

**MINUTES OF THE MEETING
OF THE
DEVELOPMENT REVIEW COMMITTEE
January 18, 2017**

A meeting of the Development Review Committee was held on January 18, 2017 at 1:00 p.m. in the Old Jail Building, located at 514 W. Liberty Street, Louisville, Kentucky.

Committee Members present were:

Rich Carlson, Vice Chair (Acting Chair)
Jeff Brown
Vince Jarboe

Committee Members absent were:

David Tomes, Chairman
Emma Smith
Robert Kirchdorfer

Staff Members present were:

Emily Liu, Director, Planning and Design Services
Steve Hendrix, Planning and Design Supervisor
Ross Allen, Planner I
Tammy Markert, Transportation
Paul Whitty, Legal Counsel
Chris Cestaro, Management Assistant (minutes)

The following matters were considered:

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APPROVAL OF MINUTES

Approval of the minutes of the January 4, 2017 Development Review Committee meeting

00:04:10 On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution was adopted.

RESOLVED, that the Development Review Committee does hereby **APPROVE** the minutes of its meeting conducted on January 4, 2017.

The vote was as follows:

YES: Commissioners Brown and Carlson.

NO: No one.

NOT PRESENT: Commissioners Smith, Kirchdorfer and Tomes.

ABSTAINING: Commissioner Jarboe.

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NEW BUSINESS

CASE 16DEVPLAN1221

Request: Waiver from LDC 5.8.1.B to not provide a sidewalk in the public right-of-way along Gerber Avenue for a length of 375.74 feet and to not provide the 6-foot berm along the rear property line abutting the Kenwood Terrace Section 2 subdivision for a length of 695.02 feet.

Project Name: Beneke Storage Building 2016

Location: 5540 National Turnpike

Owner(s): Steve Beneke – Beneke Wire/Saranac Realty

Applicant: Dwayne Young – Beneke Wire

Representative: Dwayne Young – Beneke Wire

Jurisdiction: Louisville Metro

Council District: 13 – Vicki Aubrey Welch and 21 – Dan Johnson

Case Manager: Ross Allen – Planner I

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

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

Agency Testimony:

00:04:49 Ross Allen presented the case (see staff report and recording for detailed presentation.)

The following spoke in favor of the request:

Dwayne Young, 5540 National Turnpike, Louisville, KY 40214

Steve Beneke, 5540 National Turnpike, Louisville, KY 40214

Summary of testimony of those in favor:

00:08:47 Dwayne Young, the applicant, discussed the submitted photos showing the “dead end” at the back of Gerber Lane.

00:10:17 Commissioner Jarboe asked about the berm. Mr. Young said there is already existing buffer between the site and the adjoining property; existing trees will nt

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be disturbed, and more trees will be planted to strengthen the buffer between the site and the subdivision.

00:11:05 In response to a question from Commissioner Carlson, Mr. Young explained what activities will be taking place within the new building (mostly storing metal “stems” and wire carriers; also other materials needed to run the production facility.)

The following spoke in opposition to the request:

No one spoke.

The following spoke neither for nor against the request:

No one spoke.

00:12:42 Commissioners’ deliberation.

00:13:11 Commissioner Brown said he could see a benefit to providing a pedestrian connection [sidewalk] between the residential properties to the west and National Turnpike, which is a major transit route. He added that Gerber Lane is a public right-of-way [ROW]; the gates that cross it now are illegal encroachments and will be removed.

00:13:47 Commissioner Jarboe asked , if the sidewalk was installed, would the residents of Kenwood Terrace subdivision use it to get to National Turnpike. Mr. Young said that there is approximately 60-feet of “dead space” where the street does not exist. Commissioner Brown said that is a public ROW anyway, whether there is a road built there or not. After some discussion with Mr. Allen, it was determined that the area in question is an unimproved public right-of-way.

00:21:03 Steve Beneke asked where a proposed location of a sidewalk would be along Gerber Lane. Commissioner Brown said that, typically, sidewalks are located about 1 foot off the ROW.

00:22:52 In response to a question from Mr. Beneke, Commissioner Brown said that the applicant could have an access/driveway onto Gerber Avenue.

00:25:25 Commissioners’ deliberation

- **WAIVER #1:** from LDC section 5.5.4.B.1 to not provide the 6 foot berm along the southern property line for approximately 695.02 feet.

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- **WAIVER #2**: from LDC section 5.8.1.B to not provide a sidewalk in the public right of way along GerberAve. for a length of 375.74 linear feet.

00:29:42 On a motion by Commissioner Jarboe, seconded by Commissioner Brown, the following resolution was adopted:

(Waiver #1) WHEREAS, the Louisville Metro Development Review Committee finds that the waiver will not adversely affect adjacent property owners since the applicant is proposing to screen/plant 14 24" Elm trees along the rear property line and currently has a 6 foot tall fence topped with barbed wire adjacent to the R-5 zoned properties as found in the Kenwood Terrace Subdivision Section 2); and

WHEREAS, the Committee further finds that the waiver will not violate specific guidelines of Cornerstone 2020. The waiver will not violate guideline 3, Compatibility, of Cornerstone 2020, which calls for the protection of roadway corridors and public areas from visual intrusions, for mitigation of parking areas so as not to negatively impact nearby residents and pedestrians, and for parking areas adjacent to streets to be screened and buffered since the applicant is proposing to plant 14, 24 inch Elm Trees along the rear property line to screen the R-5 zoned properties from the applicants proposed 6,000 sf. addition. The existing chain link fence has existing brush growth along 60% of the length of the fence and existing trees are present acting as a natural screen from the residential properties, this may not remain after Elm trees are planted along the rear property line; and

WHEREAS, the Committee further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since the applicant has proposed to screen the adjacent residential (R-5) properties with 14, 24 inch Elm trees along the southern property line and also retaining a 6 foot tall chain link fence topped with barbed wire; and

WHEREAS, the Committee further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land since the southeastern portion of the property as found at the rear is more spacious allowing for the construction of the proposed 6,000 sf. structure being outside of the 50 foot landscape buffer. The subject site has the main building, 215,606 sf. which occupies approximately 36% of the total parcel area, having parking in various locations around the main building. As a result of the proposed addition some parking will be lost in the rear. Last, the proposed location of the detached 6,000 sf. addition allows for the LBA setback to be met and minimizes impact to the potential loss of permeable surfaces; and

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

RESOLVED, the Louisville Metro Development Review Committee does hereby **APPROVE** the requested Waiver from the Land Development Code section 5.5.4.B.1 to not provide the 6 foot berm along the southern property line for approximately 695.02 feet.

The vote was as follows:

YES: Commissioners Carlson, Brown, and Jarboe.

NO: No one.

NOT PRESENT: Commissioners Smith, Kirchdorfer and Tomes.

ABSTAINING: No one.

00:31:00 On a motion by Commissioner Jarboe, seconded by Commissioner Brown, the following resolution was adopted:

(Waiver #2) WHEREAS, the Louisville Metro Development Review Committee finds that the waiver will not adversely affect adjacent property owners since Gerber Avenue is approximately 627.48 feet from the intersection with National Turnpike. Gerber Avenue dead ends approximately 87 feet (there is a break in pavement between the two roads although names are the same for both road segments) from Gerber Ave. as found in the Kenwood Terrace Section 2 Subdivision and the northern portion of Gerber Ave. as found along the western property line of the subject site. The section of Gerber Ave. found adjacent to the subject site is surrounded by chain linked fenced industrial properties, dead ending 87 feet from the Kenwood Terrace Subdivision Section 2 and companies located along the western side of Gerber Ave. have ingress/egress. The subject site has access directly to and from National Turnpike. Sidewalks are not present on either side of Gerber Ave. and the subdivision is cut off from the northern segment of Gerber Ave. by a fence with signage posted, please see the photos submitted by the applicant. Properties on the southern segment of Gerber Ave. have no access to the northern portion, intersecting with National Turnpike, limiting the movement of pedestrians or vehicles from the subdivision to/from National Turnpike; and

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WHEREAS, the Committee further finds that the waiver will not violate specific guidelines of Cornerstone 2020. Guideline 7, Policy 1 states that developments should be evaluated for their impact on the street and roadway system and to ensure that those who propose new developments bear or reasonably share in the costs of the public facilities and services made necessary by development. Guideline 9, Policy 1 states that new development should provide for the movement of pedestrians, bicyclists and transit users with sidewalks along the streets of all developments where appropriate. The lack of connectivity between the northern and southern segments of Gerber Ave. and the chain link fence separating the segments of Gerber Ave. restrict the movement of vehicular and pedestrian traffic to and from National Turnpike; and

WHEREAS, the Committee further finds that the extent of waiver of the regulation is the minimum necessary to afford relief to the applicant since the lack of connectivity between the northern and southern segments of Gerber Ave. and the chain link fence separating the segments of Gerber Ave. restrict the movement of vehicular and pedestrian traffic to and from National Turnpike; and

WHEREAS, the Committee further finds that 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 since the parcel is consumed by the primary structure by approximately 36% and the applicant is willing to plant as required by the LDC 14 Type A trees (Elms) for the 695 linear feet along the southern property line. The applicant had stated in an e-mail that the expansion allows for the needs of a growing business (please see e-mail from Mr. Dwayne Young, 12/29/2016 in the packet for DRC); and

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

RESOLVED, the Louisville Metro Development Review Committee does hereby **APPROVE** the requested Waiver from the Land Development Code section 5.8.1.B to not provide a sidewalk in the public right of way along Gerber Ave. for a length of 375.74 linear feet.

The vote was as follows:

YES: Commissioners Carlson, Brown, and Jarboe.

NO: No one.

NOT PRESENT: Commissioners Smith, Kirchdorfer and Tomes.

ABSTAINING: No one.

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ADJOURNMENT

The meeting adjourned at approximately 1:30 p.m.

Chair

Planning Director