

**LOUISVILLE METRO
DEVELOPMENT REVIEW COMMITTEE MEETING MINUTES
SEPTEMBER 6, 2017**

A meeting of the Louisville Metro Development Review Committee was held on September 6, 2017, at 1:00 p.m. at the Old Jail Building, 514 W Liberty Street, Louisville, KY 40202.

Commissioners present:

Rich Carlson, Chair pro tem
Jeff Brown
Laura Ferguson
Emma Smith

Commissioners absent:

David Tomes, Chair

Staff members present:

Brian Davis, Planning Manager
Laura Mattingly, Planner II
Ross Allen, Planner I
Jay Lockett, Planner I
Paul Whitty, Legal Counsel
Kristen Loeser, Management Assistant

The following matters were considered:

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APPROVAL OF MINUTES

00:10:26 On a motion by Commissioner Brown, seconded by Commissioner Ferguson, the following resolution was adopted:

RESOLVED, that the Louisville Metro Development Review Committee does hereby **APPROVE** the minutes of its meeting conducted on August 16, 2017.

The vote was as follows:

Yes: Brown and Carlson

Absent: Tomes

Abstain: Smith and Ferguson

No: None

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NEW BUSINESS

CASE NUMBER 17MOD1002

Project Name: The Vinings
Location: 9502 Williamsburg Plaza
Owners: BEC JDGV I, LLC
Applicant: Jefferson Development Group
Representative: Bardenwerper Talbott & Roberts
Jurisdiction: Hurstbourne
Council District: 18 – Marilyn Parker
Case Manager: Laura Mattingly, AICP, Planner II

Notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicants.

The staff report prepared for this case was incorporated into the record. The Commissioners received this report in advance of the hearing, and this report was available to any interested party prior to the public hearing. (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:

00:12:00 Laura Mattingly presented the case which is an amendment to binding element # 33 to state: *No light poles on Lots 1 and 2 shall exceed fourteen (14) feet in height. Permanent parking lot lighting and permanent building-mounted lighting located on Lots 1 and 2 designed to illuminate the ground and parking lot areas, whether freestanding or attached, shall be fully shielded, shall utilize flat or hidden lenses, and shall be pointed directly to the ground or otherwise down and away from the R-7 residential properties abutting Lots 1 and 2. No building mounted signage on Lots 1 and 2 shall be installed facing the R-7 residential properties abutting Lots 1 and 2.*

The applicant was issued a violation in February 2017 and is seeking to correct this. The amendment appears to be justified and meets standard of review (see Staff Report and recording for detailed presentation).

The following spoke in favor of the request:

Bill Bardenwerper, 1000 N Hurstbourne Pkwy., Louisville, KY 40223
Steve Porter, 2406 Tucker Station Road, Louisville, KY 40299

Summary of testimony of those in favor:

00:13:55 Bill Bardenwerper spoke on behalf of the applicant and gave a brief presentation. Binding element 33 deals with the height of the light poles on lots 1 and 2.

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The light poles are 14 ft. in height, but were placed on concrete stands, which made them exceed the 14ft. height established in the binding element. The applicant has worked with Steve Porter to determine how to shield the light fixtures rather than remove and reconstruct them. They also agreed upon shielding to place on the light fixtures in the stairwells and along the exterior walls of the building.

00:20:15 Steve Porter spoke on behalf of the Wessex Place Condominiums. The original binding elements stated that no light fixtures would be visible, but the light fixtures of the new development were shining directly into the bedroom windows of the residents of Wessex Place Condominium. He stated this new proposal will satisfy the issue. In response to the Commissioners, Mr. Porter stated that the drive through sign on Panera's lot is owned by another company. He will be in contact with this company to advise that they are in violation of binding element 33, but his client is mainly concerned about the sign being lit.

00:25:36 Commissioners' deliberation

00:26:05 On a motion by Commissioner Brown, seconded by Commissioner Smith, the following resolution was adopted:

WHEREAS, the Louisville Metro Development Review Committee finds that LOJIC does not indicate any flood plain, steep slopes or any other significant natural resources on the lots in question and the development complies with the tree canopy standards, 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 continue to be provided, and

WHEREAS, the Committee further finds that a reduction in the required open space was approved by BOZA under 14DEVPLAN1169, and

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

WHEREAS, the Committee further finds that the overall site design and land uses are compatible with the existing and future development of the area. The change in the binding element will not affect this, as all other lighting requirements are being met, and

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WHEREAS, the Committee further finds that the amendment to the binding element does not affect the development plan's compliance with the Land Development Code or the Comprehensive Plan as all other aspects of lighting requirements are being met, and

WHEREAS, the Committee further finds that, based on the staff report and the evidence and testimony presented today, that all of the applicable guidelines of Cornerstone 2020 are being met; now, therefore be it

RESOLVED, the Louisville Metro Development Review Committee does hereby **RECOMMEND** to the City of Hurstbourne that the amendment to binding element 33 as stated above be **APPROVED, SUBJECT** to the following binding elements:

Binding Elements

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s), 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 Hurstbourne for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. Prior to development (includes clearing and grading but excludes demolition and associated site work) of each site or phase of this project, the applicant, developer or property owner shall obtain approval (including the written approval of the City of Hurstbourne) of a detailed district development plan in accordance with Chapter 11, Part 6. Each plan shall be in adequate detail and subject to additional binding elements. Prior to occupancy of any building, Developer must submit a plan for the demolition of all remaining buildings, which plan must describe the physical location of each building to be demolished and the proposed schedule for its demolition. If there remain buildings to be demolished, Developer shall update this information every six months after ordinance approval. The City of Hurstbourne reserves the right to take enforcement action to make sure the remaining buildings are kept in lawful condition.
3. No outdoor advertising signs shall be permitted on the site. Any and all signs (including changes or upgrades to existing entrances), must also be approved by City of Hurstbourne, which must be provided with final renderings. All signs must conform to the City of Hurstbourne sign ordinance.

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4. Construction fencing shall be erected when offsite trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.

5. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, but excluding demolition and associated site work is requested:
 - a. The development plan must receive full construction approval from Louisville Metro Department of Inspections, Permits and Licenses, Louisville Metro Public Works, Metropolitan Sewer District and the City of Hurstbourne.

 - b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.

 - c. The property owner/developer must obtain approval by the Planning Commission and the City of Hurstbourne of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter. There shall be no removal of required landscaping without City Commission approval. In the event any tree required to be preserved on the approved Tree Preservation Plan or other required 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.

 - d. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved by Hurstbourne prior to obtaining approval for site disturbance including review of the existing tree canopy along Lots 1, 1 A and 2 along the Wessex Place property line.

 - e. Unless a building permit or a clearing and grading permit is issued within two years from the date of the City of Hurstbourne's approval herein, then the development plan must return to the Planning Commission for re-approval before any work can commence.

 - f. Any plan approval or review required by the City of Hurstbourne will be completed within two weeks of submittal by Developer.

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6. Prior to requesting any demolition permit on the site, Developer will submit to City of Hurstbourne for review and approval a construction schedule detailing the timetable for each demolition and construction.
7. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission and the City of Hurstbourne.
8. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors, and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
9. Dumpsters shall be enclosed on three sides within a masonry structure, secured with appropriate lockable door, be lidded and the lids cannot be made of metal.
10. All outdoor lighting shall be directed down and away from adjoining residential properties. Light poles shall not exceed twenty-eight foot in height. Parking lot lighting fixtures shall be fully shielded and shall utilize flat lenses so that no light source (i.e., the lamp within the fixture) is visible from adjacent residential property. All other lighting within the development shall be coach style lighting. Light levels due to lighting on the subject site shall not exceed 0.5 foot candles measured at the property line. At the time a building permit is requested, the applicant shall submit a certification statement to the permit issuing agency, from an engineer or other qualified professional, stating that the lighting of the proposed development is in compliance with this binding element. No outdoor construction or maintenance, parking lot cleaning or sweeping (except snow and ice), shall occur on the property between the hours of 7PM and 7 AM. Construction traffic shall not use City of Hurstbourne streets except for Whittington Parkway, Wessex Place and Williamsburg Plaza.
11. All facades visible from the public right of way shall be clad in brick, stone, stucco, glass, or a combination thereof, rendering to be approved by City of Hurstbourne.

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12. The following uses otherwise permitted in Commercial District C-2 shall be prohibited:

- Adult entertainment
- Adult gift shops
- Antique Shops
- Athletic Clubs/recreation facilities over 20,000 square feet
- Auction sales, items transported to site of auction
- Automobile repair garages
- Automobile or motorcycle service station (gas station)
- Automobile or motorcycle sales and rental
- Billiard parlors, game rooms and similar entertainment uses
- Bingo hall and parlors
- Boat sales and related storage
- Bookbinding
- Cleaning, pressing and dyeing establishments
- Coin operated laundry
- Contractors shop Dance halls
- Exposition building or center
- Flea Market
- Fraternities, sororities, clubs and lodges
- Indoor paint ball ranges
- Kennels
- Mini-warehouse/storage facilities
- Monument sales
- Pawn shops
- Pay day lenders
- Plasma, blood collection centers
- Printing, lithographing, or publishing establishments
- Public transportation passenger terminal
- Public utility buildings and facilities
- Refrigerated lockers
- Rubber stamp manufacturing
- Sign painting
- Skating rinks (ice or roller)
- Tattoo, body art and piercing parlors
- Telephone exchanges
- Tourist homes

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13. Revised Detailed District Development Plans shall be approved by the Planning Commission or by a Committee designated by the Planning Commission, but must also be approved by the City of Hurstbourne.
14. Upon development of adjacent lots, a unified access, parking and circulation system shall be developed to eliminate preexisting curb cuts and provide for vehicular movement and parking throughout adjacent sites as determined appropriate by the Department of Public Works. A cross access and parking agreement to run with the land and in a form acceptable to Planning Commission legal counsel (and the City of Hurstbourne) shall be recorded prior to the time of construction approval for the adjacent property to be developed.
15. Development shall occur in at least two phases. Phase I includes Lots 1, 2, 3, and 4 as shown on the General Development Plan, a copy of which is attached hereto as a part hereof and marked "Exhibit A". Phase II is identified as Lots 5, 6 and 7 on the General Development Plan attached as Exhibit A. Development of Phase I and II are subject to the following conditions:
 - a. Wessex Place shall be re-striped as a three lane corridor, with the addition of a center turn lane between Whittington Parkway and Williamsburg Plaza.
 - b. Upon submittal to and approval by the City of Hurstbourne of detailed plans for Phase I, the Developer shall redesign/modify the median segments and roadway re-striping along Williamsburg Plaza which will be required to accommodate full access traffic flow at secondary intersections where determined to be appropriate. No median or other structure in the City of Hurstbourne right of way can be removed or modified without the expressed written consent of the City of Hurstbourne.
 - c. Prior to request for certificate of occupancy for any portion of Phase II, the dual northbound left turns and required signalization revisions shall be constructed along Hurstbourne Parkway at the intersections of Williamsburg Plaza and Whittington Parkway. No median or other structure in the City of Hurstbourne right of way can be removed or modified without the expressed written consent of the City of Hurstbourne. If the Hurstbourne Parkway widening improvements included in KTC project number 5-344 are scheduled to be completed by the KTC at a time coincident with Phase II construction, the developer shall not be responsible for the construction of the northbound dual left turn improvements at the Hurstbourne Parkway and Whittington Parkway intersection; similarly, the developer will coordinate with the KTC to accomplish the construction of the second of two dual northbound left turn improvements proposed for the Hurstbourne Parkway and Williamsburg Plaza intersection as part of the KTC's coincident widening project.

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- d. Upon submittal of first detailed plan for Phase II, a revised traffic analysis (which must be submitted to the City of Hurstbourne as well as Metro Public Works) shall be prepared to evaluate the necessity and limits of the following additional transportation improvements, based on the final projected Phase II traffic impacts:
- i) Dual northbound left turn lane addition, signalization and median modifications for the Whittington Parkway and Shelbyville Road intersection, to address extended queue lengths and potential blocking of interior intersections along Whittington Parkway.
 - ii) Dual eastbound left turn lane addition, signalization and median modifications for the Whittington Parkway and Hurstbourne Parkway intersection, to address extended queue lengths and potential blocking of interior intersections along Whittington Parkway.
 - iii) Dual eastbound left turn lane addition, signalization and median modifications for the Williamsburg Plaza and Hurstbourne Parkway intersection, to address extended queue lengths and potential blocking of interior intersections along Williamsburg Plaza.
 - iv) As a result of the dual northbound left turns from Hurstbourne Parkway required for Phase II, the need for new left turn lanes will be required for westbound Williamsburg Plaza into Lot 2 and westbound Whittington Parkway into the proposed access drive with dimensional requirements contingent on detailed plan configuration and final projected Phase II traffic impacts.
16. Developer shall be responsible for any required utility relocations, traffic signal installation or modification, final surface overlay, signage, and striping associated with required road improvements. No median or other structure in the City of Hurstbourne right of way or any signature entrances may be removed or modified without the expressed written consent of the City of Hurstbourne. As applicable to each phase, construction plans, bond, and KTC permit are required by Metro Public Works and the City of Hurstbourne prior to construction approval and issuance of MPW encroachment permit.
17. Developer shall contribute \$60,000.00 towards the mitigation of existing flooding conditions within the City of Hurstbourne. Such payment shall be made within ninety (90) days following receipt by the Developer of written notice from the City of Hurstbourne that the City has adopted a plan to make drainage improvements and is in the process of obtaining bids and letting contracts for the work to be done in connection with the drainage improvements. Developer to review drainage on site in

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construction plan approval process to determine if drainage for site can be mitigated or detained. Developer to provide the City of Hurstbourne with all drainage data at all phases of construction plan approval.

18. All street signs shall be installed by the Developer and shall conform to the *Manual on Uniform Traffic Control Devices* (MUTCD) requirements and must be of the same quality and design as exists in the City of Hurstbourne. Street signs shall be installed prior to occupancy of the first building on the street and shall be in place at the time of any required bond release. The address number shall be displayed on a structure prior to requesting a certificate of occupancy for that structure. All street signs must be approved by the City of Hurstbourne.
19. An encroachment permit and bond may be required by the appropriate governmental authority for roadway repairs on all surrounding access roads to the project site due to damages caused by construction traffic activities. No such bond may be released without the agreement of City of Hurstbourne.
20. Prior to applying for a Certificate of Occupancy, or request for release of any bond, the Applicant shall submit to the City of Hurstbourne evidence that all drainage and road improvements to be constructed in the development plan for this site have been fully constructed.
21. The Applicant, its successors and assigns, hereby consents and agrees that the City of Hurstbourne has full right and authority to take any and all appropriate direct legal action against Applicant, its successor and assigns, to enforce these binding elements. **ADDITIONAL GENERAL PLAN BINDING ELEMENTS ONLY
APPLICABLE TO LOTS 1 AND 2 ON THE GENERAL DEVELOPMENT PLAN**
22. a. That portion of Lot 1, containing approximately 1.9 acres and located at the southeast corner of Hurstbourne Parkway and Williamsburg Plaza, designated as "Lot 1A" on Exhibit A, shall be permitted to have up to two (2) ABC-licensed establishment with the following conditions:
 - (1) If two (2) establishments, they shall be contained within a single structure; (2) The ABC license shall be restricted to a restaurant drink license and/or a restaurant wine license, either of which requires that 50% of the restaurant's income be from food sales;
 - (3) Outdoor dining shall be limited to the north and east side of any building and shall close at 10:00 PM;

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- (4) No drive-through operation shall be permitted except for a bakery/deli concept (such as Panera Bread); and
 - (5) Any business located there shall close by 10:00 PM from Sunday through Thursday and by 11:00 PM on Friday and Saturday. No alcoholic beverages shall be sold or served after those hours. No new food orders may be taken after those hours
- b. The remainder of Lot 1 and all of Lot 2 shall not be permitted to have any establishment with an ABC license except for (i) a coffee shop with a wine bar provided no more than 50% of total sales are from the sale of wine, (ii) a breakfast/lunch venue (similar to Wild Eggs) provided that at least 50% of total income is from food sale or (iii) such similar uses as may be approved by the City of Hurstbourne. Outdoor dining shall be limited to the north side of any building.
23. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system or drive-thru speakers audible beyond the property line on Lots 1 and 2 (shown on the General Development Plan) abutting the property line of the R-7 residential property to the South.
24. Noise from the development shall not exceed 10 decibels above the normal ambient background level beyond the property line of Lots 1 and 2 (shown on the General Development Plan) abutting the R-7 residential property to the South. No odors (food, trash, etc...) from the site may be detectable at the property line on Lots 1 and 2 (shown on the General Development Plan) abutting the R-7 residential property to the South.
25. Outdoor activity: No loading or unloading of merchandise, trash pickup (i.e. dumpster pickup and unloading, pallet or trash removal from the site), nor trash compacting shall occur on the property between the hours of 7 PM and 7 AM
26. Buffer with Residential: The developer shall install a ten (10) foot tall brick or faux-brick (stamped on both sides) masonry wall along the southern boundary of Lots 1 and 2 (shown on the General Development Plan) abutting the property line of the R-7 residential property to the south. This wall shall extend from the right of way line with Hurstbourne Parkway along Lots 1 and 2 and around the dead end portion of Wessex Place right-of-way, final location and design of the wall to be approved prior to construction by City of Hurstbourne. The wall shall be constructed in a manner that will not harm the root systems of the existing pine trees located in the landscape buffer area. Building walls may be incorporated into the brick wall which shall be evaluated by the City of Hurstbourne during the Detailed Development Plan approval process Prior to issuance of a Certificate of Occupancy for any structure on either Lot

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1 or Lot 1A, the developer shall complete construction of the wall along the entire southern boundary of Lot 1 from the right-of-way line of Hurstbourne Parkway to the southeasterly corner of Lot 2. Prior to issuance of a Certificate of Occupancy for any structure on Lot 2, the developer shall complete construction of the wall along the entire southerly boundary of Lot 2 from the southwesterly corner of Lot 1 to the southwesterly corner of Lot 2, and, in addition, complete construction of the extension of the wall from the southwesterly corner of Lot 2 around the dead end portion of Wessex Place right-of-way. In any event, the full wall along Lots 1, 1 A and 2, as well as the extension of the wall around the dead end portion of Wessex Place right-of-way shall be completed within 30 months of the issuance of a Certificate of Occupancy for any structure on Lots 1, 1A and 2.

27. Hours of Operation: The hours of operation for all commercial uses located on Lots 1 and 2 (shown on the General Development Plan) shall be limited to the hours from 6 AM to 10 PM, with the exception of the use described in 22(a).

28. No overnight idling of trucks shall be permitted on-site.

29. Delivery Truck Parking On-Site. No delivery trucks with lights, engines, refrigerator motors or similar equipment in operation shall be allowed to park on the property between the hours of 7 PM and 7 AM.

30. Notice of all Detailed District Development Plans, Revised Detailed District Development Plans, Amendment to General Plan Binding Elements, Amendment to Detailed Plan Binding Elements, Conditional Use Permits, Waivers, and Variances affecting Lots 1 and 2 shall be sent at least 45 days prior to a hearing before the Planning Commission, Board of Zoning Adjustment, or Committee thereof, except for Revised Detailed District Development Plans and Amendment to Detailed Plan Binding Elements that meet the criteria for approval by the Planning Director. This notice requirement shall include notice to the President of the Hurstbourne Towne Homes Residents Association, Inc. (aka Wessex Place Condominiums). Applicant shall also provide a copy of any application filed in connection with any of the foregoing to the President of the Hurstbourne Towne Homes Residents Association, Inc. (aka Wessex Place Condominiums) within five (5) days after submittal to Planning and Design Services.

31. A 25-foot wide landscape buffer area shall be provided along the southern boundary of Lots 1 and 2 abutting the property line of the R-7 residential property to the south. The buffer area shall be maintained by the applicant, its successors or assigns. The existing pine trees within the buffer area shall be retained except to the extent any trees are dead, diseased or hazardous, in which case those trees shall be replaced by Developer with like specimens. Developer agrees that Hurstbourne Towne Homes

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Residents Association, Inc. (a/k/a Wessex Place Condominiums) may plant additional trees within said 25 foot buffer, of the same quality and type, with approval of Developer as to location and planting schedule.

32. No portion of any building located within Lots 1 and 2 (shown on the General Development Plan) shall exceed three (3) stories or forty-five (45) feet in height. Building height shall be determined pursuant to the LDC.
33. No light poles on Lots 1 and 2 shall exceed **seventeen (17) feet in height, fourteen (14) feet for the pole and three (3) feet for the concrete base**. Permanent parking lot lighting and permanent building-mounted lighting located on Lots 1 and 2 designed to illuminate the ground and parking lot areas, whether freestanding or attached, shall be fully shielded, shall utilize flat or hidden lenses, and shall be pointed directly to the ground or otherwise down and away from the R-7 residential properties abutting Lots 1 and 2 (shown on the General Development Plan). No building mounted signage on Lots 1 and 2 shall be installed facing the R-7 residential properties abutting Lots 1 and 2 (General Development Plan). 34. Except for development identification signs) temporary leasing signs, way finding signs, construction-related signs, traffic-related signs or directional signs, all freestanding signage on Lots 1 and 2 shall not exceed six (6) feet in height and approved by the City of Hurstbourne.
35. The applicant shall file an application requesting that the portion of "Wessex Place" located within the proposed development be changed to another name, with approval of the City of Hurstbourne, including choice of the street name.
36. No external building construction on Lots 1 and 2 shall be conducted during the hours of 9 PM-7 AM Monday through Saturday. Sunday construction is permitted from 10 AM- 4 PM.
37. Except for (i) emergency fire alarms or activation of other safety alarms, and (ii) occasional cultural or musical events (which must receive prior approval from City of Hurstbourne), no outdoor public address systems shall be permitted on Lots 1 and 2.
38. Rooftop mechanical equipment located on Lots 1 and 2 shall be baffled to mitigate noise and shall be screened from the R-7 residential properties abutting Lots 1 and 2.

The vote was as follows:

Yes: Brown, Carlson, Ferguson, and Smith

Absent: Tomes

Abstain: None

No: None

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CASE NUMBER 17DEVPLAN1133

Project Name: Landscape waivers as associated with a Category 2B
Location: 7715 and 7723 Bardstown Road
Owner(s): Stephen C. Lannert – Lannert Station LLC.
Applicant: Rodney Kistner – Popeye’s
Representative: Mark Patterson – Power of Design
Jurisdiction: Louisville Metro
Council District: 22 – Robin Engel
Case Manager: Ross Allen – Planner I

Notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicants.

The staff report prepared for this case was incorporated into the record. The Commissioners received this report in advance of the hearing, and this report was available to any interested party prior to the public hearing. (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:

00:27:35 Ross Allen presented the case (see Staff Report and recording for detailed presentation).

00:31:42 In response to Commissioner Brown, Mr. Allen stated that waivers 2 and 4 are looked at favorably by Staff. There is no screening along the northeastern property line. Staff is asking that screening be provided to mitigate lighting and vehicle noise from the more intense use of the property.

The following spoke in favor of the request:

Mark Patterson, 11490 Bluegrass Pkwy., Louisville, KY 40299
Rodney Kistner, 10609 Fairmount Falls Way, Louisville, KY, 40291

Summary of testimony of those in favor:

00:33:52 Mark Patterson spoke on behalf of the applicant, and gave a brief overview of why each waiver is being requested. This was originally two lots that were consolidated back to one. Many of the current codes did not exist back when the existing Waffle House was constructed. Specifically with # 4, developers do not want to construct an 8 ft. wooden fence because of how these deteriorate over time. They prefer not to plant trees along the northeastern property line due to the water lines and water easement that run through the area.

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00:37:00 Commissioners' deliberation

Commissioners Brown and Smith feel that the Staff Report doesn't seem to support waivers 2 and 4 and that some level of screening needs to be provided based on the change in intensity of use.

Ferguson agrees and does not feel a blanket waiver is appropriate, and she would like to see mitigation of the intensity of use.

Carlson agrees and feels that there needs to be something to mitigate the two different uses. Partial relief is appropriate given their constraints.

00:40:10 Rodney Kistner spoke on behalf of Popeyes. He stated that much of what they are dealing with today exists from the Waffle House development. There are currently mature trees on the east boundary along the church's property. More trees like evergreens can be added to this area. Shrubs can be added to the north side. Commissioner Brown stated he would not oppose the parking or dumpster if some type of screening could be provided to mitigate the impact.

Waiver #1

00:46:50 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 since the waivers are for conditions of an existing parking lot as constructed in 1999. Adjoining properties are both zoned C-1, the northern adjoining property is an entrance drive for the church and the eastern adjoining property is a vacant parcel, and

WHEREAS, the Committee further finds that Guideline 3, Policies 21 and 22 call 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. The comprehensive plan asks that subject properties and/or adjoining properties be developed as commercial, 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 since the pressurized water main running along the northern property and the drainage easement along the eastern property line are both existing conditions, and if not waived, prevent adherence to the LDC planting requirements, and

WHEREAS, the Committee further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant by reducing the parking available to customers along the northern property line since both are existing conditions on this subject site, and

WHEREAS, the Committee further finds that, based on the staff report and the evidence and testimony presented today, that all of the applicable guidelines of Cornerstone 2020 are being met; now, therefore be it

RESOLVED, the Louisville Metro Development Review Committee does hereby **APPROVE** Waiver #1 from LDC Section 10.2.4.B.3 to allow a property perimeter landscape buffer area to encroach a 40 foot water easement by 100% along the northern property line for an approximate length of 216.37 feet and to allow the proposed 15 foot sanitary sewer and drainage easement to encroach 75% of the 20 foot property perimeter landscape buffer area (LBA) along the eastern property line.

The vote was as follows:

Yes: Brown, Carlson, Ferguson, and Smith

Absent: Tomes

Abstain: None

No: None

Waiver #2

00:47:35 On a motion by Commissioner Brown, seconded by Commissioner Smith, the following resolution was adopted:

WHEREAS, the Committee further finds that, based on the evidence and testimony presented today, that all of the applicable guidelines of Cornerstone 2020 are being met; now, therefore be it

RESOLVED, the Louisville Metro Development Review Committee does hereby **APPROVE** Waiver #2 from the LDC Section 10.2.4.B.1 to allow pavement, parking, and dumpster to be located within the 20 foot property perimeter landscape buffer area (LBA) width along the eastern and northern property lines and to eliminate the plantings

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NEW BUSINESS

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in the 20 foot LBA where the 40 foot LWC easement is located **ON CONDITION** that the applicant provides a 3 ft. high screen along the northern property line and a landscape buffer area along the eastern property line in front of the Waffle House site, noting that landscaping would mitigate the impact of encroachment the parking and dumpster have on the adjacent institutional property.

The vote was as follows:

Yes: Brown, Carlson, Ferguson, and Smith

Absent: Tomes

Abstain: None

No: None

Waiver #3

00:48:45 On a motion by Commissioner Brown, seconded by Commissioner Ferguson, the following resolution was adopted:

WHEREAS, the Louisville Metro Development Review Committee finds that the waiver will not adversely affect adjacent property owners since both ILA's (# 7 and 8) as indicated on the development plan are existing conditions. Interior Landscape Area # 7 currently has a freestanding monopole Waffle House Sign and the ILA #8 has an existing planting, and

WHEREAS, the Committee further finds that 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 waiver will not violate specific guidelines of Cornerstone 2020 because both ILA's (# 7 and 8) as indicated on the development plan are existing conditions. Interior Landscape Area # 7 currently has a freestanding monopole Waffle House Sign and the ILA #8 has no existing planting allowing an existing space where tree canopy to help break up the large impervious area, 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 both ILA's (# 7 and 8) are existing conditions. Interior Landscape Area # 7 currently has a freestanding monopole Waffle House Sign and the ILA #8 has an existing planting. Interior Landscape Area # 7 currently has a freestanding monopole Waffle House Sign and the ILA #8 has no existing planting allowing an existing space where tree canopy to help break up the large impervious area, and

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WHEREAS, the Committee further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant because both ILA's (# 7 and 8) are existing conditions. Interior Landscape Area # 7 currently has a freestanding monopole Waffle House Sign and the ILA #8 has an existing planting. Interior Landscape Area # 7 currently has a freestanding monopole Waffle House Sign and the ILA #8 has no existing planting allowing an existing space where tree canopy to help break up the large impervious area, and

WHEREAS, the Committee further finds that, based on the staff report and the evidence and testimony presented today, that all of the applicable guidelines of Cornerstone 2020 are being met; now, therefore be it

RESOLVED, the Louisville Metro Development Review Committee does hereby **APPROVE** Waiver #3 from the LDC Section 10.2.12 to allow two interior landscape areas as located within the northern portion of the vehicular use area and to be less than the required 290 sf. Specifically, ILA #7 being 84 sf. less than the required 290 sf. and ILA #8 being 126 sf. less than the 290 sf. required.

The vote was as follows:

Yes: Brown, Carlson, Ferguson, and Smith

Absent: Tomes

Abstain: None

No: None

Waiver #4

00:49:26 On a motion by Commissioner Brown, seconded by Commissioner Ferguson, the following resolution was adopted:

WHEREAS, the Committee further finds that, based on the evidence and testimony presented today, that all of the applicable guidelines of Cornerstone 2020 are being met; now, therefore be it

RESOLVED, the Louisville Metro Development Review Committee does hereby **APPROVE** Waiver #4 from the LDC Section 10.2.4.B.7 to eliminate the 8 foot screen along both adjacent C-1 zoned parcels on the eastern and northern property lines due to the screening that is being provided as part of the condition from Waiver #2— Because of the existing conditions on the site, this is the minimum waiver that would be required to not deprive the applicant of reasonable use of his land.

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The vote was as follows:

Yes: Brown, Carlson, Ferguson, and Smith

Absent: Tomes

Abstain: None

No: None

**DEVELOPMENT REVIEW COMMITTEE MINUTES
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NEW BUSINESS

CASE NUMBER 17MINORPLAT1066

Project Name: Clover Trace
Location: 1501 Clover Trace Place
Owner(s): CDJ Development, LLC
Applicant: Scott Corrick, Mindel, Scott & Associates
Jurisdiction: Louisville Metro
Council District: 15 – Marianne Butler
Case Manager: Brian Mabry, Planning & Design Supervisor

Notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicants.

The staff report prepared for this case was incorporated into the record. The Commissioners received this report in advance of the hearing, and this report was available to any interested party prior to the public hearing. (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.

Please note: 17MINORPLAT1066 was heard as the last case of the meeting.

Agency Testimony:

01:16:17 Brian Davis presented the case on behalf of Brian Mabry (see Staff Report and recording for detailed presentation).

The following spoke in favor of the request:

Kent Gootee, 5151 Jefferson Blvd., Louisville, KY 40219

Summary of testimony of those in favor:

01:11:03 Kent Gootee spoke on behalf of the applicant. Most of the units of this development are triplexes. As people are buying units, they are choosing the larger building options, so the lot lines need to be changed.

01:12:22 Commissioners' deliberation

01:13:25 On a motion by Commissioner Brown, seconded by Commissioner Ferguson, the following resolution was adopted:

WHEREAS, the Committee further finds that, based on the staff report and the evidence and testimony presented today, that all of the applicable guidelines of Cornerstone 2020 are being met; now, therefore be it

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NEW BUSINESS

CASE NUMBER 17MINORPLAT1066

RESOLVED, the Louisville Metro Development Review Committee does hereby **APPROVE** Amendment to the Record Plat.

The vote was as follows:

Yes: Brown, Carlson, Ferguson, and Smith

Absent: Tomes

Abstain: None

No: None

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NEW BUSINESS

CASE NUMBER 17MINORPLAT1080

Project Name: 5811 Lovers Ln Minor Plat
Location: 5811 Lovers Lane
Owner(s): Joseph & Marcella Bland
Applicant: Marcella (Marci) Bland
Jurisdiction: Louisville Metro
Council District: 22 – Robin Engel
Case Manager: Jay Lockett, Planner I

Notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicants.

The staff report prepared for this case was incorporated into the record. The Commissioners received this report in advance of the hearing, and this report was available to any interested party prior to the public hearing. (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:

00:50:55 Jay Lockett presented the case (see Staff Report and recording for detailed presentation).

The following spoke in favor of the request:

Marcella Bland, 5811 Lovers Lane, Louisville, KY 40299

Summary of testimony of those in favor:

00:52:38 Applicant Marcella Bland stated she would like to divide her 22 acre lot into three parcels. The parcel that does not currently have a driveway did have one in the past. Once the land was deeded as one parcel the driveway fell into disuse. In order to make it available for future sale, she would like to have driveway access restored as to not sell a landlocked property.

00:53:27 Commissioners' deliberation

00:54:03 On a motion by Commissioner Brown, seconded by Commissioner Ferguson, the following resolution was adopted:

WHEREAS, the Louisville Metro Development Review Committee finds that the waiver will not adversely affect adjacent property owners as access will serve a 10.38 acre tract that does not currently have a dwelling, and

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NEW BUSINESS

CASE NUMBER 17MINORPLAT1080

WHEREAS, the Committee further finds that Guideline 3, Policy A.3 encourages residential character that is compatible with adjacent residential areas. This type of land subdivision supports this policy as the surrounding lots are largely single family and greater than one acre. The waiver will not violate specific guidelines of Cornerstone 2020 as the proposed minor subdivision will serve single family lots and traffic will marginally impacted. The community abutting Lovers Lane is currently a low-density community, 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 proposed tract fronting Lovers Lane is vacant and will be used for residential purposes or sold to an adjoining property. Requiring a shared driveway with an easement between the two lots along Lovers Lane would create an unnecessary hardship on the applicant, thus depriving the applicant of reasonable use of 22.1 acres of land, and

WHEREAS, the Committee further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant as they would be prevented from using a large piece of land in a manner that meets LDC and Cornerstone 2020 guidelines. LDC section 7.8.60.B.4 prohibits Planning Commission staff from approving the minor subdivision, unless a waiver is granted, and

WHEREAS, the Committee further finds that, based on the staff report and the evidence and testimony presented today, that all of the applicable guidelines of Cornerstone 2020 are being met; now, therefore be it

RESOLVED, the Louisville Metro Development Review Committee does hereby **APPROVE** Waiver of Land Development Code (LDC) section 7.8.60.B.4 to allow individual, single-family driveway access to a collector level roadway.

The vote was as follows:

Yes: Brown, Carlson, Ferguson, and Smith

Absent: Tomes

Abstain: None

No: None

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NEW BUSINESS

CASE NUMBER 17WAIVER1023

Project Name: Castle Road Sidewalk Waiver
Location: 12602 Castle Rd
Owner(s): Josh Combs
Applicant: Josh Combs
Jurisdiction: Louisville Metro
Council District: 14 – Cindi Fowler
Case Manager: Jay Lockett – Planner I

Notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicants.

The staff report prepared for this case was incorporated into the record. The Commissioners received this report in advance of the hearing, and this report was available to any interested party prior to the public hearing. (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:

00:55:03 Jay Lockett presented the case (see Staff Report and recording for detailed presentation).

00:56:38 Commissioners' deliberation

00:57:35 On a motion by Commissioner Ferguson, 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 since no adjacent property owners have sidewalks to tie into this lot, and

WHEREAS, the Committee further finds that Guideline 7, Policy 1 states that developments should be evaluated for their impact on the street and roadway system and to ensure that those who propose new developments bear or reasonably share in the costs of the public facilities and services made necessary by development. Guideline 9, Policy 1 states that new development should provide for the movement of pedestrians, bicyclists and transit users with sidewalks along the streets of all developments where appropriate. Neither ROW in question has an existing sidewalk network to tie into, and

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NEW BUSINESS

CASE NUMBER 17WAIVER1023

WHEREAS, the Committee further finds that the extent of waiver of the regulation is the minimum necessary to afford relief to the applicant, and

WHEREAS, the Committee further finds that the strict application of the regulation would create an unnecessary hardship on the applicant, as sidewalks around the subject site would not tie into any useable pedestrian network, and

WHEREAS, the Committee further finds that, based on the staff report and the evidence and testimony presented today, that all of the applicable guidelines of Cornerstone 2020 are being met; now, therefore be it

RESOLVED, the Louisville Metro Development Review Committee does hereby **APPROVE** Waiver of Land Development Code section 5.8.1.B to not provide sidewalks in abutting ROW for a new single family home on an existing lot.

The vote was as follows:

Yes: Brown, Carlson, Ferguson, and Smith

Absent: Tomes

Abstain: None

No: None

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NEW BUSINESS

CASE NUMBER 17WAIVER1026

Project Name: Mike's Carwash
Location: 1323 S Hurstbourne Pkwy
Owner(s): Dahm Holdings, LLC
Applicant: Mike's Carwash
Jurisdiction: Jeffersontown
Council District: 18 – Marilyn Parker
Case Manager: Jay Lockett – Planner I

Notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicants.

The staff report prepared for this case was incorporated into the record. The Commissioners received this report in advance of the hearing, and this report was available to any interested party prior to the public hearing. (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:

01:00:30 Jay Lockett presented the case (see Staff Report and recording for detailed presentation).

The following spoke in favor of the request:

Mark Patterson, 11490 Bluegrass Pkwy., Louisville, KY 40299

Summary of testimony of those in favor:

01:03:09 Mark Patterson spoke on behalf of the applicant who is requesting two waivers from the LDC. The addition of large river rock will not affect the existing trees. The existing pavement lines will be used.

01:04:19 Commissioners' deliberation

Waiver #1

01:04:45 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 since the VUA will still be adequately screened from the adjacent roadway, and

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NEW BUSINESS

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WHEREAS, the Committee further finds that the waiver will not violate Guideline 3, Compatibility, of Cornerstone 2020, which calls for the protection of roadway corridors and public areas from visual intrusions, for mitigation of parking areas so as not to negatively impact nearby residents and pedestrians, and for screening and buffering of parking areas adjacent to streets. The waiver will not violate Guideline 13, Landscape Character, which calls for the protection of parkways through standards for buffers, landscape treatment, lighting and signs. The purpose of vehicle use area landscape buffer areas is to improve the appearance of vehicular use areas and property abutting public rights-of way. Adequate screening will still be provided onsite, 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, 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 it would cause them to have to remove significant pavement and rework the existing circulation of the site, and

WHEREAS, the Committee further finds that, based on the staff report and the evidence and testimony presented today, that all of the applicable guidelines of Cornerstone 2020 are being met; now, therefore be it

RESOLVED, the Louisville Metro Development Review Committee does hereby **RECOMMEND** to the City of Jefferson that the Waiver of Land Development Code (Jeffersontown) section 10.2.9 to encroach into a required Vehicle Use Area Landscape Buffer Area (VUA LBA) be **APPROVED**.

The vote was as follows:

Yes: Brown, Carlson, Ferguson, and Smith

Absent: Tomes

Abstain: None

No: None

Waiver #2

01:05:26 On a motion by Commissioner Brown, seconded by Commissioner Smith, the following resolution was adopted:

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NEW BUSINESS

CASE NUMBER 17WAIVER1026

WHEREAS, the Louisville Metro Development Review Committee finds that the waiver will not adversely affect adjacent property owners since the VUA ILA requirements will be met, and the rock will be a pervious surface, and

WHEREAS, the Committee further finds that the waiver will not violate Guideline 3, Compatibility, of Cornerstone 2020, which calls for the protection of roadway corridors and public areas from visual intrusions, for mitigation of parking areas so as not to negatively impact nearby residents and pedestrians, and for screening and buffering of parking areas adjacent to streets. The waiver will not violate Guideline 13, Landscape Character, which calls for the protection of parkways through standards for buffers, landscape treatment, lighting and signs. The purpose of vehicle use area landscape buffer areas is to improve the appearance of vehicular use areas and property abutting public rights-of way. Tree canopy requirements will be met onsite. ILAs will still have required trees with pervious ground cover, 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, and

WHEREAS, the Committee further finds that the strict application of the provisions of the regulation would not create an unnecessary hardship on the applicant, and

WHEREAS, the Committee further finds that, based on the staff report and the evidence and testimony presented today, that all of the applicable guidelines of Cornerstone 2020 are being met; now, therefore be it

RESOLVED, the Louisville Metro Development Review Committee does hereby **RECOMMEND** to the City of Jefferson that the Waiver of Land Development Code (Jeffersontown) section 10.2.12 to allow river rock to be used as ground covering within a required Vehicle Use Area Internal Landscaped Area (VUA ILA) be **APPROVED**.

The vote was as follows:

Yes: Brown, Carlson, Ferguson, and Smith

Absent: Tomes

Abstain: None

No: None

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ADJOURNMENT

The meeting adjourned at approximately 2:15 p.m.

Chairman

Division Director