

**MINUTES OF THE MEETING
OF THE
DEVELOPMENT REVIEW COMMITTEE
August 17, 2016**

A meeting of the Development Review Committee was held on August 17, 2016 at 1:00 p.m. in the Old Jail Building, located at 514 W. Liberty Street, Louisville, Kentucky.

Committee Members present were:

David Tomes, Chairman
Rob Peterson, Vice Chairman
Jeff Brown
Emma Smith

Committee Members absent were:

Robert Kirchdorfer

Staff Members present were:

Emily Liu, Director, Planning and Design Services
Brian Mabry, Planning & Design Supervisor
Brian Davis, Planning and Design Manager
Ross Allen, Planner I
Steve Hendrix, Planning Supervisor
Joel P. Dock, Planner II
Laura Mattingly, Planner I
Burcum Keeton, Architectural Projects Coordinator
Jonathan Baker, Legal Counsel
Chris Cestaro, Management Assistant

Others:

Lula Howard, Planning Commissioner, acting as Hearing Officer for the joint DRC/DDRO meeting held this morning at 8:30 a.m. (left the meeting at approximately 1:20 p.m.)

The following matters were considered:

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APPROVAL OF MINUTES

Approval of the minutes of the August 3, 2016 Development Review Committee meeting

00:07:38 On a motion by Commissioner Brown, seconded by Commissioner Smith, the following resolution was adopted.

RESOLVED, that the Development Review Committee does hereby **APPROVE** the minutes of its meeting conducted on August 3, 2016, with one correction: Regarding Case No. 16DEVPLAN1135, near the bottom of page 3, Commissioner Brown said the original note also included the addition of a right-turn lane from Old Johnstown Road to Johnstown Road. This was on the original development plan.

The vote was as follows:

YES: Commissioners Brown, Peterson, and Smith.

NO: No one.

NOT PRESENT: Commissioners Kirchdorfer and Tomes.

ABSTAINING: No one.

DEVELOPMENT REVIEW COMMITTEE
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NEW BUSINESS

CASE 16DEVPLAN1122

***NOTE: Commissioner Lula Howard was present for this case as the Hearing Officer on behalf of the Development Review Committee from the DRC/DDRO meeting held on August 17, 2016 at 8:30 a.m.**

Request:	Category 3 Plan for a proposed Hotel/Parking Structure
Project Name:	Cambria Hotel
Location:	120 S. Floyd Street and 243-253 E. Market Street
Owner(s):	SLS Management
Applicant:	Choice Hotels International, Inc.
Representative:	Glenn Price – Frost Brown Todd LLC John Addington - BTM Engineering, Inc.
Jurisdiction:	Louisville Metro
Council District:	4 – David Tandy

Case Manager: Brian Davis, AICP, Planning Manager

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:

00:09:09 Brian Davis presented the case and showed proposed elevations. He explained that this case was heard earlier today at a joint DRC/DDRO meeting, at which time public comment was taken on this request.

00:11:08 Commissioner Howard stated that the DDRO Committee approved the plan, subject to the conditions that were in the staff report. She said the applicant agreed to eliminate the four columns that were in the development plan under the canopy; and also that they agreed that the canopy will be 18 inches from the curb. (See recording of the Downtown Development Review Overlay Committee meeting, held on August 17, 2016 at 8:30 a.m., for details of that meeting.) She added that there was no public testimony at the meeting this morning, other than the applicant's team and DDRO staff.

The following spoke in favor of the request:

Glenn Price Jr, Frost Brown Todd, 400 West Market Street, Louisville, KY 40202

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CASE 16DEVPLAN1122

Summary of testimony of those in favor:

00:14:08 Glenn Price, the applicant's representative, briefly reviewed the DDRO presentation for the Committee members and showed the site plan. He explained the changes that had been made per the DDRO Committee members' discussions.

The following spoke in opposition to the request:

No one spoke.

The following spoke neither for nor against the request:

No one spoke.

00:17:24 On a motion by Commissioner Brown, seconded by Commissioner Howard, the following resolution was adopted:

WHEREAS, the Committee finds that, based the staff report, the applicant's justification and on 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 Category 3 Plan for a proposed Hotel/Parking Structure, located at 120 S. Floyd Street and 243-253 E. Market Street.

The vote was as follows:

YES: Commissioners Brown, Peterson, Smith and Howard.

NO: No one.

NOT PRESENT: Commissioners Kirchdorfer and Tomes.

ABSTAINING: No one.

Commissioner Howard left the meeting after the vote, at approximately 1:20 p.m.

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NEW BUSINESS

CASE NO. 16DEVPLAN1137

*NOTE: This case was **CONTINUED** from the August 3, 2016 DRC meeting.

Request:	Two Waivers associated with parking expansion
Project Name:	MFDH Parking Expansion
Location:	9200 Leesgate Road
Owner:	D. Paul Finn, BFW Partnership of KY
Applicant:	William Becknell, MFDH Properties, LLC
Representative:	Clifford Ashburner, Dinsmore & Shohl, LLP
Jurisdiction:	City of Hurstbourne
Council District:	18 – Marilyn Parker

Case Manager: Laura Mattingly, 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:

00:18:19 Laura Mattingly presented the case and showed the site plan (see staff report and recording for detailed presentation.) She said this case was due to a lack of consensus between the applicant and the adjoining property owners on the appropriate buffer that would mitigate for the waiver. There was also an issue regarding the size of some of the parking spaces.

00:19:35 Ms. Mattingly said she had spoken with John Singler, attorney for the City of Hurstbourne, who told her that this case would not need to be transmitted to the City of Hurstbourne but could be decided upon by the Development Review Committee.

00:26:24 This case was interrupted due to technical difficulties. It was resumed after Case No. 16CELL1003 and before Case No. 16DEVPLAN1140.

The following spoke in favor of this request:

Clifford Ashburner, Dinsmore & Shohl, 101 South Fifth Street Suite 2500, Louisville, KY 40202

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CASE NO. 16DEVPLAN1137

Ashley Bartley, Qk4, 1046 East Chestnut Street, Louisville, KY 40204

Summary of testimony of those in favor:

00:44:55 Clifford Ashburner presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.)

00:51:36 Ashley Bartley, an applicant's representative, discussed maneuvering space/s and screening. She described in detail what changes the applicant had made since the last DRC meeting (see recording for detailed presentation.)

The following spoke in opposition to this request:

Steve Porter, 2406 Tucker Station Road, Louisville, KY 40299

Richard McCord, 9101 Nottingham Parkway, Louisville, KY 40222

Summary of testimony of those in opposition:

00:54:13 Steve Porter, representing some of the adjoining property owners who are in opposition to the proposal, said that this is the first he had heard that the City of Hurstbourne would not be making the final determination on this case. He also said that this is the first time he had seen the new plan, and that there did not appear to be any significant changes. He said neighbors do not have much objection to Waiver #1, but do not want Waiver #2 to be approved. He explained residents' objections to Waiver #2, and asked that the old driveway be removed.

01:09:34 In response to a question from Commissioner Peterson, Mr. Porter discussed the possibility of removal or dead-ending of the driveway next to Mr. McCord's property.

01:12:07 Ms. Porter discussed language in the staff report on page 3. He said the applicant has not worked well with the abutting property owners, and that their proposal does NOT increase screening or buffering. Richard McCord, an adjoining property owner, spoke in opposition and showed a Power Point presentation which outlined his own proposal.

The following spoke neither for nor against the proposal:

No one spoke.

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Rebuttal:

00:26:12 Mr. Ashburner provided the applicant's rebuttal. He explained why he thinks this case would not go to the City of Hurstbourne for final review. He explained why he thought the new plan would mitigate Mr. McCord's concerns.

01:33:06 In response to a question from Commissioner Brown, Ms. Bartley discussed the need for stormwater management and the underground detention that is being proposed. In response to a question from Commissioner Tomes, Ms. Bartley discussed working with/saving existing trees and maximizing parking.

01:40:23 Commissioners' deliberation.

01:40:54 Commissioner Tomes asked about the jurisdictional issue. Jon Baker, legal counsel for the Metro Planning Commission, asked if waivers had not been sent to the City of Hurstbourne before. Brian Davis said they had. Mr. Baker said this issue could be discussed with the attorney for the City of Hurstbourne within the next two weeks, for clarification. Ms. Mattingly said she had an e-mail from John Singler, attorney for the City of Hurstbourne, stating that the Hurstbourne does not have jurisdiction over waiver requests. In response from a statement from Mr. Porter, Ms. Mattingly said this is a Category 2-B, not a revised development plan.

Waiver #2 - Waiver of Section 10.2.4.A to allow an existing drive to encroach into the required 20' property perimeter Landscape Buffer Area.

01:11:43 On a motion by Commissioner Brown, seconded by Commissioner Smith, the following resolution was adopted:

WHEREAS, the Louisville Metro Development Review Committee finds that the waiver will adversely affect adjacent property owners because of the increasing intensity of use on the site affecting the sensitive residential uses on the abutting properties; and

WHEREAS, the Committee further finds that the additional parking would adversely affect the adjacent property owners given the number of parking spaces in use; and

WHEREAS, the Committee further finds that the encroachment is not the minimum necessary to afford relief to the applicant because they are constructing a new parking lot within the existing greenspace area and there are other alternatives available to access the new parking lot area; and

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CASE NO. 16DEVPLAN1137

WHEREAS, the Committee finds that, based the evidence and testimony presented today, that the applicable Guidelines of Cornerstone 2020 and the Comprehensive Plan are not being met; now, therefore be it

RESOLVED, the Louisville Metro Development Review Committee does hereby **DENY** the requested Waiver of Section 10.2.4.A to allow an existing drive to encroach into the required 20' property perimeter Landscape Buffer Area.

The vote was as follows:

YES: Commissioners Brown, Peterson, Smith, and Tomes.

NO: No one.

NOT PRESENT: Commissioner Kirchdorfer.

ABSTAINING: No one.

Waiver #1 - Waiver of Section 5.5.1.A.3.a to allow parking to be located between the primary street and the façade of the building

01:50:25 On a motion by Commissioner Brown, seconded by Commissioner Smith, the following resolution was adopted:

WHEREAS, the Louisville Metro Development Review Committee finds that the waiver will not adversely affect adjacent property owners as safe pedestrian access is provided from the public rights-of-way to the building entrance; and

WHEREAS, the Committee further finds that the waiver will not violate specific guidelines of Cornerstone 2020. Guideline 2, Policy 15 encourages the design, quantity and location of parking in activity centers to balance safety, traffic, transit, pedestrian, environmental and aesthetic considerations. Guideline 3, Policy 1 ensures compatibility of all new development and redevelopment with the scale and site design of nearby existing development and with the pattern of development within the form district. Guideline 7, Policy 3 states to evaluate developments for their ability to promote mass transit and pedestrian use. Encourage higher density mixed use developments that reduce the need for multiple automobile trips as a means of achieving air quality standards and providing transportation choices. Guideline 9, Policy 1 states that new development and redevelopment should provide, where appropriate, for the movement of pedestrians, bicyclists and transit users with location of retail and office uses, especially in the Traditional Neighborhood, Village, Marketplace Corridor, Traditional Workplace Form Districts close to the roadway to minimize the distance pedestrians

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CASE NO. 16DEVPLAN1137

and transit users have to travel. The purpose of the requirement is to promote mass transit and pedestrian use and reduce vehicle trips in and around the site, and to reduce the distance pedestrians and transit users have to travel. The waiver is compatible with the surrounding office developments that have large parking areas adjacent to roadways. The applicant is also providing a safe pedestrian connection from the public sidewalk on Leesgate Road to the entrance of the development; and

WHEREAS, the Committee further finds that the extent of waiver of the regulation is the minimum necessary to afford relief to the applicant as the site constraints do not allow the parking to be proposed in any other area; 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 and create an unnecessary hardship on the applicant as the change in use requires expanded parking and there are no other options for the location of the parking area; and

WHEREAS, the Committee finds that, based the staff report, the applicant's justification and on 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 of Section 5.5.1.A.3.a to allow parking to be located between the primary street and the façade of the building.

The vote was as follows:

YES: Commissioners Brown, Peterson, Smith, and Tomes.

NO: No one.

NOT PRESENT: Commissioner Kirchdorfer.

ABSTAINING: No one.

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NEW BUSINESS

CASE NO. 16WAIVER1028

Request:	Sign Waiver
Project Name:	Walmart Sign Waiver
Location:	4840 Outer Loop
Owner:	Walmart Real Estate Business Trust
Applicant:	Megan Munro, Harrison French & Associates
Representative:	Megan Munro, Harrison French & Associates
Jurisdiction:	Louisville Metro
Council District:	24 – Madonna Flood

Case Manager: Laura Mattingly, 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:

00:27:02 Laura Mattingly presented the case and showed elevations (see staff report and recording for detailed presentation.)

The following spoke in favor of this request:

Richard Hopgood, Wyatt Tarrant & Combs, 250 West Main Street Suite 1600, Lexington, KY 40507

Summary of testimony of those in favor:

00:29:00 Richard Hopgood, the applicant's representative, said these are mostly locational signs to direct customers. He said he was available for questions.

The following spoke in opposition to this request:

No one spoke.

The following spoke neither for nor against the proposal:

No one spoke.

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NEW BUSINESS

CASE NO. 16WAIVER1028

00:30:34 On a motion by Commissioner Brown, seconded by Commissioner Smith, the following resolution was adopted:

WHEREAS, the Louisville Metro Development Review Committee finds that the waiver will not adversely affect adjacent property owners as the property is located in a commercial corridor and the façade is mostly only visible from within the parcel, due to its setback from Outer Loop and the out-lots that block visibility of the façade from Outer Loop; and

WHEREAS, the Committee further finds that the waiver will not violate specific guidelines of Cornerstone 2020. Guideline 3, policy 28 calls for signs that are compatible with the form district pattern and contribute to the visual quality of their surroundings. The waiver will not violate the comprehensive plan as the proposed signage is consistent to the type of signage seen along this commercial corridor; 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 as the additional signage is necessary to identify the location of services offered within the building; 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 land or create an unnecessary hardship as the proposed signage is similar to proposals of other large retail stores of this type; and is necessary to identify the location of services offered within the building; 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 of Chapter 8.3, Table 8.3.2 of the Land Development Code (LDC) to allow the number of attached signs along front façade to exceed the maximum requirement.

The vote was as follows:

YES: Commissioners Brown, Peterson, and Smith.

NO: No one.

NOT PRESENT: Commissioners Kirchdorfer and Tomes.

ABSTAINING: No one.

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NEW BUSINESS

CASE NO. 16CELL1003

Request: Cell tower consisting of a 125-foot monopole with a 5-foot lightning arrestor (total height of 130 feet) within a 2,278 square foot compound area.

Project Name: 7th & Magnolia

Location: 901 West Magnolia Avenue

Owner: 1000 Ormsby LLC

Applicant: Capital Telecom and Verizon Wireless

Representative: David Pike, Pike Legal Group PLLC

Jurisdiction: Louisville Metro

Council District: 16 – David James

Case Manager: Steve Hendrix, Planning Supervisor

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:

00:31:18 Steve Hendrix presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.)

The following spoke in favor of this request:

Stephen Lentz, Robert Grant, Erik Hamilton Jones, and Gordon Snyder (all applicant's representatives; Robert Grant was the only one who spoke)
Pike Legal Group, 1578 Highway 44 East, P.O. Box 369, Shepherdsville, KY 40165

Summary of testimony of those in favor:

00:37:44 Robert Grant, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.) A binder with exhibits was handed out to the Committee members.

00:42:02 In response to a question from Commissioner Smith, Mr. Grant said this tower is designed for co-location.

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CASE NO. 16CELL1003

The following spoke in opposition to this request:

No one spoke.

The following spoke neither for nor against the proposal:

No one spoke.

00:43:42 On a motion by Commissioner Brown, seconded by Commissioner Smith, the following resolution was adopted:

WHEREAS, the Louisville Metro Development Review Committee finds that the proposal meets the intents of Guideline 3.1 – Compatibility. The facility will be surrounded by industrial/warehousing type buildings within an EZ-1, Enterprise Zone District, and Traditional Workplace; and

WHEREAS, the Committee further finds that the proposal meets the intents of Guideline 3.9 – Visual Impacts. The compound area will be screened with an 8 foot high wooden privacy fence and be more than 200 feet from Magnolia Avenue; and

WHEREAS, the Committee further finds that the proposal meets the intents of Guideline 3.22 – Buffers. The northern portion of the Magnolia Avenue/ Seventh Street intersection is within a viaduct for the railroad, so the facility will be not be visible from that point. Other buffers include the existing buildings and vegetation; and

WHEREAS, the Committee further finds that the proposal meets the intents of Guideline 3.30 - **Cellular Towers**. The applicant states that there are no other suitable or willing co-locatable structures or structure owners identified within the vicinity to meet the coverage objectives. The applicant states they have considered the likely effects of the installation on nearby land uses and values and have concluded that there is no more suitable location reasonably available from which adequate service can be provided. The applicant further states that the proposed facility has been designed to accommodate additional wireless telecommunication carriers, thus reducing the need for additional towers in the area in the future; and

WHEREAS, the Committee further finds that the proposal meets the intents for **Community Facilities**. These include:

15.21 Antenna Towers for Cellular Telecommunications

Cellular towers should be designed to:

--- minimize impact on the character of the general area concerned,

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CASE NO. 16CELL1003

---be sited in order from most preferred to least preferred :

1. highway rights-of-way except designated parkways;
2. existing utility towers
3. commercial centers
4. governmental buildings
5. high-rise office structures
6. high rise residential structures

---minimize the likely effects of the installation on nearby land uses and values;

---be designed to address compatibility issues such as co-location, mass, scale, siting, abandonment and removal of antenna tower structure.

Although the proposed location is not one listed, the tower is within an EZ-1, Enterprise Zone District and a Traditional Workplace. An industrial/warehousing facility is located to the north, an office/warehouse to the south, a railroad and warehouse to the east and an industrial building to the west. Existing buildings, topography and existing vegetation will help subdue the impact of the tower's height.

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 125 foot monopole tower with a 5 foot lightning arrestor for a total structure height of 130 feet within a 2,278 square foot compound area, on property located at 901 West Magnolia Avenue.

The vote was as follows:

YES: Commissioners Brown, Peterson, and Smith.

NO: No one.

NOT PRESENT: Commissioners Kirchdorfer and Tomes.

ABSTAINING: No one.

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NEW BUSINESS

CASE NO. 16DEVPLAN1140

Request: Two Landscape Waivers from LDC Sections 10.2.12.B and 10.2.13 associated with the construction of a new surface parking lot.

Project Name: Story Avenue Parking

Location: 1311, 1315, 1317 Story Avenue

Owner: Andy Blieden – Butcher Story LLC

Applicant: Kelli Jones, Sabak Wilson & Lingo

Representative: Kelli Jones, Sabak Wilson & Lingo

Jurisdiction: Louisville Metro

Council District: 3 – Mary Woolridge
4 – David Tandy

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:

01:51:36 Ross Allen presented the case and showed the site plan (see staff report and recording for detailed presentation.)

The following spoke in favor of this request:

Kelli Jones, Sabak Wilson & Lingo, 608 South 3rd Street, Louisville, KY 40202

Andy Blieden, 1201 Story Avenue, Louisville, KY 40206 (was available to answer questions but did not speak)

Summary of testimony of those in favor:

01:53:33 Kelli Jones, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.)

The following spoke in opposition to this request:

No one spoke.

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NEW BUSINESS

CASE NO. 16DEVPLAN1140

The following spoke neither for nor against the proposal:

No one spoke.

02:02:17 Commissioners' deliberation.

- **Waiver #1: from LDC section 10.2.12.B to allow 128' feet between landscape islands.**
- **Waiver #2: from LDC section 10.2.13 to provide one half of the trees required in the landscape islands.**

02:06:08 On a motion by Commissioner Peterson, 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 VUA buffers are being provided and the applicant is proposing two and a half times the required tree canopy, there are currently no trees on site and the site is currently a wooden fenced gravel lot; and

WHEREAS, the Commission further finds that the waiver will not violate specific guidelines of Cornerstone 2020. Guideline 13, Policy 5 calls for standards to ensure the creation and/or preservation of tree canopy as a valuable community resource. The purpose of interior landscape areas is to break up large impervious areas and allow for a greater distribution of tree canopy coverage. The ILA's are located in the rear and in the front of the proposed surface parking lot. There is one ILA that is located interior to the site towards the front of the proposed surface parking lot and by providing another ILA with the reduction of two spaces can meet the tree canopy requirement as requested in the second waiver; 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 since the ILA's found at the four corners are where the applicant is requesting the waiver. The applicant would not have sufficient space to provide ILA's along each side of the proposed parking since the parcel is abutting another parking lot on the south side and a multifamily unit on the north side restricting space available for the plantings; and

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CASE NO. 16DEVPLAN1140

WHEREAS, the Commission further finds that 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) since the applicant is providing more square footage (2.5 times more) of tree canopy than required by the regulation; and

WHEREAS, the Committee finds that, based the staff report, the applicant's justification, and on 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 #1: from LDC section 10.2.12.B to allow 128' feet between landscape islands.

The vote was as follows:

YES: Commissioners Brown, Kirchdorfer, Peterson, Smith, and Tomes.

NO: No one.

NOT PRESENT: No one.

ABSTAINING: No one.

02:08:00 On a motion by Commissioner Peterson, 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 because the waivers will allow the applicant to provide much-needed parking in the Butchertown neighborhood. Since the extent of the waiver is negligible, all VUA buffers are being provided, and the applicant is proposing 2.5 times the amount of tree canopy required for this site (on a site where there are currently no trees); and

WHEREAS, the Committee further finds that the waiver will not violate specific guidelines of Cornerstone 2020. The waiver will not violate the Comprehensive Plan because all landscape buffers are being provided and the applicant is providing 2.5 times the tree canopy required, thereby meeting the intent of the regulations; and

WHEREAS, the Committee further finds that the applicant is meeting all other requirements on site and the amount of the waiver request is negligible; therefore, the extent of this waiver is the minimum necessary to afford relief to the applicant; and

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CASE NO. 16DEVPLAN1140

WHEREAS, the Committee further finds that the strict application of this regulation would require the applicant to remove at least two parking spaces in an area that needs parking. In addition, the applicant is providing 2.5 times the amount of tree canopy required by the regulation; and

WHEREAS, the Committee further finds that, based on the applicant's justification and on 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 #2: from LDC section 10.2.13 to provide one half of the trees required in the landscape islands.

The vote was as follows:

YES: Commissioners Brown, Kirchdorfer, Peterson, Smith, and Tomes.

NO: No one.

NOT PRESENT: No one.

ABSTAINING: No one.

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NEW BUSINESS

CASE NO. 16WAIVER1029

Request:	Sign Waiver from LDC Section 8.2.1.D.6 to allow a changing image sign to be within 300 feet of a residentially-zoned district.
Project Name:	JFCS Family Center Sign Waiver
Location:	2821 Klempner Way
Owner:	Jewish Family and Career Services
Applicant:	Judy Freundlich Tiell
Representative:	Judy Freundlich Tiell
Jurisdiction:	Louisville Metro
Council District:	9 – Bill Hollander

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:

02:09:03 Ross Allen presented the case and showed the sign plan (see staff report and recording for detailed presentation.) In response to a question from Commissioner Peterson, Mr. Allen said the applicant stated that they would have a nighttime-dimming feature on the sign.

The following spoke in favor of this request:

Beverly Bromley, 6 Hawthorn Hill, Louisville, KY 40204

Summary of testimony of those in favor:

02:11:52 Beverly Bromley, the applicant's representative, presented the applicant's case (see recording for detailed presentation.)

The following spoke in opposition to this request:

No one spoke.

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CASE NO. 16WAIVER1029

The following spoke neither for nor against the proposal:

No one spoke.

02:13:13 Commissioners' deliberation.

Sign Waiver from LDC Section 8.2.1.D.6 to allow a changing image sign to be closer than 300 feet to a residentially zoned district.

02:13:43 On a motion by Commissioner Peterson, seconded by Commissioner Brown, the following resolution was adopted:

WHEREAS, the Louisville Metro Development Review Committee finds that the waiver would not adversely affect adjacent property owners since the proposed changing image sign will be facing east/west along Dutchmans Lane north of Abigail Drive. The closest changing image sign would be located at the Jewish Community Center located approximately 725 feet east on Dutchmans Lane; and

WHEREAS, the Committee further finds that the waiver will not violate specific guidelines of Cornerstone 2020. Guideline 3, policy 8 of Cornerstone 2020 calls for the mitigation of adverse impacts of lighting from proposed development on the nearby properties, and on the night sky. Guideline 3, policy 28 of Cornerstone 2020 tries to ensure that signs are compatible with the form district pattern and contribute to the visual quality of their surroundings, to promote signs of a size and height adequate for effective communication and conducive to motor vehicle safety, limit freestanding signs to monument style signs unless such design would unreasonably compromise sign effectiveness. Last, Guideline 3, policy 28 of Cornerstone 2020 ask that freestanding signs in multi-lot developments, minimize the number of signs by including signage for each establishment on the same support structure to encourage consistent design (size, style, and materials). The changing image sign LED's will have a 140° view angle allowing the light from the sign to potentially intrude into properties along the south of Dutchmans Lane. However, the changing image sign has built in dimming technology which dims the LED's during the evening/night hours to help minimize the brightness. Furthermore, the placement of the sign being perpendicular to Dutchmans Lane minimizes the potential light intrusion into the nearby residential zoning district, south of Dutchmans Lane; 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 proposed changing image portion of the sign would allow the Jewish Family and Career Services to change

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CASE NO. 16WAIVER1029

messages more easily and not require an individual to do so outside in inclement weather; and

WHEREAS, the Committee further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant since the proposed changing image portion of the sign meets all other applicable LDC requirements and allows for easier changing of community messages to reach Louisville residents; and

WHEREAS, the Committee finds that, based the staff report, the applicant's justification, and on 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 Sign Waiver from LDC Section 8.2.1.D.6 to allow a changing image sign to be closer than 300 feet to a residentially zoned district.

The vote was as follows:

YES: Commissioners Brown, Peterson, Smith, and Tomes.

NO: No one.

NOT PRESENT: Commissioner Kirchdorfer.

ABSTAINING: No one.

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NEW BUSINESS

CASE NO. 16DEVPLAN1143

Request: Bicycle Parking Waiver from LDC Section 9.2.5 and a Sidewalk Waiver from LDC Section 5.8.1.B to not provide sidewalks along Westport Road.

Project Name: Ford KTP U553 Additions

Location: 3001 Chamberlain Lane

Owner: Robert Armstrong – Ford Motor Land Development Corp.

Applicant: Kelley Parker, Lockett & Farley

Representative: Kelley Parker, Lockett & Farley

Jurisdiction: Louisville Metro

Council District: 17 – Glen Stuckel

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:

02:14:34 Ross Allen presented the case and showed the site plan (see staff report and recording for detailed presentation.)

The following spoke in favor of this request:

Kelly Parker, Lockett & Farley, 737 South Third Street, Louisville, KY 40204

Summary of testimony of those in favor:

02:18:47 Kelly Parker, the applicant's representative, presented the applicant's justifications for the waiver requests (see recording for detailed presentation.) She said the waiver is specifically for long-term bike parking, although short-term bike parking is not required here. She said she was not aware of any Ford employees who use bicycles to get to work, and the area is not conducive to biking to work.

The following spoke in opposition to this request:

No one spoke.

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The following spoke neither for nor against the proposal:
No one spoke.

Category 2B Revised Detailed District Development Plan, plus two waivers:

Waiver #1: from LDC section 9.2.5.B to not provide the required Bicycle Parking Space per table 9.2.1.

Waiver #2: from LDC section 5.8.1.B to not provide a sidewalk along the Westport Road frontage, approximately 2,860 linear feet.

02:24:27 On a motion by Commissioner Brown, seconded by Commissioner Smith, 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 long term bicycle parking would be installed to the interior of the Ford Kentucky Truck Plant and adjacent property owners would not be able to access the bicycle parking; and

WHEREAS, the Committee further finds the waiver will not violate specific guidelines of Cornerstone 2020 since the Ford Kentucky Truck Plant is an industrial land use with transportation access points throughout the site by employee vehicles and heavy trucks; 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 transportation by bicycle could be hazardous to employees or the general public within the general vicinity as a result of employee vehicles and heavy trucks accessing the subject site; 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 and would create an unnecessary hardship on the applicant since long term bicycle parking would encourage the use of bikes in an industrial area where heavy trucks and employee vehicles are accessing the subject site; and

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(Waiver #2) **WHEREAS**, the Committee further finds that the waiver will not adversely affect adjacent property owners since sidewalks are piecemeal on the northern side of Westport Road and a single transit stop for TARC service exist at the corner of Chamberlain Lane and Westport Road, on the south side, at the Ken Towery Tire Center. However, sidewalks are not present along the south side of Westport Road frontage of either the Ford Kentucky Truck Plant or the Springhurst Collision Center/St. Matthews Imports – Boat Sales; and

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, where appropriate, for the movement of pedestrians, bicyclists and transit users with sidewalks along the streets of all developments where appropriate. Pedestrian movement should not be encouraged along the Westport Road frontage since the industrial use poses hazardous conditions as a result of the movement of vehicles by heavy trucks and employee vehicles traversing vehicle staging areas to the interior of the Westport Road frontage. The drainage ditch along the southern frontage has topographical factors which limit the construction of sidewalks; and

WHEREAS, the Committee further finds that the extent of waiver of the regulation is the minimum necessary to afford relief to the applicant. Sidewalks constructed along the Ford KTP could create a potential hazard to the pedestrians as a result of heavy trucks entering and exiting staging area lots along Westport Road. Last, the proposed addition is less than one percent of the overall site and the requirement of sidewalks has cost implications to the project; and

WHEREAS, the Committee further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant since the installation of approximately ½ mile of sidewalks would be necessary to meet the requirement. However, the installation of sidewalks as compared to the proposed project represents less than a one percent increase in the overall square footage of the Ford Kentucky Truck Plant. Cost implications in relation to the scale of the project should to be considered; and

WHEREAS, the Committee finds that, based the staff report, the applicant's justification, and on 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

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RESOLVED, the Louisville Metro Development Review Committee does hereby **APPROVE** the requested Category 2B Revised Detailed District Development Plan, the requested Waiver #1: from LDC section 9.2.5.B to not provide the required Bicycle Parking Space per table 9.2.1., and the requested Waiver #2: from LDC section 5.8.1.B to not provide a sidewalk along the Westport Road frontage, approximately 2,860 linear feet.

The vote was as follows:

YES: Commissioners Brown, Peterson, Smith, and Tomes.

NO: No one.

NOT PRESENT: Commissioner Kirchdorfer.

ABSTAINING: No one.

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NEW BUSINESS

CASE NO. 16MOD1004

Request: Eliminate Binding Element #7 from original approval of Case No. 13ZONE1028.
Project Name: Hotel Nulu Binding Element Amendment
Location: 729 East Market Street
Owner: Creation Gardens
Applicant: 725 Partners LLC
Representative: 725 Partners LLC
Jurisdiction: Louisville Metro
Council District: 4 – David Tandy

Case Manager: Brian Davis, AICP, Planning Manager

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:

02:24:53 Brian Davis presented the case and showed the site plan (see staff report and recording for detailed presentation.)

The following spoke in favor of this request:

Rob Weber, 725 Partners LLC (no address or speaker's form)

Summary of testimony of those in favor:

02:27:42 Rob Weber, the applicant's representative, said he had nothing else to add but was available for questions.

The following spoke in opposition to this request:

No one spoke.

The following spoke neither for nor against the proposal:

No one spoke.

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NEW BUSINESS

CASE NO. 16MOD1004

Removal of Binding Element #7 from the original approval of Case Number 13ZONE1028

02:28:20 On a motion by Commissioner Brown, seconded by Commissioner Peterson, the following resolution was adopted:

WHEREAS, the Louisville Metro Development Review Committee finds that changing this particular condition of approval will have no effect on natural resources on or adjacent to the site; and

WHEREAS, the Committee further finds that changing the binding element will have no bearing on the provisions for safe and efficient vehicular transportation within the development and the community; and

WHEREAS, the Committee further finds that the proposed amendment does not affect open space; and

WHEREAS, the Committee further finds that the proposed amendment does not affect drainage on the site; and

WHEREAS, the Committee further finds that the proposed amendment does not affect the character of the area or the site; and

WHEREAS, the Committee further finds that the proposed amendment will not have any affect as to the development plan's conformance to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code; 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 **Removal of Binding Element #7 from the original approval of Case Number 13ZONE1028**.

The vote was as follows:

YES: Commissioners Brown, Peterson, Smith, and Tomes.

NO: No one.

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CASE NO. 16MOD1004

NOT PRESENT: Commissioner Kirchdorfer.

ABSTAINING: No one.

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NEW BUSINESS

CASE NO. 16DEVPLAN1134

Request: Revised Detailed District Development Plan with
Landscape Waiver for athletic
Project Name: King Louie's Place
Location: 598 North English Station Road
Owner: Blind Squirrel, LLC
Applicant: Blind Squirrel, LLC
Representative: Sarah Beth Sammons, Land Design & Development
Jurisdiction: City of Middletown
Council District: 19 – Julie Denton

Case Manager: Joel Dock, 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:

02:28:48 Joel Dock presented the case and showed the site plan (see staff report and recording for detailed presentation.)

02:33:28 In response to a question from Commissioner Peterson, Mr. Dock addressed binding elements regarding signalization at Aiken Road.

02:34:03 Commissioner Brown discussed traffic/road improvements needed in the area.

The following spoke in favor of this request:

Kevin Young, Land Design & Development, 503 Washburn Avenue, Louisville, KY

Summary of testimony of those in favor:

02:34:56 Kevin Young, Land Design & Development, the applicant's representative, presented the applicant's case (see recording for detailed presentation.)

02:37:09 Mr. Young discussed the proposed pedestrian connection.

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The following spoke in opposition to this request:

No one spoke.

The following spoke neither for nor against the proposal:

No one spoke.

- **Revised Detailed District Development Plan**
- **Landscape Buffer Area (LBA) Waiver to allow encroachments into the required 35' LBA.**

02:40:48 On a motion by Commissioner Brown, seconded by Commissioner Peterson, the following resolution was adopted:

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

WHEREAS, the Committee further finds that provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community will be provided as the site provides an internal network of walks and drives connecting all facilities within the complex. A contribution will be made to Metro Public Works toward the installation of a traffic signal at N English Station Rd and Aiken Road; and

WHEREAS, the Committee further finds that there are no open space requirements with this development; and

WHEREAS, the Committee further finds that the Metropolitan Sewer District has approved the preliminary development plan and will ensure the provisions of adequate drainage facilities on the subject site in order to prevent drainage problems from occurring on the subject site or within the community; and

WHEREAS, the Committee further finds that the proposal integrates into the mixture of commercial, office and industrial uses along this portion of N. English Station Rd. The overall site design and land uses are compatible with the existing and future development of the area. Appropriate landscape buffering and screening are provided

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to screen adjacent properties and roadways. Buildings and parking lots will meet all required setbacks with the exception of the previously approved relief along North English Station Road; and

WHEREAS, the Committee further finds that the proposal conforms to the Comprehensive Plan and Land Development Code. The proposal integrates into the mixture of commercial, office and industrial uses along this portion of N. English Station Rd. The proposal is located adjacent to existing industrially zoned and used properties to take advantage of special infrastructure needs. The site has access from N. English Station Rd with existing commercial, office and industrial uses, and the proposed transportation facilities are compatible with and support access to surrounding lands; and

(Waiver) **WHEREAS**, the Committee further finds that the waiver will not adversely affect adjacent property owners as the parcel creating the required buffer is not used residentially and is surrounded on all sides by industrial facilities; and

WHEREAS, the Committee further finds that the waiver will not violate specific guidelines of Cornerstone 2020. Guideline 3, policy 9 of Cornerstone 2020 calls for the protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigate when appropriate. Guideline 3, policies 21 and 22 calls for appropriate transitions between uses that are substantially different in scale and intensity or density, and to mitigate the impact caused when incompatible developments occur adjacent to one another through the use of landscaped buffer yards, vegetative berms and setback requirements to address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances. Guideline 3, policy 24 states that parking, loading and delivery areas located adjacent to residential areas should be designed to minimize the impacts from noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered. Guideline 13, policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. Guideline 13, Policy 6 calls for screening and buffering to mitigate adjacent incompatible uses. The intent of landscape buffer areas is to create suitable transitions where varying forms of development adjoin, to minimize the negative impacts resulting from adjoining incompatible land uses, to decrease storm water runoff volumes and velocities associated with impervious surfaces, and to filter air borne and water borne pollutants. The waiver will not violate specific guidelines of Cornerstone 2020 as the buffer requested to be waiver is not adjacent to residential uses and enhances the functionality of the parking facility created to serve the development; and

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WHEREAS, the Committee further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the intent of the buffer is to provide adequate screening from residential zoning district and uses. The property generating the buffer is not used residential and has not potential to be used for single-family residential uses in the foreseeable future; and

WHEREAS, the Committee further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as the required buffering and planting would prevent the development of this site to its full potential and capacity to provide sufficient parking, circulation, and activities; 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 **RECOMMEND** to the City of Middletown that the requested Revised Detailed District Development Plan and the requested Waiver to allow encroachments into the required 35' LBA, be **APPROVED**, subject to the following binding elements:

Existing Binding Elements (City of Middletown Municipal Order 10-08-15-C)

1. The development shall be in accordance with the approved district development plan, and the landscape plan, which shall be that certain Revised Detailed Development Plan and that certain Landscape Plan, which were approved by the City of Middletown on the 22nd day of October, 2015, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements, unless amended pursuant to the LDC. Any changes/additions/alterations of any binding element(s), or development plan revisions and all landscape plans shall be submitted to the Planning Commission or the Planning Commission's designee, and to the City of Middletown for review and approval; an changes/additions/alterations not so referred and so approved shall not be valid.
2. Before any permit (including but not limited to building, parking lot, change of use, sit disturbance, alteration or demolition) is requested:
 - a. The development plan must receive full construction approval from Louisville Metro Department of Development Louisville Divisions of Construction Review

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and Transportation Planning, Metropolitan Sewer District and City of Middletown. The drainage construction plan must also be approved by the City of Middletown.

- b. All uses shown on the Revised Detailed Development Plan must have access to public sanitary sewers.
 - c. A minor subdivision plat or legal instrument shall be recorded creating any lot lines as shown on the development plan. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services. Transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
 - d. The property owner/developer must obtain approval by the Planning Commission and the City of Middletown of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be consistent with the concept landscape plan shown at the May 9, 2013 Middletown City Commission meeting, shall be implemented prior to occupancy of the site and shall be maintained thereafter. There shall be no removal of the required landscaping without City Commission approval. In the event any tree or other landscaping is removed without written consent of the City, the City may require the owner/applicant to replace with a tree of similar size and age (when cut), or as approved by the City Commission. Any replacement tree or trees shall be such as are deemed adequate by the City to mitigate the impact. If work is required within a utility easement causing removal or damage of required landscape materials, the property owner will be responsible for replacement of materials according to the approved landscape plan.
 - e. A Tree Preservation Plan in accordance with Chapter 10 of the LDC and the City of Middletown shall be reviewed and approved before issuance of a building permit.
 - f. The name, address and telephone number of the construction manager for the project must be disclosed to the City of Middletown.
 - g. The City of Middletown hereby designates the City Mayor as its approval authority for plans, permits, and other approvals required by these binding elements.
3. PHASING OF USES. Developer and the City of Middletown agree as follows as to the timing of construction and use of all the improvements as set forth on the approved Revised Detailed Development Plan:

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- a. **OUTDOOR ATHLETIC FIELDS.** Prior to the widening of North English Station Road to three lanes or a signal added at North English Station and Aiken Road, the outdoor athletic fields and the two volleyball courts may only be occupied and used for games, practice or any use with the following restrictions:

1. There will be no use of any outdoor athletic field (including the volleyball courts) until the City of Middletown Commission determines (after a review of a traffic study), that the traffic impact on North English Station Road have been sufficiently mitigated by the Applicant. The traffic study will be conducted by Paula Wahl with Neel-Schaffer according to the attached Scope of Work and Applicant agrees to reimburse the City for the cost of the study, up to a maximum amount of \$5,200.00. The study shall evaluate the traffic impact on North English Station Road from; (a) the indoor athletic fields/facilities, (b) use of the outdoor athletic fields during the time restrictions set out herein (with the exception that the traffic engineer may assume a reasonable pre-start arrival period for those attending events), (c) restaurant, and (d) two volleyball courts. The traffic study will evaluate any and all mitigating factors in Applicant's proposal and suggest any reasonable and appropriate further mitigating measures not in Applicant's proposal. Once the study is completed, the City of Middletown Commission will determine (on a separate basis): (a) if the use and occupancy outdoor athletic fields should be allowed, or whether the adverse traffic impacts to the unimproved English Station are so great that the use and occupancy of the outdoor athletic fields should be delayed until English Station Road is improved to three lanes or a signal added at Aiken Road and (b) if the use and occupancy of the volleyball courts should be allowed or whether the adverse traffic impacts to the unimproved English Station are so great that the use and occupancy of the volleyball courts should be delayed until English Station Road is improved to three lanes or a signal added at Aiken Road. Both fields may be constructed but not used for any purpose until the conditions and restrictions above are met, or until the widening of North English Station Road to three lanes is complete and open to traffic or a traffic signal added at Aiken Road.

2. Prior to the widening of North English Station Road to three lanes or a signal added at North English Station and Aiken Road, and, in addition to the restrictions set out in a.1 above, the following restrictions apply. No games or practice shall occur on the outdoor field before 5:30PM on weekdays. Games may take place on weekends and national holidays prior to 5:30PM. The Developer shall schedule the starting game times for the outdoor athletic fields and the indoor games a minimum of 20 minutes apart. Developer shall use best efforts to ensure that the ending times of the games and practices on the outdoor athletic fields and indoor athletic facility do not end at the same time. The volleyball courts may be used with the following restrictions: No

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games shall occur before 6 PM on weekdays. Games may take place on weekends and national holidays prior to 6 PM.

b. AMPHITHEATER. The amphitheater stage, overhead structures and sound system for the amphitheater shall not be constructed and there shall be no live music or entertainment events in the amphitheater area until the widening of North English Station Road to three lanes is complete and open to traffic, or a traffic signal at Aiken Road is installed and operational.

c. RESTAURANT AND ICE RINK. Occupancy and use of the restaurant/bar, indoor athletic facility, ice rink, and seating area surrounding the ice rink are not subject to the restrictions set forth in a.3 herein and said buildings may be constructed and occupied.

d. INDOOR ATHLETIC FACILITIES. Occupancy and use of the indoor athletic facilities shown on the Revised Detailed Development Plan are not subject to the restrictions set forth in a.3 herein and said buildings may be constructed and occupied.

4. The style and design of the addition to the existing building, which includes the restaurant, volleyball courts and amphitheater and ice skating rink shall be as shown on renderings which were approved by the City of Middletown at its meeting on the 22nd day of October, 2015. The style and design of the indoor athletic facility building shall be as shown on the rendering approved at the 22nd day of October, 2015 Middletown City Commission meeting.

5. All access drives and parking areas must be constructed to the standards of the Land Development Code and in accordance the approved Revised District Development Plan. All cars must be parked in marked spaces and the access drives shall be kept free from parked cars. Curbing shall be installed along each edge of the access drive leading to the rear portion of the site to prevent vehicles from parking in the grass, and "No Parking in Fire Lane" signs shall be installed, the number and placement of which shall be approved by the City of Middletown and the Middletown Fire Protection District (in accordance with the attached fire lane regulations), as part of the final signage package, or construction plans as may be appropriate. In addition, the edges either side of said access drive shall be striped as fire lanes (cf. binding element no. 3). The Owner/Developer will maintain the transit stop on an as-needed basis.

6. The capacity of the amphitheater shall not exceed 800 people. In order to avoid conflicts with peak hour traffic, no live music event, play, or other live entertainment at the amphitheater shall be scheduled to end between 5:00p.m. and 7:00p.m. on Monday through Friday.

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7. Prior to installation of the traffic signal at Aiken Road, the property owner agrees to utilize traffic control personnel for events in the indoor athletic facility upon receipt of a written request by the City of Middletown. At the time the northern entrance, opposite Aiken Road, is completed, a traffic study shall be submitted to Metro Public Works or Transportation Plan Review and Planning and Design and the City of Middletown to determine if the southern entrance may remain. Such improvements shall begin within one year of submittal of the traffic study.

8. The developer shall contribute up to 12% of the cost of the signal installation at Aiken Road and N. English Station Road, not to exceed \$7,000, if the light and widening project is done by Metro Public Works or the Kentucky Transportation Cabinet. This shall be paid within 30 days of the request by the Director of Metro Public Works. The request shall be made to the developer when Metro Public Works obtains the balance of the cost of installation, no sooner than construction plan approval. The Developer has the option to get approval through Metro Public Works and KYTC to design and install the Aiken Road light as Developer's own project, upon such terms as the Developer can negotiate, in which event, the Developer shall not be required to make any monetary contribution to Metro Public Works Of KYTC.

9. For purposes of KRS 100.237, the conditional use permit for the amphitheater shall be exercised within two years after the completion of the widening of N. English Station Road to three lanes or a traffic signal at English Station and Aiken Road (temporary or permanent) is installed and operational.

10. Upon the development or redevelopment of properties on and around the N. English Station Road and Aiken Road corridors that are projected to generate additional traffic impacts on N. English Station Road and/or Aiken Road, the City of Middletown may require a monetary contribution from the owners/developers of said properties toward the cost of the traffic signal at Aiken Road and N. English Station Road and associated road widening in rough proportionality to the projected impacts of the proposed development or redevelopment.

11. Prior to requesting a certificate of occupancy for the amphitheater stage and overhead structures, the applicant shall submit to the City of Middletown a statement by an acoustic consultant certifying that the maximum noise levels produced by the sound system for the amphitheater do not exceed the average and peak ambient noise levels set forth in the Ambient Noise Level Exhibit attached hereto as Exhibit B, at the locations designated therein. A certificate of occupancy shall not be issued for the amphitheater stage and overhead structures until such statement is submitted. The City of Middletown may request periodic monitoring of noise levels to ensure compliance

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with this binding element. If, at any time, noise levels produced by the sound system for the amphitheater exceed the average and peak ambient noise levels set forth in Exhibit B at the locations designated therein, no events with amplified sound shall be permitted in the amphitheater until additional noise abatement measures have been implemented/installed and a statement is submitted by an acoustic consultant certifying that maximum noise levels from the amphitheater do not exceed the noise levels set forth in Exhibit B. From time to time, the City of Middletown may amend Exhibit B to update the average and peak ambient noise levels at the designated locations. This binding element shall not apply to the ice rink/volleyball courts and seating area around the ice rink/volleyball courts, which may be constructed and used without submitting a statement by an acoustic consultant. No part of the proposed development, including the amphitheater, shall be exempt from the Louisville Metro Noise Ordinance.

12. At the time a building permit is requested, the applicant shall submit a certification statement to the permit issuing agency and the City of Middletown, from an engineer or other qualified professional stating that the lighting of the proposed development is in compliance with the Land Development Code and shall be maintained thereafter. No building permits shall be issued unless such certification statement is submitted. A minimum of fifty percent (50%) of the parking lot lighting adjacent to the soccer field and indoor athletic building shall be turned off after 11:00 p.m.

13. No freestanding sign shall exceed 100 square feet in area per side and 10 feet in height. All illumination shall be internal. No sign shall have more than two sides. There shall be no new off-premises signs. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site, other than the existing outdoor advertising sign and the proposed and permitted freestanding/attached signage all of which must be compliant with the Middletown Sign Ordinance. The City of Middletown must approve the final signage package for the entire site prior to construction, which signage package must show the placement, size, scale and type of materials of the signs.

14. No idling of trucks shall take place within 200 feet of single-family residences. No overnight idling of trucks shall be permitted on-site. The dumpsters shown on the approved plan are the only dumpsters allowed on the site and they shall be screened from view, kept secured and picked up.

15. At such time as the adjoining property to the north or the south of the subject property is redeveloped and cross access is required as part of said redevelopment, a reciprocal access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel and the City of Middletown granting access in the

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location shown on the approved development plan to the adjoining property being redeveloped shall be created and recorded; a copy of the recorded instrument shall be submitted to the Division of Planning and Design Services at the request of the Director of Planning and Design Services.

16. The approved construction plan for drainage and the drainage/detention structures must also be presented and approved by the City of Middletown, prior to and as a condition of any building permit application and/or for any Occupancy Permit and/or bond release. Additionally, the improvements shown on said construction plans must be fully complete prior to the application for Occupancy Permit and/or bond release. All occupancy permits must receive the prior approval of the City of Middletown. The Property Owner(s), and their heirs, successors and assigns, are liable to construct and keep maintained all the detention and drainage facilities on the development plan and construction plans, and keep them permanently maintained in a high state of functioning.

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

18. Construction fencing shall be erected at the edge of the area of development in accordance with the tree preservation plan prior to any grading or construction to protect existing tree stands and their 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.

19. If a building permit for any portion of the development is not issued for any portion of the development within two years from the date of the City of Middletown's approval of this Revised Detailed Development Plan herein, the property shall not be used in any manner unless a revised district development plan is approved by the City of Middletown or an extension is granted by the Planning Commission and the City of Middletown.

20. 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

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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.

21. The Applicant, its successors and assigns, hereby consents and agrees that the City of Middletown has full right and authority to take any and all appropriate direct legal action against Applicant, its successors and assigns, to enforce these binding elements and inspect the premises to determine compliance with the binding elements.

The vote was as follows:

YES: Commissioners Brown, Peterson, Smith, and Tomes.

NO: No one.

NOT PRESENT: Commissioner Kirchdorfer.

ABSTAINING: No one.

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CASE NO. 16DEVPLAN1123

Request:	Revised Detailed District Development Plan for outdoor storage and sales/display areas
Project Name:	Home Improvement Warehouse
Location:	501 South Hurstbourne Parkway
Owner:	Lowe's Home Centers LLC
Applicant:	Travis Spicer, Lowe's Home Centers LLC
Representative:	Glenn Price Jr., Frost Brown Todd LLC
Jurisdiction:	Louisville Metro and City of Jeffersontown
Council District:	18 – Marilyn Parker

Case Manager: **Joel Dock, 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:

02:41:18 Joel Dock presented the case and showed the site plan (see staff report and recording for detailed presentation.)

02:43:16 Mr. Dock said that, in the staff report, the last sentence in the first paragraph should be stricken.

02:43:54 Binding elements #28 and #29 were discussed.

02:44:25 Binding element #42 was discussed.

The following spoke in favor of this request:

Glenn Price, Frost Brown Todd, 400 West Market Street Suite 3200, Louisville, KY 40202

Summary of testimony of those in favor:

02:45:36 Glenn Price, Frost Brown Todd, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.)

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02:47:19 Mr. Price proposed a binding element after consulting the Willowhurst Place Neighborhood Association regarding landscaping and the wall, to read as follows:

The applicants will consult with the Willowhurst Place residents' association to place additional landscaping where necessary to buffer areas of the rear outside storage area wall from the homes in Willowhurst.

02:50:44 In response to a question from Commissioner Brown, Mr. Price discussed binding element #44 regarding flex-storage areas.

The following spoke in opposition to this request:

No one spoke.

The following spoke neither for nor against the proposal:

No one spoke.

03:43:16 On a motion by Commissioner Smith, seconded by Commissioner Peterson, the following resolution was adopted:

WHEREAS, the Louisville Metro Development Review Committee finds that the proposed development revisions do not impact natural resources as the requested revisions does not increase impervious surface, footprint, or emissions. Outdoor storage on the North side of the building will be adequately screened from the view of pedestrians and residents as demonstrated on the plan; and

WHEREAS, the Committee further finds that provisions for safe and efficient vehicular and pedestrian transportation within the development will be provided by the delineation of specific areas for storage, sales, and loading areas; and

WHEREAS, the Committee further finds that landscaping will be provided as required by Chapter 10 of the Land Development Code. Outdoor storage areas will be adequately screened from view as demonstrated on the plan; and

WHEREAS, the Committee further finds that the Metropolitan Sewer District has approved the preliminary development plan and will ensure the provisions of adequate drainage facilities on the subject site in order to prevent drainage problems from occurring on the subject site or within the community; and

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WHEREAS, the Committee further finds that the overall site design and land uses are compatible with the existing and future development of the area as the development is located within a commercial development adjacent to residential along a major arterial roadway, all storage areas will be screened from view, and outdoor sales and display areas are a typical element incorporated into garden centers throughout Jefferson County; and

WHEREAS, the Committee further finds that the development plan conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code (LDC) as Guideline 3, Policies 1, 4, & 9 encourage compatibility of development within the context of surrounding development and uses, as well as mitigation of visual intrusion from residential areas. The expansion of outdoor storage will be adequately screened from view of nearby residential areas and passers-by with a combination of landscaping and compatible wall materials as demonstrated on the development plan; and

WHEREAS, the Committee further finds that, based the staff report (with the exception of the last sentence in the first paragraph, which was stricken), 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 **RECOMMEND** to the City of Jeffersontown that the requested Revised Detailed District Development Plan with amendments to binding elements be **APPROVED**, subject to the following binding elements:

Binding Elements

1. Prior to development of each non-residential site or phase of this project, a detailed district development plan shall be submitted to the Planning Commission and the City of Jeffersontown for approval. Each plan shall be in adequate detail and subject to additional binding elements, which may relate, but not be limited to the following items:

- a. Screening, buffering, landscaping
- b. Density, floor area, site and height of buildings
- c. Points of access
- d. Land uses
- e. Signs
- f. Loading berths

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2. The development on the entire 44.29 acres shall be in accordance with the District Development Plan and no further development will occur on the property beyond the plan submitted and subsequently approved by the Planning Commission. The binding elements are for the benefit of the surrounding areas. Any deviations or alterations of that Plan will require notification of the President of the Plainview Residents' Association, the Willowhurst Residents Association and the Mayor of the City of Hurstbourne two weeks before the Land Development and Transportation Committee meeting at which a proposed deviation or alteration is considered.
3. The density of the development shall not exceed the following:
 - a. R-SA, Residential District, 23 dwelling units to be developed as single family residences with a density not to exceed 2.45 residences per acre on the 9.37 acres of the area designated as R- 5A with this area including the right of way.
 - b. R-6, Residential District, not more than twenty (20) single family residences and not fewer than 2.5 acres of open common area.
 - c. OR-3, Office/Residential District, 62,000 square feet not to exceed 697.5' elevation above sea level, which is 3 stories above the highest point of the terrain at the front building line, and not to exceed 4 stories at any point.
 - d. C-2, Commercial District 207,000 square feet, not to exceed 2½ stories or 35 feet in height, except for the one Lowe's architectural feature over the main entrance.
4. The architectural feature over the main entrance will not extend higher than 42 feet. The 35 foot height limitation will remain applicable to the roof line.
5. In the area zoned C-2, with respect to use:
 - a. The following uses shall not be permitted: Adult Entertainment, Auction Sales, Automobile Repair Garages, Automobile Sales (Agencies), Automobile Service Stations, Beer Depots, Boarding & Lodging Houses, Book Binding, Bowling Alleys, Car Washes, Community Buildings, and Residences, Dance Halls, Day Care Centers, Family Care Home (Mini-Home), Flea Market, Fraternities and Sororities, Garage or Yard Sales, Governmental Buildings including (Armories, Storage, Maintenance, & Repair Facilities), Hotels, Motels, Ice storage Houses, self-service Laundries & launderettes, Kennels, Nursing Homes, Package Liquor Stores, Plumbing & Heating Shops, Printing & Lithographing or Publishing Establishments, Public Transportation Terminal, Refrigerated Lockers, Restaurants having drive-through service windows as a part of their operation, Rubber-stamp Manufacturing, Sign Painting, Skating Rinks, Taverns, Bars, Saloons, 6 Lounges not connected with service of food, Tourist Home, Trade Schools, Upholstery and Furniture Repair Shops, Used Car Sales, and including

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uses which may be more similar in appearance and intensity to those in the prohibited list of activities than to uses that are permitted under the C-2 Zoning regulations.

b. Use shall be limited to high quality architecture.

6. In the OR-3, Office/Residential District, the following uses shall not be allowed: Boarding or Lodging Houses, Day Care Centers, Family Care Home (Mini-Home), Fraternities and Sororities, and Garage and Yard Sales.

7. Two R-4 lots on Pennyroyal Way, shall be for single family residence only and will conform with all restrictive covenants as to type of construction, and permitted uses as connected with the adjoining properties located in Sections 3 of Plainview recorded in Plat Book 30, page 21 and 22, with the exception of the requirements as to size with any residence being built on the two (2) R-4 lots to have the following minimum floor areas:

a. The ground floor area of a one story house without an attached garage, 1,500 square feet.

b. The ground floor area of a one story house with a single attached garage, 1,400 square feet, exclusive of garage.

c. The ground floor area of a one story house with two car attached garage, 1,300 square feet, exclusive of the garage.

d. The ground floor area of a one and a half story house, 1,500 square feet, exclusive of the garage.

e. The total floor area of a tri-level house shall be a minimum of 2,000 square feet, exclusive of the garage

f. The ground floor area of a two story house shall be a minimum of 1,200 square feet, exclusive of the garage.

g. Finished basement areas and open porches, as well as garage areas, are not included in computing floor area.

h. There shall be no ingress or egress across these lots to any other part of the 44 acre property at any time.

8. The single family R-5A:

a. The single family homes contained in R-5A or R-6 (residential apartment area) shall be of brick stone, brick veneer, stone veneer, dryvit, or any combination of the same construction. In no event; shall dryvit exceed sixty-five percent (65%) of the area of the exterior. Siding shall be allowed for bay windows, dormers, garage trim and other accenting but in no event shall exceed twenty-five percent (25%) of the exterior.

b. The R-5A area shall be governed by these Binding Elements and a deed of restrictions substantively the same as the one governing Plainview Section 3. In the

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event of a conflict between these Binding Elements and Plainview Section 3 Deed Restrictions, these binding elements shall control.

c. The single family residences on the R-5A and R-6 Residential districts shall not be less than 1,500 square feet. On the east side of Stone Creek Way (lots 10-32) the units shall average at least 1,725 square feet, have side yard setbacks no less than seven feet (7 ') exclusive of fireplaces and shall not be less than 1,600 square feet. In computing floor space, finished basement areas, open porches and garage area shall not be included as floor area.

9. Landscape Buffer Area:

The developer shall create a landscape buffer along the rear of the proposed R-5A lots, which immediately adjoining the existing R-4 zoned property contained in Plainview being lots having minimum building setbacks from the rear property line of 70 feet for 25 % of the lots, 75 feet for 37.5% of the lots and 80 feet for 37.5% of the lots. Within such set back area, there shall be established a buffer strip consisting of a berm or landscape mound planted with (a) approximately 201 evergreen tree a minimum of 8 feet tall planted on 10 foot centers trees which in combination with a berm, if any, shall be 10 feet high at the time of planting, (b) 54 flowering trees 10 feet high at the time of planting, and (c) 27 shade trees having 1.5 inch caliper at the time of planting. Any new berm or graded area shall be sodded.

a. Construction of the mound or berm and planting shall be completed before construction of any buildings on any of the 44 acre site proposed for development.

b. The buffer zone will be perpetually maintained by the developer or any successor title holder or condominium association, keeping the grass on the landscape area properly cut with the trees and plantings maintained, including replacement of any diseased or dead landscaping and free from weeds, trash and other debris.

c. The landscape buffer strip will be free of any structure, building or any other development including, but not limited to paving for vehicles, pedestrian walkways, bicycle paths, dumpsters, or trash and garbage collection facilities.

d. Storm drainage in the landscape buffer zone shall consist of buried pipe or tile, and not be open concrete, rip-rap or earthen ditches.

10.

a. THP shall pay \$150,000.00 to the Willowhurst Residents Association, Inc. (hereafter the Association) for the Association's expense incurred in connection with the THP/Lowes rezoning case and this litigation, not less than \$100,000.00 of which shall be expended by the Association for construction and maintenance of such landscaping and other improvements in the common area of its subdivision as the Association in its sole discretion shall determine are reasonable. The \$150,000.00 shall be paid in cash and in full at the same time the first site work shall begin for construction of the Lowe's

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Center. Site work shall include without limitation, clearing, grading, blasting, or fencing. Payment of the \$150,000.00 shall be a condition presedent to the beginning of any site work. Upon the payment of \$150,000 to the Association, THP and Lowe's shall be relieved of any further obligation under this paragraph 10a.

b. THP or Lowe's will grant to the Association and easement for the purposes of access to the subdivision common area, and THP or Lowe's and the Association agree to negotiate in good faith all the terms and conditions of the easement. A plat showing the easement shall be prepared and recorded in the Jefferson County Clerk's office with the easement deed. The easement shall be negotiated and recorded within 30 days from entry of this Order.

c. THP or Lowe's will, if requested by the Association, cooperate with the Association in seeking approval from the Metropolitan Sewer District (and any other governmental agency having jurisdiction) for locating the Association's landscaping and/or fencing in the retention basin located on THP's property near the northwestern corner of the subdivision.

d. The existing earth berm in the west right of way of Willowhurst Place will be retained and will be landscaped at THP's or Lowe's expense as soon as practical after site work begins (as defined in paragraph 10a. above). The landscaping constructed by THP or Lowe's will be maintained by THP or Lowe's. The Association may construct additional landscaping in this west right-of-way and THP or Lowe's and the Association will work together to coordinate all landscaping in this area including the initial landscaping to be done by THP or Lowe's.

11. During all phases of construction, the developer will make substantial efforts to keep down all dust, associated with the construction by the applying of water and will not begin construction prior to 7:30 a.m. nor extend beyond 8:30 p.m. in the R-5A area and shall not begin before 7:00 a.m. in other areas.

12. Any blasting done on the property shall be in accordance with KRS 331.310 et seq. and the applicable regulations. THP or Lowe's will perform at its expense pre-blast surveys for any homes in the Willowhurst Place Subdivision requesting the same. THP or Lowe's will furnish information concerning the surveys and forms for requesting the surveys to all homeowners in the Subdivision in sufficient time for the surveys to be made before blasting begins.

13. THP or Lowe's shall be written contract require its construction/blasting contactor(s) to execute a one million dollar indemnity bond with a reputable surety to

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satisfy all blasting damage claims made by Willowhurst residents. The bond shall remain in effect for two (2) years after blasting is completed.

14. Access to lots 1, 2, 3, 4 and 5 from Hurstbourne Lane shall be prohibited.
15. Before a building permit is issued:
 - a. The development plan must be re-approved by the Jefferson County Department of Public Works and Transportation, the Metropolitan Sewer District, and the Engineer for the City of Jeffersontown; all drainage, including, but not limited to, the retention basins, must be reviewed by the City Engineer and approved.
 - b. the size and location of any proposed sign must be approved by the City of Jeffersontown. The City of Jeffersontown may require that the signs be smaller than would otherwise be permitted by the Zoning District Regulations.
 - c. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
 - e. the applicant must request from the Board of Zoning Adjustment abandonment of the CUP approved under Docket No. B-10-89.
 - f. A minor plat or legal instrument shall be recorded consolidating the properties containing the Lowe's development into one lot. A copy of the recorded instrument shall be submitted to the Planning Commission.
16. Small freestanding (temporary) signs shall not be permitted on any lot excluding signs for sale or lease or real estate.
17. There shall be no structures placed on Lot 8 without the prior approval of the Jeffersontown City Council, and said lot shall be maintained in a like manner as provided in paragraph 9.b. above.
18. THP agrees that no further changes will be submitted except for the possibility of engineer/architect changes or other unforeseen changes that may be necessary.
19. Prior to the development of any non-residential site or phase of this project, the applicant and/or owner agrees to:
 - a. Contribute an equitable share of the cost of a computer-coordinated signalization system for existing Hurstbourne Lane, said amount not to exceed \$20,000.00. The basis for the amount of the contribution shall be determined by the Louisville and Jefferson County Planning Commission.
20. The applicant and/or owner agrees to construct a pedestrian walkway parallel to Hurstbourne Lane to connect to sidewalks on adjoining properties. The time for construction shall be coincident with the construction of sidewalks on either of the

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adjoining properties, said adjoining properties to include that which abuts Vieux Carre Drive to the north, or when deemed appropriate by the Jefferson County Traffic Engineer, whichever occurs first.

21. The commercial site shall have not more than 4 out parcel sites, none of which shall be fast-food restaurants. Any structure erected on an out parcel shall not exceed 9,000 square feet of enclosed floor space. "Fast-food restaurants" as defined in this subsection prohibits drive-through windows and requires served dining; however, nothing herein shall prohibit cafeteria or other self-service, sit-down restaurants.

22. The signage above the main entrance of the Lowe's building shall be no higher than 6 feet for the "L" and 5 feet for the "OWES."

23. The only permitted freestanding sign on the lot containing the Lowe's development shall be a monument style sign located as shown on the approved general district development plan. The sign shall not exceed 56.25 square feet in display area and 6 feet in height and must conform with Jeffersontown sign ordinances and be approve by Jeffersontown.

24. (Deleted by Agreed Order; but binding elements not renumbered.)

25. The Willowhurst monument sign on the west side of Willowhurst Place shall remain in place and THP or Lowe's will grant and record an easement with a plat thereof to the Association for that purpose. Any portion of the Willowhurst wooden fence which encroaches on THP's property may, in the discretion of the Association, remain in place and THP or Lowe's will grant and record an easement with a plat thereof for that purpose or grand and record a temporary construction easement for removal of the fence from THP's property. THP or Lowe's will cooperate with the Association to identify the encroachment.

26. The façade of the Lowe's building shall be constructed of brick, except for the Garden Area which shall be constructed of decorative steel fence which shall have the appearance of wrought iron and, except at gates and entrances, a brick knee-wall ranging from two and one-half feet at some points to three and one-half feet at other points; except for architectural features at Lowe's main entrance and contractor service entrance which shall be constructed of dryvit; and except for windows, doors, roof flashing, signage, canopy and other architectural elements which are traditionally not of masonry.

27. The garden area as shown on the development plan shall contain the following additional features: Brick columns on the perimeter of the garden area, twenty-foot high

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brick wall on north wall of the garden area, and brick wall on the west wall of the garden area beginning at the northwest point and extending at least seventy-five feet south. No portion of the wall of the garden area, including access gates, shall be chain link fencing.

28. All building materials and other inventory, except **(i) items sold in the garden area or vestibule area, and (ii) items held for sale or display in the "outdoor sales and display area" shown on the development plan** will be enclosed within the building or staging area, and shall not be visible from grade level at the exterior of the building.

29. No merchandise shall be displayed, stored or sold outside of the building, garden area or enclosed atrium area, **except that from April 1 to June 30 of each calendar year, flowers and small plants that are sold within the garden area may be displayed or sold in the outdoor sales and display area" where shown on the detailed district development plan. Stacked items displayed or sold in the outdoor sales and display area shall not exceed eight (8) feet in height, except that items within three (3) feet of a building entry shall not exceed three and one-half (3.5) feet in height.**

30. No loudspeaker will be used which allows the sound to be heard from the exterior of the building.

31. The truck radius behind the staging area shall be screened by a 150 linear foot masonry wall at least fifteen feet in height. THP or Lowe's shall make reasonable efforts to use sound deadening material on the inside of the wall. Deliveries to and from the staging area shall be restricted to 7:00 a.m. - 9:00 p.m.

32. Roof top mechanical items such as HVAC units shall be screened with aesthetically pleasing metal screening systems.

33. The shoe-box lighting in the interior of the parking lot shall be directed down and away, from Willowhurst Place Subdivision and Hurstbourne Lane so as to minimize dispersion of light toward Willowhurst Place Subdivision and the City of Hurstbourne.

34. The perimeter of the parking area shall contain period lighting fixtures of the same types used at the three existing restaurants on Hurstbourne Lane. The interior of the parking area will contain lighting fixtures under the trade name Hadco (or a fixture of similar architectural style or quality), in black aluminum, which direct light down and away.

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35. Trash compactors shall be fed internally from inside the building. No dumpsters will be located on the exterior of the building.

36. In the event carbon monoxide air pollution exceeds APCC standards at the signalized intersection at the entrance of the development within one year of substantial completion of the development plan, the developer shall contribute an amount not to exceed \$10,000 to provide improvements at this intersection to improve air quality. The developer shall also negotiate in good faith to provide other mitigation measures, such as bicycle racks, to reduce air quality impacts.

37. Any future change in use in the Lowe's site to any use other than a home improvement store causing increased trip generation shall require an air quality analysis satisfactory to APCD.

38. If building permits are not issued within two years of the date of approval of the plan or rezoning, whichever is later, the property shall not be used in any manner unless a revised district development plan is approved or an extension is granted by the Planning Commission and the City of Jeffersontown, Kentucky City Council.

39. A certificate of occupancy must be received from the appropriate code enforcement office prior to occupancy of the structure or land for the proposed use. All binding elements must be implemented prior to requesting issuance of the certificate.

40. THP, the Association, the City of Jeffersontown and the Jeffersontown City Council agree that the developer or operator of the Lowe's Center will use the lowest reverse noise level devices (beepers) for its high lifts or forklifts which will conform with OSHA or other applicable safety standards.

41. There will be only one access point Off Of Willowhurst Place to be located just east of the "Existing Republic Bank" lot as shown on the district development plan approved by the Planning commission on May 5, 1994 (erroneously stated on the plan as approved on Hay 5, 1993). This access point will not be used for construction traffic.

42. Development of the Lowe's site shall be in accordance with the district development plan approved by the **Planning Commission Development Review Committee on _____ on May 5, 1994 (erroneously stated on the plan as approved on May 5, 1993) and the City of Jeffersontown on _____** and all binding elements set forth in **this the Agreed Order entered in Willowhurst Residents Association, Inc. v. City of Jeffersontown, et. Al, Jefferson**

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Circuit Court NO. 94-CI- 06441 and in Jeffersonstown Ordinance No. 1069, Series 1994 and Ordinance No. 1070, Series 1994.

43. Binding Elements 10a, 10b, 13, 15e, 22-35, 37, and 40-42 shall only be applicable upon conveyance of the subject property to Lowe's Home Centers, Inc., or to another purchaser for the construction of a similar home supply center.

44. The flex storage area for the Lowe's development shall not exceed 16, 430 square feet of gross floor area.

45. The applicants will consult with the Willowhurst Place residents' association to place additional landscaping where necessary to buffer areas of the rear outside storage area wall from the homes in Willowhurst.

The vote was as follows:

YES: Commissioners Brown, Peterson, Smith, and Tomes.

NO: No one.

NOT PRESENT: Commissioner Kirchdorfer.

ABSTAINING: No one.

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CASE NO. 16DEVPLAN1162

Request:	Sign Plan with amendment to binding elements
Project Name:	Beechwood Village Green
Location:	4505 Shelbyville Road
Owner:	Jean M. Weyland Family Partners LTD
Applicant:	Jean M. Weyland Family Partners LTD
Representative:	Clifford Ashburner, Dinsmore & Shohl LLP
Jurisdiction:	Louisville Metro
Council District:	7 – Angela Leet

Case Manager: **Joel Dock, 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:

02:56:05 Joel Dock presented the case and showed photos of the site, and renderings of the proposed sign (see staff report and recording for detailed presentation.)

The following spoke in favor of this request:

Cliff Ashburner, Dinsmore Shohl,

Lee Weyland, 815 W. Market Street Suite 300, Louisville, KY 40202

Summary of testimony of those in favor:

03:00:15 Cliff Ashburner, the applicant's representative, presented the applicant's case and showed a Power Point presentation.

The following spoke in opposition to this request:

No one spoke.

The following spoke neither for nor against the proposal:

No one spoke.

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03:05:33 On a motion by Commissioner Peterson, seconded by Commissioner Brown, the following resolution was adopted:

WHEREAS, the Louisville Metro Development Review Committee finds that the proposal does not appear to adversely impact the conservation of natural resources on the property proposed for development as there are no environmental constraints; and

WHEREAS, the Committee further finds that provisions for safe and efficient vehicular and pedestrian transportation within the development and the community is provided as the development utilizes existing points of access to public roads and connection to the public sidewalk network. The proposed sign does not inhibit the safe movement of pedestrians or vehicles; and

WHEREAS, the Committee further finds that all landscaping required per the approved landscaping and screening plan shall be maintained; and

WHEREAS, the Committee further finds that the Metropolitan Sewer District has approved the preliminary development plan and will ensure the provisions of adequate drainage facilities on the subject site in order to prevent drainage problems from occurring on the subject site or within the community. The proposal does not impact drainage facilities; and

WHEREAS, the Committee further finds that the overall design of the proposed sign is compatible with signage along the Shelbyville Road commercial corridor; 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 **Sign Plan with Amendment to Binding Elements** to allow for a second freestanding monument sign.

The vote was as follows:

YES: Commissioners Brown, Peterson, Smith, and Tomes.

NO: No one.

NOT PRESENT: Commissioner Kirchdorfer.

ABSTAINING: No one.

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ADJOURNMENT

The meeting adjourned at approximately 4:17 p.m.



Chair



Planning Director