

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO PLANNING COMMISSION MEETING
April 23, 2020**

A meeting of the Louisville Metro Planning Commission was held on Thursday, April 23, 2020 at 1:00 p.m. at 1:00 p.m. via Cisco Webex Video Teleconferencing. On the recommendation of the Louisville Metro Department of Health and Wellness regarding congregate events and social distancing, the special Planning Commission meeting set for today was held online.

Commissioners present:

Vince Jarboe, Chair
Marilyn Lewis, Vice Chair
Robert Peterson
Lula Howard
Rich Carlson
Ruth Daniels
Jeff Brown
Jim Mims
Pat Seitz

Commissioners absent:

None

Staff members present:

Emily Liu, Director, Planning and Design Director
Joe Haberman, Planning and Design Manager
Brian Davis, Planning & Design Manager
Julia Williams, Planning Supervisor
Travis Fiechter, Legal Counsel
Beth Stuber, Transportation Planning
Rachel Dooley, Management Assistant

The following matters were considered

PLANNING COMMISSION MINUTES
April 23, 2020

PUBLIC HEARING

CASE NO. 19-DDP-0069

Request: **This case will be continued to date uncertain-**
District Development Plan
Project Name: Lots 2 & 3 Glenmary Village
Location: 9400 Clubview Drive
Owner/Applicant: Limestone Bank, Inc.
Representative: Kelli Jones - Sabak, Wilson & Lingo, Inc.
Jurisdiction: Louisville Metro
Council District: 22 – Robin Engel

Case Manager: Lacey Gabbard, AICP, Planner I
Presented by: Julia Williams, Planning Supervisor

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

Agency Testimony:

00:14:46 Julia Williams, presenting on behalf of Lacey Gabbard, stated the applicant asked to continue this case to date uncertain. (see recording for detailed presentation.)

The following spoke in support of this request:

No one spoke.

The following spoke in opposition to this request:

No one spoke.

An audio/visual recording of the Planning Commission hearing 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.

Commissioner Deliberation:

00:15:35 Commissioners' discussion (see recording for detailed presentation.)

00:16:17 On a motion by Commissioner Carlson, seconded by Commissioner Howard, the following resolution was adopted:

PLANNING COMMISSION MINUTES
April 23, 2020

PUBLIC HEARING

CASE NO. 19-DDP-0069

RESOLVED, the Louisville Metro Planning Commission does hereby **CONTINUE** this case to **date uncertain.**

The vote was as follows:

YES: Commissioners Brown, Carlson, Daniels, Howard, Lewis, Mims, Peterson, Seitz, and Jarboe.

NO: None

PLANNING COMMISSION MINUTES
April 23, 2020

PUBLIC HEARING

CASE NO. 19-DDP-0050

Request: **This case will be continued to date uncertain-**
Development plan with waivers
Project Name: Oxmoor Center West Out-parcel
Location: 7900 Shelbyville Road
Owner: WMB 2, LLC & TWB Oxmoor 2, LLC
Applicant: Brookfield Properties Retail, Inc.
Representative: Frost Brown Todd, LLC
Jurisdiction: Louisville Metro
Council District: 18 – Marilyn Parker

Case Manager: Joel P. Dock, AICP, Planner II
Presented by: Julia Williams, Planning Supervisor

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

Agency Testimony:

00:17:33 Julia Williams, presenting on behalf of Joel Dock, stated the applicant wants to continue this case to date uncertain. (see recording for detailed presentation.)

The following spoke in support of this request:

No one spoke.

The following spoke in opposition to this request:

No one spoke.

An audio/visual recording of the Planning Commission hearing 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.

Commissioner Deliberation:

00:17:43 Commissioners' discussion (see recording for detailed presentation.)

00:17:48 On a motion by Commissioner Carlson, seconded by Commissioner Howard, the following resolution was adopted:

PLANNING COMMISSION MINUTES
April 23, 2020

PUBLIC HEARING

CASE NO. 19-DDP-0050

RESOLVED, the Louisville Metro Planning Commission does hereby **CONTINUE** this case to **date uncertain.**

The vote was as follows:

YES: Commissioners Brown, Carlson, Daniels, Howard, Lewis, Mims, Peterson, Seitz, and Jarboe.

NO: None

PLANNING COMMISSION MINUTES
April 23, 2020

PUBLIC HEARING

CASE NO. 19-DDP-0072

Request: District Development Plan with Waivers
Project Name: Intertech Mechanical Services
Location: 5836 Fern Valley Road
Owner/Applicant: Mark Young, Intertech Group, LLC
Representative: Mark Young, Intertech Group, LLC
Jurisdiction: Louisville Metro
Council District: 24 - Madonna Flood

Case Manager: Lacey Gabbard, AICP, Planner I
Presented by: Julia Williams, Planning Supervisor

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

Agency Testimony:

00:18:55 Julia Williams, presenting on behalf of Lacey Gabbard, showed a Power Point slide show (see staff report and recording for detailed presentation). Ms. Williams detailed the proposed waivers, existing development plan, proposed elevations, and staff findings. She noted the applicant wishes to discuss with commissioners where the required tree canopy will be located on the site.

00:21:50 Commissioner Lewis asked if both of the waivers were existing conditions. Julia Williams replied yes.

00:22:04 Commissioner Mims asked if MSD would allow the required tree canopy to be located in the detention basin. Julia Williams replied that Scott Hannah is present on behalf of the applicant and will be able to answer this question.

00:22:41 Commissioner Carlson inquired if staff could recommend a location for the tree canopy. Julia Williams replied the tree canopy can be planted along the property line where the waivers are located. She noted the tree canopy can be met on this site, if not there are alternatives available to the applicant.

00:23:46 Commissioner Mims asked if this site is under the new tree canopy requirements. Julia Williams replied the new tree canopy requirements have not been fully adopted by Metro Council.

PLANNING COMMISSION MINUTES
April 23, 2020

PUBLIC HEARING

CASE NO. 19-DDP-0072

The following spoke in support of this request:

Scott Hannah, Heritage Engineering, 642 South 4th St., Suite 100, Louisville, KY 40202

Summary of testimony of those in support:

00:25:39 Scott Hannah, presenting on behalf of the applicant, stated he will clarify with MSD during construction if this site is allowed to plant trees in the detention basin. Mr. Hannah noted the completed landscape plan and construction plan will present a full tree canopy for this site.

00:27:10 Commissioner Mims noted the slopes of the detention basin would be a preferable place for the tree canopy due to proximity to the residential area to the south and be a landscape buffer on the industrial site.

The following spoke in opposition to this request:

No one spoke.

An audio/visual recording of the Planning Commission hearing 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.

Commissioner Deliberation:

00:28:31 Commissioners' discussion (see recording for detailed presentation.) Commissioner Carlson asked if it would appropriate to put conditions on the waivers that the applicant send in a tree canopy plan for staff approval. Julia Williams replied the District Development plan required a landscape plan and a tree preservation plan. Any additional binding elements regarding landscaping have been covered in the proposed binding elements as stated in the staff report. Commissioner Brown noted the date for binding element 5.e be changed to April 23, 2020 for the Planning Commission. Julia Williams replied this change will be present in the proposed binding elements.

1. **Waiver of Land Development Code 10.2.4 to allow an existing parking and loading area encroachment into the LBA on the eastern property line (20-WAIVER-0011)**

PLANNING COMMISSION MINUTES
April 23, 2020

PUBLIC HEARING

CASE NO. 19-DDP-0072

2. **Waiver of Land Development Code 10.3.5 to allow existing an existing parking encroachment into the Parkway Buffer (20-WAIVER-0011)**

00:32:37 On a motion by Commissioner Carlson, seconded by Commissioner Howard, the following resolution, based on the Standard of Review and Staff Analysis, and testimony heard today was adopted:

(WAIVER #1) WHEREAS, the Louisville Metro Planning Commission finds that the waiver will not adversely affect adjacent property owners since the encroachment is existing, and the neighboring property to the east is also internal to the Poplar Park development and the use appears to be similar in intensity to the subject site (the applicant's justification indicates the use is semi-trailer storage, and PVA indicates the use is commercial auto sales). Additionally, the applicant proposes to provide the required landscaping within the 15 foot LBA where there is no existing encroachment; and

WHEREAS, the Commission further finds the Guideline 3, Policies 21 and 22 call for appropriate transitions between uses that are substantially different in scale and intensity or density, and mitigation of the impact caused when incompatible developments occur adjacent to one another through the use of landscaped buffer yards, vegetative berms and setback requirements to address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances. Guideline 3, Policy 24 states that parking, loading and delivery areas located adjacent to residential areas should be designed to minimize impacts from noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered. Guideline 13, Policy 6 calls for screening and buffering to mitigate adjacent incompatible uses. The intent of landscape buffer areas is to create suitable transitions where varying forms of development adjoin, to minimize the negative impacts resulting from adjoining incompatible land uses, to decrease storm water runoff volumes and velocities associated with impervious surfaces, and to filter airborne and waterborne pollutants.

The encroachment into the LBA is existing, and the neighboring property to the east is also internal to the Poplar Park development and the use appears to be similar in intensity to the subject site. Additionally, the applicant proposes to provide the required plantings within the 15 foot LBA where there is no existing encroachment; and

WHEREAS, the Commission further finds the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since the encroachment is

PLANNING COMMISSION MINUTES
April 23, 2020

PUBLIC HEARING

CASE NO. 19-DDP-0072

existing, and the applicant is proposing to provide the required LBA plantings in the area of the LBA where there is no existing encroachment; and

WHEREAS, the Commission further finds the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant, since the encroachment is existing and the applicant proposes to provide the required LBA plantings in the area of the 15 foot LBA where there is no existing encroachment; and

(WAIVER #2) WHEREAS, the Commission further finds the waiver will not adversely affect adjacent property owners since the encroachment is existing, and the applicant proposes to provide the required landscaping in the area of the Parkway Buffer where there is no encroachment; and

WHEREAS, the Commission further finds the Guideline 3, Policy 9 of Cornerstone 2020 calls for protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigation when appropriate. Guideline 3, Policy 24 states that parking, loading and delivery areas located adjacent to residential areas should be designed to minimize impacts from noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered. The intent of landscape buffer areas is to create suitable transitions where varying forms of development adjoin, to minimize the negative impacts resulting from adjoining incompatible land uses, to decrease storm water runoff volumes and velocities associated with impervious surfaces, and to filter airborne and waterborne pollutants.

The encroachment into the Parkway Buffer is requesting relief is existing, and the applicant proposes to provide the required plantings where there is no existing encroachment. Currently, there do not appear to be any plantings in the Parkway Buffer, so this would be an improvement to existing conditions; and

WHEREAS, the Commission further finds the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since the encroachment is existing, and the applicant is proposing to provide the required Parkway Buffer plantings in the area where there is no existing encroachment; and

WHEREAS, the Commission further finds the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant, since the encroachment is existing and the applicant proposes to provide the required Parkway Buffer plantings in the area where there is no existing encroachment; now, therefore be it

PLANNING COMMISSION MINUTES
April 23, 2020

PUBLIC HEARING

CASE NO. 19-DDP-0072

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the **Waiver** of Land Development Code 10.2.4 to allow an existing parking and loading area encroachment into the LBA on the eastern property line (20-WAIVER-0011) **AND** the **Waiver** of Land Development Code 10.3.5 to allow existing an existing parking encroachment into the Parkway Buffer (20-WAIVER-0011).

The vote was as follows:

YES: Commissioners Brown, Carlson, Daniels, Howard, Lewis, Mims, Peterson, Seitz, and Jarboe.

NO: None

Revised Development Plan and Binding Element Amendments

00:34:08 On a motion by Commissioner Carlson, seconded by Commissioner Peterson, the following resolution, based on the Standard of Review and Staff Analysis, and testimony heard today was adopted:

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

WHEREAS, the Commission further finds the provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community has been provided, and Metro Public Works has approved the preliminary development plan. Kentucky Transportation Cabinet has reviewed the plan, and their approval is required prior to MSD construction plan approval; and

WHEREAS, the Commission further finds there are no open space requirements pertinent to the current proposal. Future development proposed on the subject site will be required to meet Land Development Code requirements; and

WHEREAS, the Commission further finds the Metropolitan Sewer District has approved the preliminary development plan and will ensure 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; and

PLANNING COMMISSION MINUTES
April 23, 2020

PUBLIC HEARING

CASE NO. 19-DDP-0072

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

WHEREAS, the Commission further finds the development plan conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the **District Development Plan** and to amend Binding Element number 5.e to change the date from March 18th to April 23, 2020 Planning Commission Meeting and is subject to the following amended binding elements:

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee (and to the City of Lyndon, St. Matthews, Hurstbourne, or Middletown etc) for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. Prior to development (includes clearing and grading) of each site or phase of this project, the applicant, developer, or property owner shall obtain approval of a detailed district development plan in accordance with Chapter 11, Part 6. Each plan shall be in adequate detail and subject to additional binding elements.
3. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
4. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.

PLANNING COMMISSION MINUTES
April 23, 2020

PUBLIC HEARING

CASE NO. 19-DDP-0072

5. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit is requested:
 - a. The development plan must receive full construction approval from Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. Encroachment permits must be obtained from the Kentucky Transportation Cabinet.
 - c. **A minor plat or legal instrument shall be recorded consolidating the property into one lot. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services prior to obtaining a building permit.**
 - d. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
 - e. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the **April 23, 2020 Planning Commission** meeting. A copy of the approved rendering is available in the case file on record in the offices of the Louisville Metro Planning Commission.

6. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.

7. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.

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

PLANNING COMMISSION MINUTES
April 23, 2020

PUBLIC HEARING

CASE NO. 19-DDP-0072

The vote was as follows:

YES: Commissioners Brown, Carlson, Daniels, Howard, Lewis, Mims, Peterson, Seitz, and Jarboe.

NO: None

PLANNING COMMISSION MINUTES
April 23, 2020

PUBLIC HEARING

CASE NO. 19-DDP-0073

Request: Revised Detailed District Development Plan with removal of existing Binding Elements and adoption of new Binding Elements

Project Name: Jagers

Location: 6221 Dutchmans Lane

Owner: Oldroad LLC

Applicant: Oldroad LLC

Representative: Greenburg Farrow

Jurisdiction: City of St. Matthews

Council District: 26 – Brent Ackerson

Case Manager: Dante St. Germain, AICP, Planner II

Presented by: Julia Williams, Planning Supervisor

Notice of this public hearing appeared in The Courier-Journal, a notice was posted on the property, and notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicants.

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

Agency Testimony:

00:35:38 Julia Williams, presenting on behalf of Dante St. Germain, showed a Power Point slide show (see staff report and recording for detailed presentation.) Ms. Williams detailed the district development plan, elevations, and staff findings. She noted there has been no structures on this lot till today's proposal and was utilized by adjacent businesses for additional parking purposes.

00:38:21 Commissioner Howard and Julia Williams discussed the general plan and binding elements (see recording for detailed presentation.)

00:39:30 Commissioner Brown asked if there is a required pedestrian connection between the building entrance and public sidewalk. Julia Williams replied the connection is not required by the City of St. Matthews.

PLANNING COMMISSION MINUTES
April 23, 2020

PUBLIC HEARING

CASE NO. 19-DDP-0073

00:39:53 Commissioner Mims and Julia Williams discussed the possibility of a joint parking agreement between this site and adjacent property owners (see recording for detailed presentation.)

The following spoke in support of this request:

Brandon Goldberg, 21 South Evergreen Avenue, Suite 200, Arlington Heights, IL 60005
Doug Druen, 8929 Hwy 329, Crestwood, Kentucky, 40059

Summary of testimony of those in support:

00:42:22 Brandon Goldberg detailed the style of the proposed restaurant, detailed plan, landscape plan, elevations, and signage (see recording for detailed presentation.)

00:50:02 Commissioner Mims, Brandon Goldberg, and Dough Druen discussed the ownership of the adjacent lot of the former Texas Roadhouse and connections to the site from adjacent lots (see recording for detailed presentation.)

The following spoke in opposition to this request:

No one spoke.

Commissioner Deliberation:

00:53:19 Commissioners' discussion (see recording for detailed presentation.)

An audio/visual recording of the Planning Commission hearing 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.

00:55:23 On a motion by Commissioner Howard, seconded by Commissioner Carlson, the following resolution, based on the Standard of Review and Staff Analysis, and testimony heard today was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that there do not appear to be any environmental constraints or historic resources on the subject site. The site is developed and no natural resources appear to exist on the site; and

PLANNING COMMISSION MINUTES
April 23, 2020

PUBLIC HEARING

CASE NO. 19-DDP-0073

WHEREAS, the Commission further finds the provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community has been provided. Louisville Metro Public Works has provided preliminary approval of the plan; and

WHEREAS, the Commission further finds the there are no open space requirements pertinent to the current proposal; and

WHEREAS, the Commission further finds the Metropolitan Sewer District has approved the preliminary development plan and will ensure 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; and

WHEREAS, the Commission further finds the overall site design and land uses are compatible with the existing and future development of the area. The subject site is located in a developed area in the Regional Center form. The proposal would be compatible with existing development; and

WHEREAS, the Commission further finds the development plan conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the City of St. Matthews Development Code. No waivers or variances are requested; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the City of St. Matthews that the requested Revised District Development Plan be **APPROVED**, subject to the following binding elements:

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

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Development Code and agreed upon binding elements unless amended pursuant to the Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee, and the City of St. Matthews, for review and approval; any changes/additions/alterations not so referred shall not be valid.

PLANNING COMMISSION MINUTES
April 23, 2020

PUBLIC HEARING

CASE NO. 19-DDP-0073

2. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
3. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
4. Before any permit (including but not limited to building, parking lot, change of use) is requested:
 - a. The development plan must receive full construction approval from Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Article 12 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - c. Access and crossover easement agreements in a form acceptable to the Planning Commission legal counsel shall be recorded prior to requesting a certificate of occupancy. A copy of the recorded instrument shall be submitted to the Division of Planning and Development Services.
 - d. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the April 23, 2020 Planning Commission meeting. A copy of the approved rendering is available in the case file on record in the offices of the Louisville Metro Planning Commission.
5. There shall be no outdoor storage on the site.
6. If a building permit is not issued within one year of the date of approval of the plan, the property shall not be used in any manner unless a revised district development plan is la or an extension is granted by the Planning Commission.
7. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.

PLANNING COMMISSION MINUTES
April 23, 2020

PUBLIC HEARING

CASE NO. 19-DDP-0073

8. There shall be no outdoor music (live, piped, radio or amplified), outdoor entertainment, or outdoor PA system audible beyond the property line.
9. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.

The vote was as follows:

YES: Commissioners Brown, Carlson, Daniels, Howard, Lewis, Mims, Peterson, Seitz, and Jarboe.

No: None

PLANNING COMMISSION MINUTES
April 23, 2020

PUBLIC HEARING

CASE NO. 19-WAIVER-0080

Request: Landscape Waiver
Project Name: Landscape Waiver
Location: 2736 Virginia Avenue
Owner/Applicant: Mr. Chauncey Turner, AC Investment, LLC
Representative: Christopher T. Crumpton, Bluestone Engineers, PLLC
Jurisdiction: Louisville Metro
Council District: 1 – Jessica Green

Case Manager: Lacey Gabbard, AICP, Planner I
Presented by: Julia Williams, Planning Supervisor

Notice of this public hearing appeared in The Courier-Journal, a notice was posted on the property, and notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicants.

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

Agency Testimony:

00:57:24 Julia Williams, presenting on behalf of Lacey Gabbard, showed a Power Point slide show (see staff report and recording for detailed presentation.) Ms. Williams detailed the development plan, waiver exhibit, and staff findings.

01:00:30 Commissioner Howard and Julia Williams clarified the required action portion of the staff report (see recording for detailed presentation.)

01:01:33 Commissioner Brown and Julia Williams discussed the parking requirements for on street parking for three spaces (see recording for detailed presentation.)

01:04:20 Commissioner Mims asked if Parkland ARC has approved of this plan. Julia Williams stated she is not aware if this has been reviewed by Parkland ARC.

The following spoke in support of this request:

Chris Crumpton, 3703 Taylorsville Road, Suite 205, Louisville, Kentucky 40220

PLANNING COMMISSION MINUTES
April 23, 2020

PUBLIC HEARING

CASE NO. 19-WAIVER-0080

Summary of testimony of those in support:

01:05:13 Chris Crumpton, representing the applicant, stated while there is on street parking on Virginia Avenue, he is willing to provide justification and parking counts if it includes Virginia Ave and 28th Street. Mr. Crumpton noted there will be improvements for screening and landscaping for the reduced LBA.

01:07:54 Commissioner Mims, Chris Crumpton, and Brian Davis discussed the COA for 2018 Parkland ARC (see recording for detailed presentation.)

The following spoke in opposition to this request:

No one spoke.

Commissioner Deliberation:

01:09:04 Commissioners' deliberation (see recording for detailed presentation.)

An audio/visual recording of the Planning Commission hearing 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.

01:10:20 On a motion by Commissioner Carlson, seconded by Commissioner Lewis, the following resolution, based on the Standard of Review and Staff Analysis, and testimony heard today was adopted:

WHEREAS, the Louisville Metro Planning Commission finds the waiver will not adversely affect adjacent property owners since the property to the west is a commercially zoned property and the area directly adjacent to the subject site is an existing asphalt parking area. Additionally, there is an 8 foot wooden privacy fence between the two properties, and an existing 10 foot landscape area on the adjacent property to the west of the subject site. Additionally, the applicant is proposing to provide a 5 foot LBA along the eastern side of the fence. The proposed structure on the subject site is a one-story apartment complex, which the fence, existing 10 foot LBA and proposed 5 foot LBA should adequately screen; and

WHEREAS, the Commission further finds the Guideline 3, Policy 9 of Cornerstone 2020 calls for protection of the character of residential areas, roadway corridors and public

PLANNING COMMISSION MINUTES
April 23, 2020

PUBLIC HEARING

CASE NO. 19-WAIVER-0080

spaces from visual intrusions and mitigation when appropriate. Guideline 3, Policies 21 and 22 call for appropriate transitions between uses that are substantially different in scale and intensity or density, and mitigation of the impact caused when incompatible developments occur adjacent to one another through the use of landscaped buffer yards, vegetative berms and setback requirements to address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances. Guideline 13, Policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. Guideline 13, Policy 6 calls for screening and buffering to mitigate adjacent incompatible uses. The intent of landscape buffer areas is to create suitable transitions where varying forms of development adjoin, to minimize the negative impacts resulting from adjoining incompatible land uses, to decrease storm water runoff volumes and velocities associated with impervious surfaces, and to filter airborne and waterborne pollutants.

The property to the west of the subject site is zoned commercial, and the area of the site directly adjacent to the subject site is currently used as an asphalt parking lot. Additionally, there is a 10 foot landscaped area on the adjacent site, and an 8 foot wooden privacy fence along the property boundary. Additionally, the applicant is proposing to provide a 5 foot LBA along the eastern side of the fence; and

WHEREAS, the Commission further finds the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since a fifteen foot LBA on the subject site would limit the buildable space on the lot, which is 52 feet wide. Additionally, the subject site is a lower intensity use than the property to the west, and there is an existing 10 feet of LBA on the adjacent property as well as the 8 foot wooden fence; and

WHEREAS, the Commission further finds the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant. A 15 foot LBA would restrict the buildable space on the lot. Additionally, the subject site is a lower intensity use than the property to the west, and there is an existing 10 feet of LBA on the adjacent property as well as the 8 foot wooden fence which provides a screen between the two properties; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the requested **Waiver** of Land Development Code 10.2 to reduce the required LBA along the western property line abutting a C-2 zoned property from 15 feet to 5 feet **ON THE CONDITION** a sign shall be posted at the proposed parking indicating that it is for use by the proposed apartment complex only. Parking by restaurant patrons is not permitted.

PLANNING COMMISSION MINUTES
April 23, 2020

PUBLIC HEARING

CASE NO. 19-WAIVER-0080

The vote was as follows:

YES: Commissioners Brown, Carlson, Daniels, Howard, Lewis, Mims, Peterson, Seitz, and Jarboe.

No: None

PLANNING COMMISSION MINUTES
April 23, 2020

PUBLIC HEARING

CASE NO. 20-CAT3-0001

Request:	Category 3 Development Plan
Project Name:	1617 Bank St
Location:	1617 Bank St
Owner/Applicant:	Habitat for Humanity Metro Louisville
Representative:	Habitat for Humanity Metro Louisville
Jurisdiction:	Louisville Metro
Council District:	5 – Donna Purvis
Case Manager:	Jay Luckett, AICP, Planner I
Presented By:	Julia Williams, Planning Supervisor

Notice of this public hearing appeared in The Courier-Journal, a notice was posted on the property, and notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicants.

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

Agency Testimony:

01:12:40 Julia Williams, presenting on behalf of Jay Luckett, showed a Power Point slide show (see staff report and recording for detailed presentation.) Ms. Williams detailed the development plan and the proposed single-family home.

The following spoke in support of this request:

Emma Whitaker, 1620 Bank St, Louisville, Kentucky, 40203

Summary of testimony of those in support:

01:13:47 Emma Whitaker, representing Habitat for Humanity, stated she is present for questions.

The following spoke in opposition to this request:

No one spoke.

Commissioner Deliberation:

01:14:31 Commissioners' deliberation (see recording for detailed presentation.)

PLANNING COMMISSION MINUTES
April 23, 2020

PUBLIC HEARING

CASE NO. 20-CAT3-0001

An audio/visual recording of the Planning Commission hearing 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.

01:16:30 On a motion by Commissioner Howard, seconded by Commissioner Carlson, the following resolution, based on the Standard of Review and Staff Analysis, and testimony heard today was adopted:

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the Category 3 Development Plan.

The vote was as follows:

YES: Commissioners Brown, Carlson, Daniels, Howard, Lewis, Mims, Peterson, Seitz, and Jarboe.

No: None

PLANNING COMMISSION MINUTES
April 23, 2020

PUBLIC HEARING

CASE NO. 20-DDP-0005

Request: Revised Detailed District Development Plan with Waivers
Project Name: Goodwill Expansion
Location: 4950 US Highway 42
Owner/Applicant: Goodwill Industries of Kentucky
Representative: Land Design and Development
Jurisdiction: Louisville Metro
Council District: 7 – Paula McCraney

Case Manager: Jay Luckett, AICP, Planner I
Presented By: Julia Williams, Planning Supervisor

Notice of this public hearing appeared in The Courier-Journal, a notice was posted on the property, and notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicants.

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

Agency Testimony:

01:17:57 Julia Williams, presenting on behalf of Jay Luckett, showed a Power Point slide show (see staff report and recording for detailed presentation.) Ms. Williams detailed the applicant's development plan, proposed waivers, pedestrian connections, and staff analysis.

The following spoke in support of this request:

Ann Richard (LD&D), 503 Washburn Ave., Kentucky. 40222

Summary of testimony of those in support:

01:23 =:05 Ann Richard stated landscaping will be provided despite the waiver requests. Ms. Richard detailed the site plan rendering of the proposed expansion, elevations, and areal views of the site.

The following spoke in opposition to this request:

No one spoke.

PLANNING COMMISSION MINUTES
April 23, 2020

PUBLIC HEARING

CASE NO. 20-DDP-0005

Commissioner Deliberation:

01:26:38 Commissioners' deliberation (see recording for detailed presentation.)

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

1. **Waiver from 10.3.5 (20-WAIVER-0003) to allow a building expansion to encroach into the Parkway Buffer.**
2. **Waiver from 5.9.2.A.1.b.i (20-WAIVER-0012) to allow the pedestrian connection to the US Hwy 42 sidewalk to be farther than 50' from an existing transit stop.**

01:28:59 On a motion by Commissioner Carlson, seconded by Commissioner Howard, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

(WAVIER#1) WHEREAS, the Louisville Metro Planning Commission finds that the will not adversely affect adjacent property owners, as all required landscaping and screening will still be provided on the subject site; and

WHEREAS, the Commission further finds that the waiver will not violate the comprehensive plan, as it will allow for expansion of an existing commercial site within an established activity center. All required screening and planting will be provided on the subject site; and

WHEREAS, the Commission further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant. The encroachment allows the façade to continue along the existing setback of the development; and

WHEREAS, the Commission further finds that the Strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land, as the maximum setback of the form district is 15 feet, making it impossible to provide the full width of the required buffer without a variance; and

(WAIVER#2) WHEREAS, the Commission further finds that the will not adversely affect adjacent property owners, as circulation of pedestrians in and around the subject site have been provided; and

PLANNING COMMISSION MINUTES
April 23, 2020

PUBLIC HEARING

CASE NO. 20-DDP-0005

WHEREAS, the Commission further finds that the waiver will not violate the comprehensive plan, as it will allow for expansion of an existing commercial site within an established activity center. Transit users will still be able to adequately access the subject site; and

WHEREAS, the Commission further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant. The existing pedestrian connection is already greater than 50 feet from the transit stop, and is moving to the end of the building expansion; and

WHEREAS, the Commission further finds that the Strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land, as the primary entrance to the facility is oriented towards a plaza that is interior to the site. The existing structure does not have a customer entrance closer to the street and it would be a significant burden on the applicant to create one; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the **Waiver** from 10.3.5 (20-WAIVER-0003) to allow a building expansion to encroach into the Parkway Buffer **AND Wavier** from 5.9.2.A.1.b.i (20-WAIVER-0012) to allow the pedestrian connection to the US Hwy 42 sidewalk to be farther than 50' from an existing transit stop.

The vote was as follows:

YES: Commissioners Brown, Carlson, Daniels, Howard, Lewis, Mims, Peterson, Seitz, and Jarboe.

No: None

•Revised Detailed District Development plan with replacement of existing binding elements.

01:34:21 On a motion by Commissioner Carlson, seconded by Commissioner Howard, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

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

PLANNING COMMISSION MINUTES
April 23, 2020

PUBLIC HEARING

CASE NO. 20-DDP-0005

WHEREAS, the Commission further finds that the Provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community has been provided, and Metro Public Works and the Kentucky Transportation Cabinet have approved the preliminary development plan; and

WHEREAS, the Commission further finds that there are no open space requirements pertinent to the current proposal; and

WHEREAS, the Commission further finds that the Metropolitan Sewer District has approved the preliminary development plan and will ensure 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; and

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

WHEREAS, the Commission further finds that the development plan conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** Revised Detailed District Development Plan with replacement of existing Binding Elements subject to the following binding elements:

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.

PLANNING COMMISSION MINUTES
April 23, 2020

PUBLIC HEARING

CASE NO. 20-DDP-0005

3. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
4. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit is requested:
 - a. The development plan must receive full construction approval from Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. Encroachment permits must be obtained from the Kentucky Transportation Cabinet.
 - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - d. Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
 - e. A reciprocal access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be created between the adjoining property owners and recorded. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services
5. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission

The vote was as follows:

YES: Commissioners Brown, Carlson, Daniels, Howard, Lewis, Mims, Peterson, Seitz, and Jarboe.

No: None

PLANNING COMMISSION MINUTES
April 23, 2020

PUBLIC HEARING

CASE NO. 20-DDP-0005

PLANNING COMMISSION MINUTES
April 23, 2020

ADJOURNMENT

The meeting adjourned at approximately 2:27 p.m.

Chairman

Division Director