shall be the Planning Director. Other offices and subcommittees to carry out the purposes of this Chapter, may be appointed by the Planning Director as needed.

#### D. General Functions, Powers and Duties

##### 1. Application Review

The Committee may review applications and make recommendations to appropriate approval authorities regarding approval, denial and, where applicable, conditions and safeguards to be placed upon the approval of applications required by this Chapter including, but not limited to the following:

- a. Subdivisions
- b. Conditional Uses
- c. Zoning Map and Form District Map Amendments
- d. Development Plans

- e. Street Closings and Street Name Changes
  - f. Other Applications referred by the Planning Commission, Board of Zoning Adjustment or their Committees for review and resolution of technical issues
  - g. Other Applications referred to the Committee by the Planning Director
2. Other Duties  
The Committee shall carry out such other duties as may be assigned to it ~~from time to time.~~ **by the Planning Commission or Planning Director.**

## **DRP ITEM #2 – VOTE**

Motion to approve DRP Item #2 made by Glenn Price and seconded by Steve Porter at 5/21/13 meeting.

**YES:** Donnie Blake, Chuck Kavanaugh, Pat Dominik, Glenn Price (alternate for Deborah Bilitski), Barbara Sinai, Steve Porter, Tom FitzGerald, Teena Halbig, Kevin Dunlap and Matt Meunier

**NO:** None

**ABSTAIN:** None

**ABSENT:** Jim King, James Peden, David Proffitt, Kathy Linares and Gabe Fritz

**DRP Item #2 recommended for approval by a vote of: 10 in favor, 0 opposed, 0 abstentions and 5 absent.**

## **DRP ITEM #3 – Relocation of Form District Compliance Statement for Planned Developments (PD) (Approved on 5/21/13)**

The intent of this chapter is to outline various development review procedures. This part of the chapter is focused on Planned Developments (PD). Section 11.3.3 is a compliance related statement, rather than procedure related, and should be moved Section 2.8.4 Applicability of Land Development Code (specifically for PD Developments). Proposed revisions are shown below.

- 11.3.1 General  
Review of Planned Developments (e.g. PD, PVD, TNZD and PTD) shall follow the review procedures outlined in the regulation establishing the planned development district.
- 11.3.2 Concurrent Review of Form District Map Amendment  
In the event that a Zoning District Map Amendment to a Planned Development District also requires a Form District Map Amendment, the applicant shall so indicate at the time of Zoning District Map Amendment application and the Zoning District Map Amendment application materials shall be deemed sufficient for initial review of the Form District Map Amendment.
- ~~11.3.3 Relationship to Form District Design Standards  
In addition to the standards established in the Planned Development District, development must also comply with the standards established in the applicable Form District. In the event of a conflict of standards, the standards of the Planned Development District shall apply.~~
- 2.8.4 Applicability of Land Development Code (LDC)
- A. PD-Development Plan. The provisions of the LDC shall apply to PD-Development Plan, unless otherwise specified in the approved PD Development Plan. The PD- Development\_Plan approved by the legislative body may contain provisions that differ with or are less-restrictive than the LDC.  
EXCEPTION 1: Footprint caps listed within the applicable form district shall be observed.  
EXCEPTION 2: Perimeter landscape buffer requirements at the edges of the Planned Development District may not be less restrictive than the requirements of the LDC, and may be altered on a case-by-case basis only in accordance with LDC waiver provisions.
  - B. In the event of a conflict between the provisions of this Chapter 2 Part 8 or the approved PD-Development Plan and the provisions of the LDC, the provisions of this Chapter 2 Part 8 or the approved PD-Development Plan shall prevail.
  - C. Specific dimensional requirements of the Planned Development District shall be outlined within the PD – Development Plan Design Guidelines and may refer to specific setbacks outlined within the

applicable form district. Proposed dimensional standards shall be consistent with the intent of the applicable form district.

- D. Relationship to Form District Design Standards. In addition to the standards established in the Planned Development District, development must also comply with the standards established in the applicable Form District. In the event of a conflict of standards, the standards of the Planned Development District shall apply.**

### **DRP ITEM #3 – VOTE**

Motion to approve DRP Item #3 made by Glenn Price and seconded by Steve Porter at 5/21/13 meeting.

**YES:** Donnie Blake, Chuck Kavanaugh, Pat Dominik, Glenn Price (alternate for Deborah Bilitski), Barbara Sinai, Steve Porter, Tom FitzGerald, Teena Halbig, Kevin Dunlap and Matt Meunier

**NO:** None

**ABSTAIN:** None

**ABSENT:** Jim King, James Peden, David Proffitt, Kathy Linares and Gabe Fritz

**DRP Item #3 recommended for approval by a vote of: 10 in favor, 0 opposed, 0 abstentions and 5 absent.**

### **DRP ITEM #4 – Submittal Materials for Rezoning Pre-application (Approved on 5/21/13)**

Additional language is being added to further clarify where the pre-application submittal materials can be located and how they are determined. Proposed revisions are shown below.

11.4.2 Pre-Application

Prior to formal application for Zoning District Map Amendments or Form District Map Amendments the applicant or applicant's agent shall file a plan and supporting materials with the Planning Director. The materials to be submitted shall be determined by the Planning Director, **or designee, and shall be identified on a checklist that is made available to the applicant. Planning Director's designee(s) shall be appointed in compliance with current Planning & Design Services administrative policies.** The Planning Director shall review the materials submitted and provide the applicant with a report addressing, as appropriate, the following issues:

- A. Comprehensive Plan Compliance
  - B. Zoning and Form District and Subdivision Regulation impacts
  - C. Site characteristics that may have a significant impact on the proposed development
- No formal pre-application conference is required unless specifically requested by the applicant or Planning Director.

***NOTE: Pre-application required but conference is optional.***

### **DRP ITEM #4 – VOTE**

Motion to approve DRP Item #4 made by Tom FitzGerald and seconded by Teena Halbig at 5/21/13 meeting.

**YES:** Donnie Blake, Chuck Kavanaugh, Pat Dominik, Glenn Price (alternate for Deborah Bilitski), Barbara Sinai, Steve Porter, Tom FitzGerald, Teena Halbig, Kevin Dunlap and Matt Meunier

**NO:** None

**ABSTAIN:** None

**ABSENT:** Jim King, James Peden, David Proffitt, Kathy Linares and Gabe Fritz

**DRP Item #4 recommended for approval by a vote of: 10 in favor, 0 opposed, 0 abstentions and 5 absent.**

### **DRP ITEM #5 – Neighborhood Meeting Notification Requirements for Rezoning Applications (Approved on 5/21/13)**

- The pre-application conference should not be required to occur before the neighborhood meeting, or even before the notices of the neighborhood meeting are sent out. The applicant knows they cannot have their neighborhood meeting more than 90 days prior to formally filing their application.

- Citizens should be given ample time to make arrangements to attend neighborhood meetings. Fourteen days is an appropriate amount of time (increased from 10 days).
- The notification requirements for neighborhood meetings associated with rezoning applications should be consistent with the public hearing notification requirements. The proposed adjustments are also consistent with KRS notification requirements.
- The description of 1<sup>st</sup> and 2<sup>nd</sup> tier adjacent property owners has been amended to be consistent with language used in KRS notification requirements.
- Further clarification is added to identify the individuals within 2<sup>nd</sup> through 6<sup>th</sup> class cities who should receive these notices.
- Any individual can now register with PDS to receive notice of development activity, so the term “neighborhood groups” is being replaced with “individuals.”
- The elimination of the seven day waiting period to formally file an application was a proposed Round One text amendment.
- Proposed revisions are shown below.

11.4.3 Neighborhood Meeting Requirement

Prior to **formally** filing a change in zoning request ~~and after the pre-application conference (if one was conducted)~~ a letter shall be sent from the developer/owner stating that a pre-application has been filed with PDS and announcing a public meeting held by developer/owner to discuss the proposed project. The letter shall be mailed no less than ~~40~~ **14 calendar** days prior to the neighborhood meeting. The letter shall be sent to:

- ~~1<sup>st</sup> and 2<sup>nd</sup> tier property owners~~ **1st Tier Property Owners - The owner(s) of every parcel of property adjoining at any point, and every parcel directly across the street, from the property that is the subject of the application,**
- **2nd Tier Property Owners - The owner(s) of every parcel of property that adjoins the adjoining property or the property directly across the street from said adjoining property within 500 feet of the property that is the subject of the application,**
- **The mayor and city clerk of** any 2<sup>nd</sup> through 6<sup>th</sup> class city if the development is located within such a municipality,
- Metro Council district representative; and
- PDS staff.
- ~~neighborhood groups individuals who have registered with PDS to receive notice of development actions,~~ **Any person listed in the applicable Planning and Design Services Electronic Notification for Development Proposals List for the appropriate Council District will receive be sent an email notification.**

The neighborhood meeting shall be held ~~no less than seven (7) days and~~ no more than 90 **calendar** days prior to the filing of an **formal** application. At time of filing a change in zoning request, the applicant shall provide a summary of a public meeting between the applicant and the parties listed above. The summary shall include a list of those invited, those in attendance and a summary of the issues discussed.

**DRP ITEM #5 – VOTE**

Motion to approve DRP Item #5 made by Tom FitzGerald and seconded by Glenn Price at 5/21/13 meeting.

**YES:** Donnie Blake, Chuck Kavanaugh, Pat Dominik, Glenn Price (alternate for Deborah Bilitski), Barbara Sinai, Steve Porter, Tom FitzGerald, Teena Halbig, Kevin Dunlap and Matt Meunier

**NO:** None

**ABSTAIN:** None

**ABSENT:** Jim King, James Peden, David Proffitt, Kathy Linares and Gabe Fritz

**DRP Item #5 recommended for approval by a vote of: 10 in favor, 0 opposed, 0 abstentions and 5 absent.**

**DRP ITEM #6 – Submission of Materials Prior to Public Hearing for Rezoning Applications (Approved on 5/21/13)**

Binding elements are often discussed and negotiated by various interested parties right up until the day of the public hearing in many cases. Binding elements should continue to be submitted 14 days prior to a public hearing, but binding elements should also be allowed to be amended and re-submitted by applicants or other interested parties up until the day of the hearing. Also, a 14 day submittal deadline for materials for original hearings is appropriate, but a seven day deadline for continued hearings is also appropriate and is proposed. Proposed revisions are shown below.

#### 11.4.5 Public Hearing

- A. Hearing Required – The Planning Commission shall hold at least one public hearing on each application for a Zoning or Form District Map Amendment. Notice of the hearing shall be given as specified in KRS100. In addition, staff shall endeavor to assure that notice is given to all neighborhood groups who have registered to receive notice of development applications.
- B. Submission of Materials – No less than fourteen (14) calendar days prior to an original ~~or~~ **Planning Commission hearing, or seven (7) calendar days prior to a** continued hearing date set by the Commission, the applicant shall submit original or revised development plans, traffic and air quality, market studies, proposed binding elements, noise studies, lighting studies, geotechnical or other environmental studies, and any other studies or reports prepared by an expert and the findings of which the applicant intends to present at the which have been prepared in response to comments received during the review process. ~~Failure to submit these items within the required time frame shall may be considered grounds for postponing the hearing or deferring action on the proposal.~~ The applicant shall be responsible for the cost of additional notice resulting from failure to submit items within the required time frame. Other interested parties (including but not limited to neighborhood organizations, adjoining property owners, etc.) submitting studies or reports prepared by an expert and proposed binding elements for review by the applicant and Planning Commission shall submit these materials no less than fourteen (14) calendar days prior to an original ~~or~~ **Planning Commission hearing, or seven (7) calendar days prior to a** continued hearing date set by the Commission. This section does not preclude the applicant **or other interested parties** from presenting, at the hearing, changes to the plan **including changed or revised binding elements** in response to concerns of the neighbors or Commission, **or rebuttal to submitted studies.** **Failure to submit these items within the required time frame shall may be considered grounds for postponing the hearing or deferring action on the proposal.**
- C. Hearings shall follow the procedures established in the Planning Commission By-Laws and Procedures.
- D. Following the public hearing, the Planning Commission shall make a recommendation regarding the appropriateness of the Zoning District or Form District Map Amendment to the legislative body with zoning authority over the property in question. In addition, the Planning Commission shall by separate vote, approve, reject or defer action on the development plan submitted and considered in conjunction with the proposed Zoning or Form District Map Amendment.

### **DRP ITEM #6 – VOTE**

Motion to approve DRP Item #6 made by Donnie Blake and seconded by Teena Halbig at 5/21/13 meeting.

**YES:** Donnie Blake, Chuck Kavanaugh, Pat Dominik, Glenn Price (alternate for Deborah Bilitski), Barbara Sinai, Steve Porter, Tom FitzGerald, Teena Halbig, Kevin Dunlap and Matt Meunier

**NO:** None

**ABSTAIN:** None

**ABSENT:** Jim King, James Peden, David Proffitt, Kathy Linares and Gabe Fritz

**DRP Item #6 recommended for approval by a vote of: 10 in favor, 0 opposed, 0 abstentions and 5 absent.**

### **DRP ITEM #7 – Removal of Unnecessary Time Limit for Development Plan Resubmittal (Approved on 5/21/13)**

If a legislative body requires changes to a development plan, this section already prohibits permits from being issued until the revised development plan has been submitted to the Planning Director, so the reference to 14 days in section B below is unnecessary. Proposed revisions shown below.

- 11.4.6 Legislative Action
- A. The legislative body having zoning authority over the property in question shall make a determination regarding the proposed Zoning or Form District Map amendment.
  - B. Additional Requirements by Legislative Body – The legislative body, at its discretion, may include additional binding elements on the development plan that the legislative body deems appropriate for the welfare of the public. If the legislative body requires development plan or binding element changes, the applicant shall submit to the Planning Director a development plan showing the changes required by the legislative body, ~~within 14 days of final action by the legislative body.~~ No permits shall be requested for any land disturbing activity until such **revised** plan is submitted.
  - C. The legislative body shall notify the Planning Commission of its action relative to the Zoning or Form District Map amendment; associated binding elements; and, the accompanying development plan.

## **DRP ITEM #7 – VOTE**

Motion to approve DRP Item #7 made by Tom FitzGerald and seconded by Glenn Price at 5/21/13 meeting.

**YES:** Donnie Blake, Chuck Kavanaugh, Pat Dominik, Glenn Price (alternate for Deborah Bilitski), Barbara Sinai, Steve Porter, Tom FitzGerald, Teena Halbig, Kevin Dunlap and Matt Meunier

**NO:** None

**ABSTAIN:** None

**ABSENT:** Jim King, James Peden, David Proffitt, Kathy Linares and Gabe Fritz

**DRP Item #7 recommended for approval by a vote of: 10 in favor, 0 opposed, 0 abstentions and 5 absent.**

## **DRP ITEM #8 – Plan Certain Development Procedures (Approved on 7/2/13)**

The changes proposed to Section 11.4.7 below adds language clarifying that this section also refers to development plans, not just binding elements. The changes to Section 11.7.5 are an attempt to simplify how the legislative body can initiate review of a development plan. The sub-committee recommends the following changes:

### 11.4.7 Plan Certain Development

#### E. Amendments to Binding Elements and ~~Revised District~~ **Plan Certain** Development Plans

##### 1. Review Procedure

Amendment to any **plan certain development plan or** binding element of an approved development plan, including any development plan expiration date, shall require Planning Commission approval. Review of amendments to **plan certain development plans and** binding elements shall follow Category 3 Review Procedures (Section 11.6.64), except notice also shall be given to those who spoke at a Planning Commission public hearing.

##### 2. Scope of Planning Commission Review

The Planning Commission shall consider, but not be limited to, the following factors in review of a request to amend a **plan certain development plan or** binding element:

- a. The conservation of natural resources on the property proposed for development, including: trees and other living vegetation, steep slopes, water courses, flood plains, soils, air quality, scenic views, and historic sites;
- b. The provisions for safe and efficient vehicular and pedestrian transportation both within the development and the community;
- c. The provision of sufficient open space (scenic and recreational) to meet the needs of the proposed development;
- d. The provision of adequate drainage facilities on the subject site in order to prevent drainage problems from occurring on the subject site or within the community;
- e. 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;
- f. Conformance of the development plan with the Comprehensive Plan and Land Development Code. Revised plan certain development plans shall be evaluated for conformance with the non-residential and mixed-use intent of the form districts and comprehensive plan.

### 11.7.5 Legislative Body Review of Commission Action on Development Plans

A. Applicability – Planning Commission approval or denial of any plan certain development plan or amendment to any plan certain development plan, including an amendment to a binding element of a plan certain development plan may be reviewed by the legislative body having zoning authority over the



property in question if the legislative body determines that such a review is warranted **in accordance with the provisions of this Section.** Any such review may be, but is not required to be, conducted as a public hearing.

B. Initiation of Review – The owner(s) of the subject property or an aggrieved party may request a review by the legislative body by submitting a written letter to the appropriate legislative body stating the reason(s) why such a review is warranted. **Upon request of the applicant or any interested party made to the legislative body within fifteen (15) calendar days after the date the Planning Commission took action to approve or deny the binding element or plan certain development plan (or amendment thereto) or without such a request,** The legislative body with zoning authority over the subject site may initiate the review **of a binding element or plan certain development plan by introducing (having first reading of) a resolution at a meeting of the legislative body** on its own resolution. Such letter shall be filed with the appropriate legislative body or resolution adopted within thirty (30) **forty-five (45)** calendar days after the date **of** the Planning Commission took action, ~~to approve or deny said development plan or amendment to a plan certain development plan or binding element amendment.~~ The legislative body shall forward a copy of said letter or resolution to the **applicant, and the owner of the subject property and to any interested party who requested review, and to the Planning Commission.** , if the owner is not the applicant for the review. A copy of said letter or resolution shall also be forwarded by the legislative body to the Planning Commission.

C. Determination of Whether Review is Warranted. If a letter requesting legislative body review is timely submitted by the owner(s) of the subject property or any aggrieved party, the legislative body shall determine whether a review of the Planning Commission's action is warranted within thirty (30) days of the date the legislative body receives the letter requesting review. If the legislative body fails to **introduce a resolution** make a decision on whether to review the Planning Commission's action within said thirty-day period, the legislative body shall be deemed to have determined not to review the Planning Commission's action, and no further review by the legislative body may occur.

D. Notice – If the legislative body **timely introduces a resolution to** determines that a review **the Planning Commission's action on an amendment to a plan certain or binding element** is warranted, it shall, by letter, notify the following in writing of the date, time, and place that the review will be conducted, and of the right of the public to inspect the subject plans in the office of Planning and Design Services, and, if a public hearing will be held, the right of the public to comment at the public hearing on the proposed development:

1. The Planning Commission
2. All parties of record to any Planning Commission or Committee hearing or meeting previously held regarding the subject plan **or binding element**; and
3. All first and second tier adjoining property owners and registered neighborhood groups.

E. Public Hearing – If the legislative body decides to conduct a public hearing on the **plan certain development plan or binding element amendment**, the public hearing shall **follow procedures established by the legislative body and may be conducted by a committee of the legislative body.** Include a presentation by a staff member of the Planning Commission stating the reason(s) for action. In addition, any applicant for review of the Planning Commission's action pertaining to the plan shall state why he/she believes the Planning Commission's action was not justified. The legislative body may hear any other such witnesses and review any other evidence at the hearing it deems appropriate. If a public hearing is not held by the legislative body, the legislative body shall confine its review to the information that was presented to the Planning Commission or Committee thereof.

F. Legislative Action – The legislative body shall **take final action on the plan certain development plan or binding element amendment within sixty (60)** complete its review within ninety (90) days after it **introduces** adopts the resolution **initiating** granting the review. The legislative body may uphold, modify, or overturn the Planning Commission's decision, and may place conditions or binding elements the legislative body deems appropriate. ~~Alternatively, the legislative body may remand the matter to the Planning Commission for further review.~~ All resolutions and ordinances adopted by the legislative body on the matter shall be forwarded by the legislative body to the Planning Commission. **If the legislative body fails to take final action on the plan certain development plan or binding element amendment within said sixty-day time frame, the action of the Planning Commission shall be deemed final and effective and shall not be subject to further review by the legislative body.**

## **DRP ITEM #8 – VOTE**

Motion to approve DRP Item #8 made by Steve Porter and seconded by Barbara Sinai at 7/2/13 meeting.

**YES:** James Peden, Donnie Blake, Chuck Kavanaugh, Pat Dominik, Kathy Linares, Deborah Bilitski, Barbara Sinai, Steve Porter, Tom FitzGerald and Teena Halbig

**NO:** None

**ABSTAIN:** None

**ABSENT:** Jim King, David Proffitt, Kevin Dunlap, Gabe Fritz, Matt Meunier

**DRP Item #8 recommended for approval by a vote of: 10 in favor, 0 opposed, 0 abstentions and 5 absent.**

## **DRP ITEM #10 – Neighborhood Meeting Notification Requirements for Conditional Use Permits (Approved on 5/21/13)**

This proposed change is identical to DRP Item #5 except this particular section is related to neighborhood meeting notification requirements for Conditional Use Permit applications. Proposed revisions are shown below.

### 11.5A.3 Neighborhood Meeting Requirement

Prior to **formally** filing a conditional use permit request ~~and after the pre-application conference (if one was conducted)~~ a letter shall be sent from the developer/owner stating that a pre-application has been filed with PDS and announcing a public meeting held by developer/owner to discuss the proposed project. The letter shall be mailed no less than ~~40~~ **14 calendar** days prior to the neighborhood meeting. The letter shall be sent to:

- ~~1<sup>st</sup> and 2<sup>nd</sup> tier property owners~~ **1st Tier Property Owners - The owner(s) of every parcel of property adjoining at any point, and every parcel directly across the street, from the property that is the subject of the application,**
- **2nd Tier Property Owners - The owner(s) of every parcel of property that adjoins the adjoining property or the property directly across the street from said adjoining property within 500 feet of the property that is the subject of the application,**
- **The mayor and city clerk of** any 2<sup>nd</sup> through 6<sup>th</sup> class city if the development is located within such a municipality,
- Metro Council district representative; and
- PDS staff
- ~~neighborhood groups individuals who have registered with PDS to receive notice of development actions,~~ **Any person listed in the applicable Planning and Design Services Electronic Notification for Development Proposals List for the appropriate Council District will receive be sent an email notification.**

The neighborhood meeting shall be held ~~no less than seven (7) days and~~ no more than 90 **calendar** days prior to the filing of an **formal** application. At time of filing a change in zoning request, the applicant shall provide a summary of a public meeting between the applicant and the parties listed above. The summary shall include a list of those invited, those in attendance and a summary of the issues discussed.

## **DRP ITEM #10 – VOTE**

Motion to approve DRP Item #10 made by Tom FitzGerald and seconded by Glenn Price at 5/21/13 meeting.

**YES:** Donnie Blake, Chuck Kavanaugh, Pat Dominik, Glenn Price (alternate for Deborah Bilitski), Barbara Sinai, Steve Porter, Tom FitzGerald, Teena Halbig, Kevin Dunlap and Matt Meunier

**NO:** None

**ABSTAIN:** None

**ABSENT:** Jim King, James Peden, David Proffitt, Kathy Linares and Gabe Fritz

**DRP Item #10 recommended for approval by a vote of: 10 in favor, 0 opposed, 0 abstentions and 5 absent.**

## **DRP ITEM #11 – Conditional Use Permit Public Hearing Notification (Approved on 5/21/13)**

Conditional Use Permits are only required by KRS to notify 1<sup>st</sup> tier adjacent property owners, but we are currently notifying 1<sup>st</sup> and 2<sup>nd</sup> tier adjacent property owners of required neighborhood meetings associated with Conditional Use Permit

applications. Conditional Use Permits often have as much if not more impact on surrounding properties as rezoning applications, which are required to send out notification to two tiers of adjacent properties. In an effort to improve notification consistency it is recommended to require two tiers of notification for Conditional Use Permit public hearings. Also, any individual can now register with PDS to receive notice of development activity, so the term "neighborhood groups" is being replaced with "individuals." Proposed revisions are shown below.

#### 11.5A.5 Public Hearing

- A. Hearing Required – The Board shall hold at least one public hearing on each application for a Conditional Use Permit as required by KRS 100. Notice of the hearing shall be given as specified in KRS 100. **Second tier adjoining property owners, as defined in Section 11.5A.3, shall also be notified of the hearing.** In addition, ~~staff shall endeavor to assure that notice is given to all neighborhood groups individuals who have registered to receive notice of development applications.~~ **any person listed in the applicable Planning and Design Services Electronic Notification for Development Proposals List for the appropriate Council District will receive be sent an email notification.**

### **DRP ITEM #11 – VOTE**

Motion to approve DRP Item #11 made by Tom FitzGerald and seconded by Glenn Price at 5/21/13 meeting.

**YES:** Donnie Blake, Chuck Kavanaugh, Pat Dominik, Glenn Price (alternate for Deborah Bilitski), Barbara Sinai, Steve Porter, Tom FitzGerald, Teena Halbig, Kevin Dunlap and Matt Meunier

**NO:** None

**ABSTAIN:** None

**ABSENT:** Jim King, James Peden, David Proffitt, Kathy Linares and Gabe Fritz

**DRP Item #11 recommended for approval by a vote of: 10 in favor, 0 opposed, 0 abstentions and 5 absent.**

### **DRP ITEM #12 – Conditional Use Permit Submission of Materials (Approved on 5/21/13)**

A 14 day submittal deadline for materials for original hearings is appropriate, but a seven day deadline for continued hearings is also appropriate and is proposed. Proposed revisions to Section 11.5A.5.B are shown below.

- B. Submission of Materials – In addition to those materials required at the time of application submission, no less than fourteen (14) calendar days prior to an original **hearing**, or **seven (7) calendar days prior to a continued** hearing date before the Board, the applicant shall submit original or revised development plans, studies, reports, etc. which have been prepared in response to comments received during the review process. Failure to submit these items within the required time frame ~~shall~~ **may** be considered grounds for postponing the hearing or deferring action on the proposal. This section does not preclude the applicant from presenting, at the hearing, changes to the plan in response to concerns of the neighbors or Board.

### **DRP ITEM #12 – VOTE**

Motion to approve DRP Item #12 made by Steve Porter and seconded by Teena Halbig at 5/21/13 meeting.

**YES:** Donnie Blake, Chuck Kavanaugh, Pat Dominik, Glenn Price (alternate for Deborah Bilitski), Barbara Sinai, Steve Porter, Tom FitzGerald, Teena Halbig, Kevin Dunlap and Matt Meunier

**NO:** None

**ABSTAIN:** None

**ABSENT:** Jim King, James Peden, David Proffitt, Kathy Linares and Gabe Fritz

**DRP Item #12 recommended for approval by a vote of: 10 in favor, 0 opposed, 0 abstentions and 5 absent.**

### **DRP ITEM #13 – Conditional Use Permit – Board Action Terminology (Approved on 5/21/13)**

The Board of Zoning Adjustments issues approvals or denials on requested Conditional Use Permits. The language in this paragraph should use the terms “approval or denial” rather than “denial or an authorization.” Proposed revisions to Section 11.5A.5.D are shown below.

- D. Based on the application, the requirements of this Chapter and the recommendations of the staff and testimony at the hearing, the Board shall prepare findings of fact and issue **an approval or** a denial ~~or an authorization~~, with or without conditions as it deems necessary to assure that the proposed conditional use will not adversely affect the use of surrounding properties or unreasonably interfere with the use and enjoyment of such properties.

## **DRP ITEM #13 – VOTE**

Motion to approve DRP Item #13 made by Tom FitzGerald and seconded by Steve Porter at 5/21/13 meeting.

**YES:** Donnie Blake, Chuck Kavanaugh, Pat Dominik, Glenn Price (alternate for Deborah Bilitski), Barbara Sinai, Steve Porter, Tom FitzGerald, Teena Halbig, Kevin Dunlap and Matt Meunier

**NO:** None

**ABSTAIN:** None

**ABSENT:** Jim King, James Peden, David Proffitt, Kathy Linares and Gabe Fritz

**DRP Item #13 recommended for approval by a vote of: 10 in favor, 0 opposed, 0 abstentions and 5 absent.**

## **DRP ITEM #14 – Variance – Grammatical Changes (Approved on 5/21/13)**

Two necessary grammatical changes are proposed to the section below related to variances. Also, the elimination of the term “development” in section C is proposed because the LDC’s definition of development plan may go beyond the level of detail required to illustrate the issues related to a particular variance request. A “plan” will still be required, just not a “development plan.” Proposed revisions are shown below.

### 11.5B.1 General Provisions

- A. Variances requested in Conjunction with Zoning or Form District Map Amendments  
Applicants for Subdivisions ~~and or~~ Zoning or Form District map amendments may elect, at the time of application, to have the Variance(s) for the same development heard and decided by the Planning Commission. In such cases, the Planning Commission shall assume all powers and duties otherwise exercised by the Board of Adjustments pursuant to KRS 100.231, 100.233, 100.237, 100.241, 100.243, 100.247, and 100.251. For purposes of this section only, the time of application for the map amendment shall correspond to the time of legal notice for the hearing on map amendment. Hereafter, references to the Board of Zoning Adjustment shall also include the Planning Commission when the Commission is considering Variance(s)
- B. Considerations for Variances  
Determinations on the granting of Variances(s) shall be made in accordance with KRS 100.241 through 100.251. In its review of Variance applications, the Board shall consider the following factors:
1. The purpose and intent and all other requirements of this code;
  2. Whether the requested variance will adversely affect the public health, safety or welfare, will alter the essential character of the general vicinity, will cause a hazard or a nuisance to the public, or will allow an unreasonable circumvention of the requirements of the zoning regulations.
  3. Whether the requested variance arises from special circumstances which do not generally apply to land in the general vicinity, or in the same zone;
  4. Whether the strict application of the provision of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant; and,
  5. Whether the circumstances are the result of action of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.
- The Board shall deny any request for a variance arising from circumstances that are the result of willful violations of the zoning regulation by the applicant subsequent to the adoption of the zoning regulation from which relief is sought.
- C. Requirement to follow approved ~~Development~~ Plan  
A variance shall be approved only on the basis of the ~~development~~ plan approved by the Board and shall be valid only for the location and area shown on the approved ~~development~~ plan which shall

include a floor plan if applicable. All construction and operations must be conducted in accordance with the approved ~~development~~ plan and conditions attached to the Variance. The Director shall ~~specific~~ **specify** the contents and format of the ~~development~~ plan. Such specifications shall be available through Planning and Design Services.

## **DRP ITEM #14 – VOTE**

Motion to approve DRP Item #14 made by Glenn Price and seconded by Barbara Sinai at 5/21/13 meeting.

**YES:** Donnie Blake, Chuck Kavanaugh, Pat Dominik, Glenn Price (alternate for Deborah Bilitski), Barbara Sinai, Steve Porter, Tom FitzGerald, Teena Halbig, Kevin Dunlap and Matt Meunier

**NO:** None

**ABSTAIN:** None

**ABSENT:** Jim King, James Peden, David Proffitt, Kathy Linares and Gabe Fritz

**DRP Item #14 recommended for approval by a vote of: 10 in favor, 0 opposed, 0 abstentions and 5 absent.**

## **DRP ITEM #15 – Variance – Removal of “Development” (Approved on 5/21/13)**

A reference to a development plan requirement has been eliminated below.

11.5B.2 Application

A. Applications for Variance shall be submitted on forms supplied by the department. Applications shall be signed by the property owner or his/her agent and filed Planning and Design Services in accordance with these regulations and the Board of Zoning Adjustment By-Laws and Rules of Procedure. Applications shall be accompanied by supporting material determined appropriate by the Planning Director and by the appropriate fee. The list of required supporting materials shall be available from the offices of Planning and Design Services. Failure to submit all required material may result in delay of the application review. At a minimum, the following materials shall be submitted with all applications for Variance;

1. A “Demonstration of Appropriateness” document which addresses as applicable the items listed in Section 11.5B.1B above. To the extent that the items in 11.5B.1 are adequately addressed on the application, they do not have to be addressed in a separate document.
2. A ~~development~~ plan of sufficient detail to demonstrate to the Board the character and objectives of the proposed development and the potential impacts of the development on the community and its environs.

## **DRP ITEM #15 – VOTE**

Motion to approve DRP Item #15 made by Glenn Price and seconded by Barbara Sinai at 5/21/13 meeting.

**YES:** Donnie Blake, Chuck Kavanaugh, Pat Dominik, Glenn Price (alternate for Deborah Bilitski), Barbara Sinai, Steve Porter, Tom FitzGerald, Teena Halbig, Kevin Dunlap and Matt Meunier

**NO:** None

**ABSTAIN:** None

**ABSENT:** Jim King, James Peden, David Proffitt, Kathy Linares and Gabe Fritz

**DRP Item #15 recommended for approval by a vote of: 10 in favor, 0 opposed, 0 abstentions and 5 absent.**

## **DRP ITEM #16 – Variance – Submission of Materials (Approved on 5/21/13)**

A 14 day submittal deadline for materials for original hearings is appropriate, but a seven day deadline for continued hearings is also appropriate and is proposed. Proposed revisions to Section 11.5B.3.B are shown below.

A. Submission of Materials – In addition to those materials required at the time of application submission, no less than fourteen (14) calendar days prior to an original **hearing**, or **seven (7) calendar days prior to a continued** ~~or continued~~ hearing date before the Board, the applicant shall submit original or revised ~~development~~ plans, studies, reports, etc. which have been prepared in response to comments received during the review process. Failure to submit these items within the required time frame ~~shall~~ **may** be considered grounds for postponing the hearing or deferring action on the proposal. The cost for additional notice shall be borne by the applicant. This section does not

preclude the applicant from presenting, at the hearing, changes to the plan in response to concerns of the neighbors or Board.

## **DRP ITEM #16 – VOTE**

Motion to approve DRP Item #16 made by Steve Porter and seconded by Barbara Sinai at 5/21/13 meeting.

**YES:** Donnie Blake, Chuck Kavanaugh, Pat Dominik, Glenn Price (alternate for Deborah Bilitski), Barbara Sinai, Steve Porter, Tom FitzGerald, Teena Halbig, Kevin Dunlap and Matt Meunier

**NO:** None

**ABSTAIN:** None

**ABSENT:** Jim King, James Peden, David Proffitt, Kathy Linares and Gabe Fritz

**DRP Item #16 recommended for approval by a vote of: 10 in favor, 0 opposed, 0 abstentions and 5 absent.**

## **DRP ITEM #17 – Development Plan Reference to Ch. 5 Threshold Tables (Approved on 5/21/13)**

Additional clarification as to where in the LDC the form district size thresholds can be located is added below.

### 11.6.1 Development Plan Categories

For purposes of review procedure, developments are divided into three distinct categories based upon the size thresholds established in the **Chapter 5** Form District regulations applicable to the location of the proposed development. The categories are:

- A. Category 1 - Development proposals which do not meet the size threshold for applicability of Form District design standards.
- B. Category 2 - Development proposals which meet the minimum size threshold for applicability of Form District design standards but do not meet the size threshold for completing the Community Design Review process.
- C. Category 3 - Development proposals which meet the size threshold for completing the Community Design Review Process.

The review process for each category of development is outlined in the sections below. Initial or revised submissions shall follow the procedure determined by the size of the new or additional development proposed unless a higher level of review is required by another section of this code.

NOTE: Plans filed before the effective date of the LDC shall be reviewed for compliance with the regulations in effect at the time of filing. See Section 1.1.8.

## **DRP ITEM #17 – VOTE**

Motion to approve DRP Item #17 made by Glenn Price and seconded by Tom FitzGerald at 5/21/13 meeting.

**YES:** Donnie Blake, Chuck Kavanaugh, Pat Dominik, Glenn Price (alternate for Deborah Bilitski), Barbara Sinai, Steve Porter, Tom FitzGerald, Teena Halbig, Kevin Dunlap and Matt Meunier

**NO:** None

**ABSTAIN:** None

**ABSENT:** Jim King, James Peden, David Proffitt, Kathy Linares and Gabe Fritz

**DRP Item #17 recommended for approval by a vote of: 10 in favor, 0 opposed, 0 abstentions and 5 absent.**

## **DRP ITEM #18 – Appeals – Planning Commission’s Delegation of Appeals to a Committee & Notice Adjustment (Approved on 6/4/13)**

Appeals of staff determinations are often decided upon by the full Planning Commission even if the discussion begins at the committee level. This appeal should begin at the Planning Commission level. Also, the term “administrative” is being added before “appeal” in Section B. The notice requirement is being changed to 14 days to be consistent with other types of notification requirements. The proposed revisions are listed below.

### 11.7.1 Planning Commission Review of Staff Determinations

- A. Applicability – When the Planning Director, Director of Works or Local Building Official is authorized by this Land Development Code to take action on a proposal on behalf of the Planning Commission, such action may be appealed to the Planning Commission by filing an **administrative** appeal no later than fourteen (14) calendar days after the date of the action. All actions which have not been appealed to the Planning Commission within fourteen (14) calendar days shall not be subject to further ~~administrative review or~~ **administrative** appeal.
- B. Notice – Notice of the **administrative** appeal shall be given to the applicant (if not the appellant) and all first tier property owners at least ~~seven (7)~~ **fourteen (14)** calendar days prior to the meeting at which the Planning Commission will consider the **administrative** appeal.
- C. ~~Delegation to Committee – The Planning Commission may delegate the authority to consider and take final actions on appeals to its Land Development and Transportation Committee or other such Committee of the Commission duly created under the By-Laws of the Commission.~~

## **DRP ITEM #18 – VOTE 1**

Motion to approve the changes in paragraph B and C above in DRP Item #18 made by Teena Halbig and seconded by Steve Porter at 6/4/13 meeting.

**YES:** James Peden, Donnie Blake, Robert Kirchdorfer (alternate for David Proffitt), Tara Brinkmoeller (alternate for Chuck Kavanaugh), Kathy Linares, Deborah Bilitski, Barbara Sinai, Steve Porter, Tom FitzGerald, Teena Halbig, Kevin Dunlap, Gabe Fritz and Matt Meunier

**NO:** Pat Dominik

**ABSTAIN:** None

**ABSENT:** Jim King

**DRP Item #18, Part 1 recommended for approval by a vote of: 13 in favor, 1 opposed, 0 abstentions and 1 absent.**

## **DRP ITEM #18 – VOTE 2**

Motion to approve the changes in paragraph A above in DRP Item #18 made by Tom FitzGerald and seconded by Gabe Fritz at 6/4/13 meeting.

**YES:** James Peden, Donnie Blake, Robert Kirchdorfer (alternate for David Proffitt), Tara Brinkmoeller (alternate for Chuck Kavanaugh), Kathy Linares, Barbara Sinai, Steve Porter, Tom FitzGerald, Teena Halbig, Kevin Dunlap, Gabe Fritz and Matt Meunier

**NO:** Pat Dominik

**ABSTAIN:** Deborah Bilitski

**ABSENT:** Jim King

**DRP Item #18, Part 2 recommended for approval by a vote of: 12 in favor, 1 opposed, 1 abstention and 1 absent.**

## **DRP ITEM #19 – Appeal Terminology (Approved on 6/4/13)**

The term “administrative” is being added before “appeal” in Section B. The proposed revisions are listed below.

- 11.7.2 Planning Commission Review of Committee Determinations
  - A. Applicability – When a committee of the Planning Commission takes action on a proposal on behalf of the Planning Commission, such action may be appealed to the Planning Commission by filing an **administrative** appeal with the Department of Planning and Design Services no later than fourteen (14) calendar days after the date of the action. All committee actions which have not been appealed to the Planning Commission within fourteen (14) calendar days shall not be subject to further ~~administrative review or~~ **administrative** appeal.
  - B. Notice – Notice of the **administrative** appeal shall be given to the applicant (if not the appellant) and all first tier adjoining property owners at least ~~ten (10)~~ **fourteen (14)** calendar days prior to the meeting at which the Planning Commission will consider the **administrative** appeal.

## **DRP ITEM #19 – VOTE**

Motion to approve DRP Item #19 made by Steve Porter and seconded by Teena Halbig at 6/4/13 meeting.

**YES:** James Peden, Donnie Blake, Robert Kirchdorfer (alternate for David Proffitt), Kathy Linares, Barbara Sinai, Steve Porter, Tom FitzGerald, Teena Halbig, Kevin Dunlap, Gabe Fritz and Matt Meunier

NO: Pat Dominik

ABSTAIN: Tara Brinkmoeller (alternate for Chuck Kavanaugh) and Deborah Bilitski

ABSENT: Jim King

**DRP Item #19 recommended for approval by a vote of: 11 in favor, 1 opposed, 2 abstentions and 1 absent.**

## **DRP ITEM #20 – Waivers – Justification/Findings (Approved on 6/4/13)**

The basis for the applicant's justification and the findings necessary to grant a waiver should be consistent with each other. These items are listed separately in Sections 11.8.2 and 11.8.5. To improve consistency in the language used the contents of Section 11.8.5 should be used also in Section 11.8.2. See the proposed revisions below.

### 11.8.2 Application

#### A. Submission Requirements

Applications for waiver shall be signed by the property owner or his/her agent and filed with the Planning Director in accordance with these regulations and the Planning Commission By-Laws and Rules of Procedure. Applications shall be accompanied by supporting material determined appropriate by the Planning Director and by the appropriate fee. The list of required supporting materials shall be available from the offices of the Commission. Failure to submit all required material may result in delay of the application review. At a minimum, the following materials shall be submitted with all applications for waiver:

1. A justification document which addresses as applicable the following items:
  - a. ~~How the proposed waiver conforms to the Comprehensive Plan and the intent of this Land Development Code;~~
  - b. ~~Why compliance with the regulation is not appropriate and granting of the waiver will result in a development more in keeping with the Comprehensive Plan and this overall intent of this Land Development Code;~~
  - c. ~~What impacts granting of the waiver may have on adjacent property owners;~~
  - d. ~~Why strict application of the provision of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant.~~

**A. The waiver will not adversely affect adjacent property owners; and,**

**B. The waiver will not violate the Comprehensive Plan; and,**

**C. The extent of waiver of the regulation is the minimum necessary to afford relief to the applicant; and,**

**D. Either:**

**1.The applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect); or**

**2.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.**

2. Unless determined by the Planning Director to be unnecessary, a general or detailed development plan of sufficient detail to demonstrate to the Planning Commission the character and objectives of the proposed waiver and the potential impacts of the waiver on the community and its environs.

## **DRP ITEM #20 – VOTE**

Motion to approve DRP Item #20 made by Deborah Bilitski and seconded by Barbara Sinai at 6/4/13 meeting.

**YES:** James Peden, Donnie Blake, Robert Kirchdorfer (alternate for David Proffitt), Tara Brinkmoeller (alternate for Chuck Kavanaugh), Pat Dominik, Kathy Linares, Deborah Bilitski, Barbara Sinai, Steve Porter, Tom FitzGerald, Teena Halbig, Kevin Dunlap, Gabe Fritz and Matt Meunier

**NO:** None

**ABSTAIN:** None

**ABSENT:** Jim King

**DRP Item #20 recommended for approval by a vote of: 14 in favor, 0 opposed, 0 abstentions and 1 absent.**



## **DRP ITEM #21 – Authority to Set Fee Schedule (Approved on 6/4/13)**

While the fee schedule is located in Appendix 11B of the LDC, the reference in Section 11.9.1 requires the fee schedule to be set by ordinance of the legislative body. It would seem that a more effective system would be one in which the Planning Commission takes final action on determining the fees for Planning & Design Services. See proposed revisions below.

- 11.9.1 Authority to Set Fees  
The fee schedule shall be set **by the Planning Commission upon recommendation of the Planning Director.** ~~by ordinance of the legislative body providing principal funding to Planning and Design Services.~~
- 11.9.2 Authority to Establish Interim Fees  
In the circumstance where no fee exists on the official fee schedule, the Planning Director is authorized to establish a review fee until such time as the ~~legislative body~~ **Planning Commission** adopts a revised fee schedule.
- 11.9.3 Fee Exemption  
Applications from legislative bodies, state agencies and local government agencies shall be considered fee exempt.

## **DRP ITEM #21 – VOTE**

Motion to approve DRP Item #21 made by Tom FitzGerald and seconded by Deborah Bilitski at 6/4/13 meeting.

**YES:** James Peden, Donnie Blake, Tara Brinkmoeller (alternate for Chuck Kavanaugh), Pat Dominik, Kathy Linares, Deborah Bilitski, Barbara Sinai, Steve Porter, Tom FitzGerald, Teena Halbig, Kevin Dunlap, Gabe Fritz and Matt Meunier

**NO:** None

**ABSTAIN:** Robert Kirchdorfer (alternate for David Proffitt)

**ABSENT:** Jim King

**DRP Item #21 recommended for approval by a vote of: 13 in favor, 0 opposed, 1 abstention and 1 absent.**

## **DRP ITEM #22 – Section 11.10 Enforcement (Approved on 6/4/13)**

The sub-committee initially proposed eliminating Section 11.10.1 Right of Entry. Reasons cited included concerns with constitutionality issues and difficulty of enforcement. Planning Commission legal counsel and Louisville Metro Code Enforcement staff had serious reservations about this particular recommendation and after a thorough discussion the main committee decided to leave the right of entry section as is. Additional language is proposed in Section 11.10.2 that requires additional details on Notices of Violation. Also, an additional reference to an applicable KRS section related to citations has been added in Section 11.10.2

- 11.10.1 Right of Entry  
Upon representation of official credentials, any zoning enforcement officer may enter during reasonable hours any premises covered by these regulations for the purposes of determining compliance with the provisions of this ordinance or conditions established at the time of development approval.
- 11.10.2 Notice of Violation and Stop Use Order  
Upon determining that use of property is being maintained contrary to the provisions of these regulations, the zoning enforcement officer may issue a notice of violation and order requiring such use to stop immediately. Upon receipt of a notice of violation and stop use order, the property owner or his agent, or the person so using the property shall immediately stop the use. The notice of violation and stop use order shall be given to the owner of the property or his agent, or to the person using the property. The notice shall state specifically the regulation or ordinance being violated **and details related to how the activities observed on the property are specifically violating the regulation or ordinance being referenced.** Notice may be given by hand delivery or by registered mail to the owner, his agent or the person using the property.  
Citations

Zoning enforcement officers may issue citations in accordance with KRS 100.991 **& KRS 431.015** to any person or entity who fails to stop use or otherwise remedy the violation immediately as required by Part 11.10.2.

Penalties

Any person or entity who violates any provision of this Code shall be fined not less than \$10.00 nor more than \$500.00 for each violation. Each day of violation constitutes a separate offense.

11.10.3 Enforcement of Binding Elements

Enforcement of binding elements and conditions of approval shall occur in accordance with KRS 100.401 through KRS 100.419; applicable local ordinances; and applicable Planning Commission Policies and Procedures.

**DRP ITEM #22 – VOTE 1**

Motion to keep the right of entry portion of DRP Item #22 made by Deborah Bilitski and seconded by Teena Halbig at 6/4/13 meeting.

**YES:** James Peden, Robert Kirchdorfer (alternate for David Proffitt), Tara Brinkmoeller (alternate for Chuck Kavanaugh), Pat Dominik, Kathy Linares, Deborah Bilitski, Barbara Sinai, Tom FitzGerald, Teena Halbig, Kevin Dunlap and Matt Meunier

**NO:** Donnie Blake and Steve Porter

**ABSTAIN:** Gabe Fritz

**ABSENT:** Jim King

**DRP Item #22, part 1 to reject right of entry change passed by a vote of: 11 in favor, 2 opposed, 1 abstention and 1 absent.**

**DRP ITEM #22 – VOTE 2**

Motion to approve other enforcement items in DRP Item #22 made by Kevin Dunlap and seconded by Steve Porter at 6/4/13 meeting.

**YES:** Donnie Blake, Steve Porter, Gabe Fritz, James Peden, Robert Kirchdorfer (alternate for David Proffitt), Tara Brinkmoeller (alternate for Chuck Kavanaugh), Pat Dominik, Kathy Linares, Deborah Bilitski, Barbara Sinai, Tom FitzGerald, Teena Halbig, Kevin Dunlap and Matt Meunier

**NO:** None

**ABSTAIN:** None

**ABSENT:** Jim King

**DRP Item #22, part 2 recommended for approval by a vote of: 14 in favor, 0 opposed, 0 abstentions and 1 absent.**

**DRP ITEM #31 – Should Surveys be Required for Certain Types of Development Applications? (Approved on 9/17/13)**

At the 5/7/13 LDC Main Committee meeting the topic of surveys being required in association with application submittals was discussed. If such a requirement were to be implemented it would be located in Chapter 11 of the Land Development Code. Item #31 has been added to the Development Review Process report to afford the LDC Main Committee the opportunity to continue this discussion.

Issues to be addressed:

1. What is the current problem, if any, with not requiring applicants to provide updated surveys of their property when submitting various applications to Planning & Design Services?
2. Should surveys only be required with certain types of development applications? Which ones?
3. Should surveys only be required for applications that will be reviewed by the Planning Commission or one of its sub-committees, or by the Board of Zoning Adjustments?

The text below was recommended for approval at the 9/17/13 main committee meeting. The following language, if approved, will be inserted into Sections 11.5A.4, 11.5B.2 & 11.8.2 of the LDC.

**Not all Waivers, Variances and Conditional Use Permits require engineered surveys. However, where dimensional information is determined to be essential for consideration of such waivers, variances or Conditional Use**

**Permits by staff, the applicant shall provide a survey prepared by a licensed Land Surveyor in the Commonwealth of KY. Only those property boundaries that are contiguous with the dimension(s) in question need to be provided. The cost of the required survey shall be borne by the applicant. In cases where staff determines a survey is not required the applicant shall not be responsible for the cost of any survey submitted by any party.**

### **DRP ITEM #31 – VOTE**

Motion to approve DRP Item #31 made by Donnie Blake and seconded by David Proffitt at 9/17/13 meeting.

**YES:** John Torsky (alternate for James Peden), Donnie Blake, David Proffitt, Chuck Kavanaugh, Kathy Linares, Cliff Ashburner (alternate for Deborah Bilitski), Barbara Sinai, Steve Porter (2 votes; also alternate for Tom FitzGerald, Kevin Dunlap and Matt Meunier

**NO:** Pat Dominik and Teena Halbig

**ABSTAIN:** None

**ABSENT:** Jim King and Gabe Fritz

**DRP Item #31 recommended for approval by a vote of: 11 in favor, 2 opposed, 0 abstentions and 2 absent.**

### **Items #24-30 below are recommended for approval, but do not involve an LDC text amendment.**

The following items have been recommended for approval by the LDC Main Committee, but do not involve an LDC text amendment:

### **DRP ITEM #24 – Non-LDC – Assigning LD&T Dates When Rezoning Applications are Formally Filed (Approved on 6/18/13)**

The sub-committee and the Zucker Report see the benefits of assigning LD&T meeting dates at the time rezoning applications are formally filed with Planning & Design Services. The sub-committee recommends that Planning & Design Services staff create and implement a policy to assign LD&T meeting dates at the time of application submittal on a trial basis. After a period of time the policy should be evaluated for effectiveness and a decision should then be made by Planning & Design Services staff, with input from the Planning Commission and other interested parties, whether to permanently implement the policy, with or without changes, or to eliminate it altogether. During this trial period Planning & Design Services staff will decide on a case by case basis, with input from the applicants and other interested parties, whether to utilize this new experimental case management system or the existing case management system. The LDC Main Committee wants this trial alternate method to apply to all case types not just rezonings.

### **DRP ITEM #24 – VOTE**

Motion to approve DRP Item #24 made by Steve Porter and seconded by Teena Halbig at 6/18/13 meeting.

**YES:** James Peden, Donnie Blake, Robert Kirchdorfer (alternate for David Proffitt), Tara Brinkmoeller (alternate for Chuck Kavanaugh, Pat Dominik, Kathy Linares, Deborah Bilitski, Barbara Sinai, Steve Porter, Tom FitzGerald, Teena Halbig, Kevin Dunlap and Gabe Fritz

**NO:** None

**ABSTAIN:** None

**ABSENT:** Jim King and Matt Meunier

**DRP Item #24 recommended for approval by a vote of: 13 in favor, 0 opposed, 0 abstentions and 2 absent.**

### **DRP ITEM #25 – Non-LDC – Change Name of Pre-DRC Meeting (Approved on 6/18/13)**

When originated the weekly staff/agency meeting known as Pre-DRC was more closely linked to the DRC meeting and process. Currently, this meeting is used to briefly review and discuss applications of all types, not just DRC related applications. To eliminate the potential for confusion, the sub-committee recommends that the title of this weekly

staff/agency meeting be changed to something that does not have "DRC" in the title. Perhaps "Inter-Agency Review Meeting" would be appropriate.

## **DRP ITEM #25 – VOTE**

Motion to approve DRP Item #25 made by James Peden and seconded by Barbara Sinai at 6/18/13 meeting.

**YES:** James Peden, Donnie Blake, Robert Kirchdorfer (alternate for David Proffitt), Tara Brinkmoeller (alternate for Chuck Kavanaugh), Pat Dominik, Kathy Linares, Deborah Bilitski, Barbara Sinai, Steve Porter, Tom FitzGerald, Teena Halbig, Kevin Dunlap and Gabe Fritz

**NO:** None

**ABSTAIN:** None

**ABSENT:** Jim King and Matt Meunier

**DRP Item #25 recommended for approval by a vote of: 13 in favor, 0 opposed, 0 abstentions and 2 absent.**

## **DRP ITEM #26 – Non-LDC – Staff Report Recommendations (Approved on 7/16/13)**

The sub-committee discussed recommendation #23 from the Zucker report, which is related to the inclusion of staff recommendations in staff reports for development cases. Ultimately, the sub-committee decided the process should continue in its current form without a firm staff recommendation included in staff reports and presentations. The sub-committee further discussed the use of the Cornerstone 2020 staff checklist, which staff uses to assist the Planning Commission, or other decision makers, in determining a case's compliance with the goals and objectives of the comprehensive plan. The sub-committee recommends PDS staff adopt the following changes to the comprehensive plan staff checklist: (The LDC Main Committee approved item one below with the noted changes and decided to eliminate item two from consideration.)

- 1) Replace the current "+" and "-" system with either a "checkmark" for compliance, "NA" for not applicable, or "MIN" for more information needed, or "IR" for improvements recommended. "MIN" and "IR" items should include a detailed explanation including the reasons why further discussion and analysis is needed.
- 2) ~~Staff report conclusions will no longer include a statistical breakdown outlining how many policies are in compliance or out of compliance, but rather include a summary of the policies that may need further discussion and analysis by the decision makers.~~

## **DRP ITEM #26 – VOTE**

Motion to approve DRP Item #26 made by Tom FitzGerald and seconded by Teena Halbig at 7/16/13 meeting.

**YES:** John Torsky (alternate for James Peden), Donnie Blake, David Proffitt, Chuck Kavanaugh, Deborah Bilitski (2 votes; also alternate for Pat Dominik), Barbara Sinai, Cathy Hinko (alternate for Steve Porter), Tom FitzGerald, Teena Halbig, Kevin Dunlap, Gabe Fritz and Matt Meunier

**NO:** None

**ABSTAIN:** None

**ABSENT:** Jim King and Kathy Linares

**DRP Item #26 recommended for approval by a vote of: 13 in favor, 0 opposed, 0 abstentions and 2 absent.**

## **DRP ITEM #27 – Non-LDC – Prioritize Meeting Agendas, Easy Cases First (Approved on 6/18/13)**

In an effort to facilitate effectively organized public meetings, the sub-committee recommends that the Planning Commission and its staff strive to arrange meeting agendas with relatively simple cases first followed by more complex cases later. The LDC Main Committee would also like PDS staff to explore the possibility of increasing the number of days prior to public meetings that meeting agendas are published.

## **DRP ITEM #27 – VOTE**

Motion to approve DRP Item #27 made by Gabe Fritz and seconded by Donnie Blake at 6/18/13 meeting.

**YES:** James Peden, Donnie Blake, Robert Kirchdorfer (alternate for David Proffitt), Tara Brinkmoeller (alternate for Chuck Kavanaugh, Pat Dominik, Kathy Linares, Deborah Bilitski, Barbara Sinai, Steve Porter, Tom FitzGerald, Kevin Dunlap and Gabe Fritz

**NO:** Teena Halbig

**ABSTAIN:** None

**ABSENT:** Jim King

**DRP Item #27 recommended for approval by a vote of: 13 in favor, 1 opposed, 0 abstentions and 1 absent.**

## **DRP ITEM #28 – Non-LDC – Reorganization and Increase in Long Range Planning Staff Recommended (Approved on 6/18/13)**

After a thorough review and discussion on the topic of Louisville Metro's Long Range Planning staff the sub-committee recommends two changes related to the following: 1) The sub-committee recommends reinstatement of Louisville Metro's Long Range Planning staff back into the Division of Planning & Design Services; and 2) The sub-committee recommends increasing the number of long range planning staff to bring Louisville more in line with other comparable cities.

1) Relocation of Long Range Planning Staff – Approximately three to four years ago Louisville's Long Range Planning staff, which consists of three to four full-time professional planners, was relocated from Planning & Design Services to Economic Growth & Innovation. The sub-committee feels strongly that long range planning is an integral part of the zoning and development review process and that long range planners should be working alongside development review planners, within the same department. Furthermore, the recently completed Zucker Report states that of the 50 largest U.S. cities 90% have long range planning and current planning functions within the same department.

2) Increase in Long Range Planning Staff – While there are currently seven employees in the Advanced Planning section of Louisville Metro's Economic Growth & Innovation Department, only four of these employees are considered full-time long range planners. Only 14% (4 of 27) of Louisville's planners are full-time long range planners. Since the entire population of Jefferson County falls within the planning jurisdiction of Planning & Design Services, Louisville only has one long range planner for every 185,274 residents.

For a comparison an online analysis of the staff of the planning departments of Lexington, KY, Nashville, TN, Indianapolis, IN and Pittsburgh, PA has been completed. The percentage of planning staff dedicated to long range planning in these cities ranges from 25% to 40%. The ratio of long range planning staff per population for these cities ranges from one long range planner for every 60,313 to 103,451 residents.

## **DRP ITEM #28 – VOTE**

Motion to approve DRP Item #28 made by Tom FitzGerald and seconded by Steve Porter at 6/18/13 meeting.

**YES:** James Peden, Donnie Blake, Robert Kirchdorfer (alternate for David Proffitt), Tara Brinkmoeller (alternate for Chuck Kavanaugh, Pat Dominik, Kathy Linares, Deborah Bilitski, Barbara Sinai, Steve Porter, Tom FitzGerald, Teena Halbig, Kevin Dunlap and Gabe Fritz

**NO:** None

**ABSTAIN:** None

**ABSENT:** Jim King

**DRP Item #28 recommended for approval by a vote of: 14 in favor, 0 opposed, 0 abstentions and 1 absent.**

## **DRP ITEM #29 – Non-LDC – Committee Supports Increased Pay for Planners (Approved on 6/18/13)**

Louisville Metro has a reputation for not compensating its professional planning staff particularly well in comparison to other cities across the United States. This fact is partially to blame for the relatively high turnover rate Planning & Design Services experiences, particularly when the economy is on an uptick and other better paying employment opportunities present themselves. In order to attract and retain the quality of employees it takes to create a world-class planning department more competitive pay must be offered.

The American Planning Association (APA) conducts an annual planner's salary survey which further illustrates how inadequately Louisville's planners are being compensated. The 2012 APA salary survey shows a median annual salary of \$73,000 for the 10,182 full-time planners who completed the survey. The median annual salary of the current professional planning staff of Louisville Metro Planning & Design Services is \$45,687, which is 38% below the national median salary level and ranks Louisville's planner salaries in the bottom 10% nationwide. Furthermore, Louisville hires new Planner I's and Planner II's at annual salaries of less than \$40,000. According to the 2012 APA salary survey less than 4% of all professional planners who responded make less than \$40,000 annually.

If Louisville aspires to have the best planning department in the country, then Louisville should be offering its highly qualified and educated planning staff an annual salary that ranks much better than the bottom 4% nationally. The sub-committee supports increasing pay for Louisville Metro planners in order to retain and attract highly qualified professionals and to be competitive with peer cities.

### **DRP ITEM #29 – VOTE**

Motion to approve DRP Item #29 made by Steve Porter and seconded by Tom FitzGerald at 6/18/13 meeting.

**YES:** James Peden, Donnie Blake, Robert Kirchdorfer (alternate for David Proffitt), Tara Brinkmoeller (alternate for Chuck Kavanaugh, Pat Dominik, Kathy Linares, Deborah Bilitski, Barbara Sinai, Steve Porter, Tom FitzGerald, Teena Halbig, Kevin Dunlap and Gabe Fritz

**NO:** None

**ABSTAIN:** None

**ABSENT:** Jim King

***DRP Item #29 recommended for approval by a vote of: 14 in favor, 0 opposed, 0 abstentions and 1 absent.***

### **DRP ITEM #30 – Non-LDC – Committee Supports Technology Improvements (Approved on 6/18/13)**

The sub-committee supports technology upgrades throughout the Division of Planning & Design Services. Resources should be committed to improving the digital capabilities within the office including electronic application submission, expanded online case tracking and improving the user friendliness of the website. Efforts should also be made to implement technology improvements for public hearings such as upgraded audio visual equipment and the broadcasting of meetings on television as well as on the internet.

### **DRP ITEM #30 – VOTE**

Motion to approve DRP Item #30 made by Steve Porter and seconded by James Peden at 6/18/13 meeting.

**YES:** James Peden, Donnie Blake, Robert Kirchdorfer (alternate for David Proffitt), Tara Brinkmoeller (alternate for Chuck Kavanaugh, Pat Dominik, Kathy Linares, Deborah Bilitski, Barbara Sinai, Steve Porter, Tom FitzGerald, Teena Halbig, Kevin Dunlap and Gabe Fritz

**NO:** None

**ABSTAIN:** None

**ABSENT:** Jim King

***DRP Item #30 recommended for approval by a vote of: 14 in favor, 0 opposed, 0 abstentions and 1 absent.***

### **NON-RECOMMENDATIONS**

#### ***Items below were discussed, but did not achieve official recommendation status.***

The following LDC text amendments were debated by the LDC Main Committee, but did not receive the minimum number of votes required to become an official recommendation:

### **DRP ITEM #9 – Conditional Use Permit Considerations for Review (Rejected on 5/21/13)**

At the 5/21/13 LDC Main Committee meeting the committee decided this item was not necessary and decided against recommending the changes shown below. The following section (11.5A.1.B) is included in the general provisions section for Conditional Use Permits. Items 3, 4 and 5 are already adequately covered in items 1 and 2, therefore were thought to be unnecessary and should be eliminated. Proposed revisions are shown below.

A. Considerations for Review of Conditional Use Permits

In its review of Conditional Use Permit applications, the Board shall include, at a minimum, consideration of the following factors:

1. The purpose and intent and all other requirements of this code.
2. Whether the proposal is consistent with the applicable policies of the Comprehensive Plan.
3. ~~The compatibility of the proposal with surrounding land uses and the general character of the area including such factors as height, bulk, scale, intensity, traffic, noise, odor, drainage, dust, lighting, appearance, etc.~~
4. ~~Whether necessary public facilities (both on-site and off-site), such as transportation, sanitation, water, sewer, drainage, emergency services, education, recreation, etc. will be adequate to serve the proposed use.~~
5. ~~Any other matter that the Board may deem appropriate and relevant to the specific proposal.~~

## **DRP ITEM #9 – VOTE**

Motion to reject DRP Item #9 made by Glenn Price and seconded by Tom FitzGerald at 5/21/13 meeting.

**YES:** Donnie Blake, Chuck Kavanaugh, Pat Dominik, Glenn Price (alternate for Deborah Bilitski), Barbara Sinai, Steve Porter, Tom FitzGerald, Teena Halbig, Kevin Dunlap and Matt Meunier

**NO:** None

**ABSTAIN:** None

**ABSENT:** Jim King, James Peden, David Proffitt, Kathy Linares and Gabe Fritz

**DRP Item #9 rejected by a vote of: 10 in favor, 0 opposed, 0 abstentions and 5 absent.**

## **DRP ITEM #23 – Application Submittal Notification Proposal (Voted on at 7/2/13 meeting; no official recommendation made)**

*At a 3/25/14 meeting attended by PDS staff and various individuals involved in the LDC Round Two process, it was decided that a version of this proposal will be discussed by the Policies and Procedures Committee for possible inclusion in the Planning Commission's Policies & Procedures document, rather than attempting to add this language to the Land Development Code.*

*This item was discussed during multiple meetings and finally voted upon at the 7/2/13 LDC Main Committee meeting. There were differing opinions on this proposal which were reflected in the vote count. The motion was to approve the proposal (excluding pre-applications) and the vote was: five in favor, four opposed, two abstentions and four absent. Rules of this committee state any action must have a minimum of eight votes to become an official recommendation. As it stands this item will not become an official recommendation to be forwarded to the Planning Commission. However, the Planning Commission will be made aware of various topics/items the LDC Main Committee discussed, but failed to turn into official recommendations.*

The following is a proposal to implement an application submittal notification requirement. Applicants of various types of applications will be required to notify adjacent property owners and other interested parties within seven days of application submittal.

### **Proposed Language for LDC Chapter 11**

- A. Notice of Filing of Application – Notice of any initial application (including applications by governmental entities), related to (a) a map or form district amendment, (b) Detailed District Development Plan, General District Development Plan, Revised Detailed District Development Plan or Revised General District Development Plan, (c) a modification, deletion, or addition of a binding element or a condition of approval, (d) a conditional use permit, (e) a variance, or (f) a waiver, shall be given to the following by the methods indicated. For case types that require the pre-application process (i.e.-zoning/form district map amendment, conditional use permit), this notification requirement shall be applied only to the pre-application submittal, and shall not be required at the time the formal application is submitted. The notice shall include the property

address, the assigned case number, and a brief description of the request. Once notice for an application has been given according to this section, no additional notice shall be required just because of changes in the application, unless the application has become a new case in the system. The notice required by this section, however, shall be in addition to any notice of further actions or hearings otherwise required by statute, ordinance or other regulation.

- B. Cases that are noticed for their public meeting less than seven days after application submittal shall be exempt from the application notification requirements of this Part.
- C. For applications for (a) a zoning map amendment or form district amendment; (b) Detailed District Development Plan, General District Development Plan, Revised Detailed District Development Plan or Revised General District Development Plan; (c) a modification, deletion or addition of a binding element or a condition of approval; or (d) a conditional use permit, notice shall be given by the applicant, by depositing in the United States mail not more than seven (7) days following the submittal date of the application, to:
  - (i) The mayor and city clerk of any city of the second, third, fourth, fifth or sixth class in which the property that is the subject of the application is located;
  - (ii) The owner(s) of every parcel of property adjoining at any point the property that is the subject of the application;
  - (iii) The owner(s) of every parcel of property directly across the street from the property that is the subject of the application;
  - (iv) The owner(s) of every parcel of property that adjoins the adjoining property or the property directly across the street from said adjoining property within 500 feet of the property that is the subject of the application;

**ITEM FOR LDC MAIN COMMITTEE TO DECIDE: IN PARAGRAPH (C) ABOVE ITEMS (a) & (d) ARE REQUIRED TO SEND NOTICES OF PUBLIC MEETINGS TO 1<sup>ST</sup> & 2<sup>ND</sup> TIER APO'S, WHILE ITEMS (b) & (c) ABOVE ARE ONLY REQUIRED TO SEND NOTICES OF PUBLIC MEETINGS TO 1<sup>ST</sup> TIER APO'S. IN AN EFFORT TO MAINTAIN CONSISTENCY THROUGH THE NOTIFICATION PROCESS SHOULD ITEMS (b) & (c) BE MOVED TO PARAGRAPH (D) BELOW (ONE TIER APPLICATION NOTICE)?**

- D. For applications for a variance or a waiver, notice shall be given by the applicant, by depositing in the United States mail not more than seven (7) days following the submittal date of the application, to:
  - (i) The mayor and city clerk of any city of the second, third, fourth, fifth or sixth class in which the property that is the subject of the application is located;
  - (ii) The owner(s) of every parcel of property adjoining at any point the property that is the subject of the application;
  - (iii) The owner(s) of every parcel of property directly across the street from the property that is the subject of the application; and
- E. For all applications, including major subdivisions and staff-approvable cases, notice shall be given by the Division of Planning and Design Services by electronic mail not more than seven (7) days following the submittal date of the application, to:
  - (i) The Louisville Metro Council Member for the district in which the subject property is located; and
  - (ii) Any person listed in the Planning and Design Services Notification for Development Proposals List for the Council District in which the subject property is located.
- F. It shall be the duty of the applicant to furnish to the Division of Planning and Design Services the names and addresses of the owners of all properties described above and a copy of the notice sent, within seven (7) days after such notices are mailed. Records maintained by the Jefferson County Property Valuation Administrator (PVA) may be relied upon conclusively to determine the identity and address of said owners. In the event a property described in this section is held in a cooperative or condominium form of ownership, the person entitled to notice under this section shall be the president or chairperson of the owner group that administers the property in common ownership. A joint notice may be mailed to two or more co-owners of a property described in this section where those co-owners are listed in the Property Valuation Administrator's records as having the same address.
- G. If the applicant does not submit the confirmation that the mailing took place within the seven (7) day period as mentioned in the preceding paragraph, then Planning & Design Services staff will cease all review of the application in question. Once the applicant submits the mailing confirmation to Planning & Design Services staff, then the application will be reinserted into the next current review cycle within the Case Management System, or the application will be docketed for public meeting if determined ready and complete by the case



manager. The applicant will be responsible for any added costs associated with processing additional public meeting notices and/or meeting cancellation notices.

## **DRP ITEM #23 – VOTE**

Motion to approve DRP Item #23 made by James Peden and seconded by Tom FitzGerald at 7/2/13 meeting.

**YES:** James Peden, Barbara Sinai, Steve Porter, Tom FitzGerald and Teena Halbig

**NO:** Chuck Kavanaugh, Pat Dominik, Kathy Linares and Deborah Bilitski

**ABSTAIN:** Donnie Blake and Mike Hynes (alternate for Gabe Fritz)

**ABSENT:** Jim King, David Proffitt, Kevin Dunlap and Matt Meunier

**The vote for DRP Item #23 was as follows: 5 in favor, 4 opposed, 2 abstentions and 4 absent. In order for any proposal to become an official recommendation of the LDC Main Committee it must be accompanied by a minimum of eight votes.**

## **STAFF RECOMMENDATIONS**

### **DRP STAFF ITEM A – Staff Level Review of Revised Category 3 Development Plans**

There is no guidance in the LDC related to the revision of previously approved Category 3 development plans. Currently, every Category 3 plan, whether it is a brand new construction site or a small addition to an existing site, is treated the same and required to go through the same review process which includes a public meeting. Staff feels it would be appropriate to adopt similar staff level review language that is applied to plan certain revised development plans. This idea was discussed favorably by the Development Review Process sub-committee, but was unintentionally excluded from the recommendations forwarded to the LDC Main Committee for consideration. Therefore, staff suggests adoption of the changes listed below.

#### **11.6.4 Category 3 Review Procedure**

A. Commission Approval Required

In addition to those materials required by the appropriate building code, applications for permit for construction activity meeting the Category 3 thresholds shall be accompanied by a development plan, which has been approved by the Planning Commission under the Community Design Review Procedure outlined below. The Planning Commission may delegate this review process to a Committee of the Commission. The Technical Review Committee process defined in Chapter 7 shall satisfy the Community Design Review Process required for subdivisions that meet the threshold established in the form district regulations. In conjunction with its review of development proposals that require Conditional Use Permits or Variances, the Board of Zoning Adjustment is authorized to review and approved Category 3 reviews in accordance with this part.

B. **Delegation to Planning Director for Revisions to Approved Category 3 Development Plans**

**Unless otherwise specified in these regulations or at the time of original Category 3 development plan approval, the Planning Director may approve modifications to an approved Category 3 development plan relating to changes in building design and layout and site design and layout so long as such changes are in conformance with the design requirements of this code. In addition, the Planning Director may approve changes to an approved Category 3 development plan related to increase or reduction of square footage of the development so long as the increase does not exceed 25% or meet or exceed the threshold established in the applicable Form District regulation for completing the Community Design Review process.**

**In cases in which the Planning Director has reason to question whether the request to revise the approved Category 3 development plan complies with any of the items approved under the original Category 3 development plan approval or any other provision of the Land Development Code, the Planning Director may forward the request to the Planning Commission, or committee thereof, for review and action.**

**NOTE: Subsequent development proposals on a site that included a prior Category 3 development plan approval which has been fully implemented will be required to submit the**

**level of development plan (i.e. – Cat. 2A, 2B or 3) that is required by the applicable Chapter 5 form district threshold table, rather than utilize this revised Category 3 process.**

**BC.** Community Design Review Process

1. Application Required - Applications for development plan approval shall be submitted on forms supplied by the department. Applications shall be signed by the property owner or his/her agent and filed with Planning and Design Services in accordance with these regulations and the Planning Commission By-Laws and Rules of Procedure. Applications shall be accompanied by supporting material determined appropriate by the Planning Director and by the appropriate fee. The list of required supporting materials shall be available from the offices of the Commission. Failure to submit all required material may result in delay of the application review.
2. Notice – Not less than 10 calendar days prior to the proposed review session, notice of the proposed development and its scheduled review shall be given to adjoining property owners. In addition, staff shall endeavor to assure that notice is given to all neighborhood groups who have registered to receive notice of development applications.
3. Review Session – Review of and action on the proposal shall take place in a public meeting before the Planning Commission or Committee thereof. No less than ten (10) calendar days prior to an original or continued review session date, the applicant shall submit original or revised development plans, studies, reports, etc. which have been prepared in response to comments received during the review process. This section does not preclude the applicant from presenting, at the review session, changes to the plan in response to concerns of the neighbors, agency review staff or the Planning Commission. The Planning Commission or designated Committee shall approve the proposed development if it complies with the requirements of this code; associated binding elements, if any; and other applicable law.

**CD.** Issuance of Building Permits

In addition to those materials required by the appropriate building code, applications for permit for construction activity meeting the Category 3 thresholds shall be accompanied by a development plan which has been approved by the Planning Director. Building permits for Category 3 development shall be issued only in conformance with the development plan approved by the Planning Director and any applicable binding elements or conditions of approval of a district development plan.

**DE.** Multiple Phase Projects

Developments that are constructed in multiple phases shall not be required to undergo the Category 3 review procedure more than once. If a plan has been approved in accordance with this section, building permits for construction of portions of the approved development may be issued without additional Category 3 review.

*For example, if a site plan for a 300 unit apartment complex is approved under the Category 3 process, building permits for each 10 unit building may be issued without additional Category 3 review.*

## **DRP STAFF ITEM B – Correction of Conditional Use Permit Expiration Period**

In August of 2009 Section 1.1.9 of the Land Development Code was amended to allow the expiration of approval of various development plans, including Conditional Use Permits, to be two years after the date of approval rather than one year. Section 1.1.9 was amended at that time, but a reference to the term of permit approval for Conditional Use Permits in Section 11.5A.1.C was failed to be amended. This item was brought to PDS staff's attention in early June of 2014. Staff recommends the changes listed below.

### **11.5A.1 General Provisions (Conditional Use Permits)**

**C. Term of Permit Approval**

The Permit must be exercised within ~~one~~ **two** years of the date of issuance, or other time frame as may be specified by the Board. However, upon written application, filed at least thirty calendar days prior to said expiration date, the Board may, for cause shown, renew such Conditional Use Permit for one period of up to one year. No less than fourteen (14) calendar days prior to Board consideration of an application for extension, staff of Planning and Design Services shall cause notice of the application to be given to those persons who appeared at the hearing at which the current expiration date was set. If the Permit expires, no new or renewal permit shall be issued except through a new original application in compliance with all requirements for such applications.