

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO DEVELOPMENT REVIEW COMMITTEE MEETING
May 8, 2019**

A meeting of the Louisville Metro Development Review Committee was held on April 17, 2019 at 1:00 p.m. at the Old Jail Building, located at 514 W. Liberty Street, Louisville, KY 40202.

Commissioners present:

Rich Carlson, Vice Chair
Jeff Brown
Vince Jarboe

Commissioners absent:

Emma Smith
David Tomes, Chair
Donald Robinson

Staff members present:

Julia Williams, Planning and Design Supervisor
Joel Dock, Planner II
Lacey Gabbard, Planner I
Jay Lockett, Planner I
John Carroll, Legal Counsel
Beth Stuber, Transportation Supervisor
Rachel Dooley, Management Assistant (Minutes)

The following matters were considered

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APPROVAL OF MINUTES

April 17, 2019 DRC Meeting Minutes

00:03:21 On a motion by Commissioner Brown, seconded by Commissioner Jarboe, the following resolution was adopted:

RESOLVED, that the Louisville Metro Development Review Committee does hereby **APPROVE** the minutes of its meeting conducted on April 17, 2019.

The vote was as follows:

YES: Commissioners Brown, and Carlson
ABSTAIN: Commissioner Jarboe
ABSENT: Commissioners Smith, Tomes, and Robinson

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NEW BUSINESS

CASE NUMBER 19WAIVER1022

Request: Waiver to allow detention basin to occupy more than 50% of Gene Snyder buffer
Project Name: Ghasem – Factory Lane
Location: 12910 Factory Lane
Owner/Applicant: Ghasem Properties, LLC
Representative: Milestone Design Group, Inc.
Jurisdiction: Louisville Metro
Council District: 19 – Anthony Piagentini

Case Manager: Joel Dock, 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. (The staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

00:04:07 Joel Dock presented the case (see staff report and recording for detailed presentation.) Mr. Dock handed paper plans to the commissioners to highlight the increased area of the detention basin in the Gene Snyder buffer area.

00:06:28 Commissioner Carlson asked what the purpose of the Gene Snyder Buffer to avoid detention basins along the freeway. Mr. Dock replied while the buffer is not to avoid detention basins, the Gene Snyder buffer allows up to 50% encroachment and the buffer itself is there to present transition and scenic views from Gene Snyder and provide space between buildings and roadways. This waiver insures proper tree canopy and landscaping is provided if the encroachment is justified.

The following spoke in favor of this request:

Mark Madison, 108 Daventry Lane, Suite 300, Louisville, Kentucky, 40223

Summary of testimony of those in favor:

00:07:38 Mark Madison detailed the site and the development process for this site. Mr. Madison stated he is present for questions.

The following spoke in opposition to this request:

No one spoke.

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Deliberation:

00:08:50 Commissioner's Deliberation (see staff report and recording for detailed presentation.)

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

Waiver of Land Development Code, section 10.3.7.A to allow a detention basin to occupy more than 50% of the 50' Gene Snyder Freeway buffer.

00:09:12 On a motion by Commissioner Brown, seconded by Commissioner Jarboe, the following resolution, based on the Standard of Review and Staff Analysis, and evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Development Review Committee finds the waiver will not adversely affect adjacent property owners as the landscape buffer request does not impact abutting property owners and allows for the proper detention of runoff; and

WHEREAS, the Louisville Metro Development Review Committee further finds the 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 13, Policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. All required planting material and screening will be provided. All required plantings will be provided as required by the LDC; and

WHEREAS, the Louisville Metro Development Review Committee further finds the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the request is in keeping with the approved plan, meets the needs of the development, and the intent of the LDC as all plantings will be required and the placement of the detention basin in the buffer does not reduce the real buffer between buildings and the interstate right-of-way; and

WHEREAS, the Louisville Metro Development Review Committee further finds the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as detention/retention facilities are necessary for storm water

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management and the encroachment does not prohibit compliance with planting material, therefore be it

RESOLVED, that the Louisville Metro Development Review Committee does hereby **APPROVE** the requested Waiver of Land Development Code, section 10.3.7.A to allow a detention basin to occupy more than 50% of the 50' Gene Snyder Freeway buffer.

The vote was as follows:

YES: Commissioners Brown, Jarboe, and Carlson

ABSENT: Commissioner Smith, Robinson, and Tomes

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NEW BUSINESS

CASE NUMBER 19MINORPLAT1021

Request: Minor Subdivision Plat
Project Name: Montgomery Minor Plat
Location: 622 E Ormsby Ave
Owner/Applicant: Montgomery Property Management
Representative: Willmoth International, PSC.
Jurisdiction: Louisville Metro
Council District: 4 – Barbara Sexton Smith

Case Manager: Jay Lockett, AICP, 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. (The staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

00:10:06 Jay Lockett presented the case (see staff report and recording for detailed presentation.)

The following spoke in favor of this request:

Mark Wilmoth, 205 S. Birchwood Ave, Louisville, Kentucky, 40206

Summary of testimony of those in favor:

00:11:38 Mark Wilmoth detailed history of the site and stated he is present to answer questions.

The following spoke in neither for nor against to this request:

No one spoke.

Deliberation:

00:12:56 Commissioner's Deliberation (see staff report and recording for detailed presentation.)

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

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CASE NUMBER 19MINORPLAT1021

00:13:26 On a motion by Commissioner Brown, seconded by Commissioner Jarboe, the following resolution, based on the Standard of Review and Staff Analysis and testimony heard today, was adopted:

RESOLVED, that the Louisville Metro Development Review Committee does hereby **APPROVE** the Minor Subdivision Plat.

The vote was as follows:

YES: Commissioners Brown, Jarboe, and Carlson

ABSENT: Commissioner Smith, Robinson, and Tomes

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NEW BUSINESS

CASE NUMBER 19DEVPLAN1021

Request: Revised District Development Plan with amendments to binding elements
Project Name: Anchorage Landmark II
Location: 2604 Chamberlain Ln
Owner/Applicant: Ghasem Properties
Jurisdiction: Louisville Metro
Council District: 17 – Markus Winkler

Case Manager: Jay Lockett, AICP, 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. (The staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

00:14:06 Jay Lockett presented the case (see staff report and recording for detailed presentation.)

00:14:41 Commissioner Brown asked if Binding Element number 15 refers to abutting property owners and if it is relevant. Mr. Lockett replied they were unsure if it applies since they were not able to find any information about Mr. Cain and Mr. Rick Wardlow. There is no suggestion to change this binding element. Mr. Lockett noted there is a change in Binding Element number 16 relating to the elevations of the buildings on site. (see recording for detailed presentation.)

00:16:42 Commissioner Jarboe inquired about no restrictions of square footage in the proposed binding elements. Jay Lockett replied it would be considered redundant to have restrictions as the approved plan would not deny an increase of square footage if it remains acceptable and in line with zoning.

The following spoke in favor of this request:

No one spoke.

The following spoke in opposition to this request:

No one spoke

Deliberation:

0:17:27 Commissioners' deliberation. (see recording for detailed presentation.)

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

00:17:45 On a motion by Commissioner Brown, seconded by Commissioner Jarboe, the following resolution, based on the Standard of Review and Staff Analysis and testimony heard today, was adopted:

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

WHEREAS, the Louisville Metro Development Review Committee further finds provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community has been provided, and Metro Public Works and the Kentucky Transportation Cabinet have approved the preliminary development plan; and

WHEREAS, the Louisville Metro Development Review Committee further finds there are no open space requirements pertinent to the current proposal; and

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

WHEREAS, the Louisville Metro Development Review Committee further finds the overall site design and land uses are compatible with the existing and future development of the area. Appropriate landscape buffering and screening will be provided to screen adjacent properties and roadways. Buildings and parking lots will meet all required setbacks, except where variances have been granted by the Board of Zoning Adjustment; and

WHEREAS, the Louisville Metro Development Review Committee further finds the development plan conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code, therefore be it

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RESOLVED, the Louisville Metro Development Review Committee does hereby **APPROVE** the requested Revised District Development Plan with revisions to binding elements on pages eight and nine of the Staff Report.

Existing Binding Elements with proposed changes

1. The development shall be in accordance with the approved district development plan and agreed upon binding elements unless amended pursuant to the Zoning District Regulations. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. ~~The development shall not exceed 18,275 square feet of gross retail and day care floor area and 21,543 square feet of gross restaurant floor area.~~
3. The only permitted freestanding signs shall be monument style signs, located as shown on the approved development plan/sign plan. No portion of the sign, including the leading edge of the sign frame, shall be closer than 5 feet to front property line. The signs shall not exceed 64 and 128 square feet in area per side and 8 and 16 feet in height. No sign shall have more than two sides.
4. No outdoor advertising signs, small free-standing signs, pennants, balloons, or banners shall be permitted on the site.
5. There shall be no outdoor storage, display or sales permitted on the site.
6. Outdoor lighting (for parking lot illumination and security) shall be directed down and away from surrounding residential properties. The site shall utilize shoebox lighting fixtures and shall have a 90-degree cutoff and height of the light standard shall be set so that no light source is visible off-site, with a 20 foot maximum height. Light levels due to lighting on the subject site shall not exceed 0.5 foot candles measured at the property line. The applicant shall obtain certification by a qualified expert in measurement of lighting levels prior to requesting a certificate of occupancy. Such certification shall be maintained on site at all times thereafter.
7. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree

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canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.

8. A Tree Preservation Plan (TPP) shall be approved by Planning Commission staff prior to transmittal to the office responsible for permit issuance. No clearing and/or grading activities may take place until a Tree Preservation Plan has been approved. The Tree Preservation Plan shall identify and submit for approval by designated DPDS staff, a plan showing the location of Tree Preservation Areas on site (exclusive of areas dedicated as public right-of-way) prior to beginning any construction procedure (i.e., clearing, grading, demolition). All construction shall be conducted in accordance with the approved Tree Preservation Plan. A partial plan may be submitted to delineate clearing necessary for preliminary site investigation. All Tree Preservation Plans must be prepared in accordance with the standards set forth by DPDS.
9. Before any permit (including but not limited to building, parking lot, change of use or alteration permit) is requested:
 - a. ~~The development plan must receive full construction approval from the Jefferson county Department of Public Works and Transportation (400 Fiscal Court Building) and the Metropolitan Sewer District (700 West Liberty).~~ **The development plan must receive full construction approval from Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.**
 - b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
 - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in ~~Article 12~~ **Chapter 10** prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter
 - d. A minor plat or legal instrument shall be recorded consolidating the property into one lot. A copy of the recorded instrument shall be submitted to the Division of Planning and Development Services; transmittal of the approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
 - e. The property owner, applicant, or developer shall submit to the Planning Commission and the Natural Resources and Environmental Protection Cabinet written procedures for tire/oil disposal that comply

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with applicable state and federal regulations. Said procedures shall be submitted prior to requesting a building permit and shall be followed for the duration of the use unless otherwise approved by the Planning Commission.

- ~~40. If a building permit is not issued within one year 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.~~
11. 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.
12. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
13. 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.
14. If work is required within the easements causing removal or damage of landscape materials, the property owner shall be responsible for replacement of materials according to the approved landscape plan.
15. The dumpster shall not be emptied between the hours of 10 p.m. and 7 a.m.
16. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the March 7th, 2002 Planning Commission meeting and the May 8, 2019 Development Review Committee meeting. Canopy treatments for the gas station shall be submitted

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to the Planning Commission staff for review and approval. The landscape plan shall be developed in consultation with Mr. Cain (12515 Old Lagrange Rd. Louisville, KY 40245) and Mr. Rick Wardlow, for specific landscape materials and placement of landscaping.

Proposed Binding Elements

1. The development shall be in accordance with the approved district development plan and agreed upon binding elements unless amended pursuant to the Zoning District Regulations. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. The only permitted freestanding signs shall be monument style signs, located as shown on the approved development plan/sign plan. No portion of the sign, including the leading edge of the sign frame, shall be closer than 5 feet to front property line. The signs shall not exceed 64 and 128 square feet in area per side and 8 and 16 feet in height. No sign shall have more than two sides.
3. No outdoor advertising signs, small free-standing signs, pennants, balloons, or banners shall be permitted on the site.
4. There shall be no outdoor storage, display or sales permitted on the site.
5. Outdoor lighting (for parking lot illumination and security) shall be directed down and away from surrounding residential properties. The site shall utilize shoebox lighting fixtures and shall have a 90-degree cutoff and height of the light standard shall be set so that no light source is visible off-site, with a 20 foot maximum height. Light levels due to lighting on the subject site shall not exceed 0.5 foot candles measured at the property line. The applicant shall obtain certification by a qualified expert in measurement of lighting levels prior to requesting a certificate of occupancy. Such certification shall be maintained on site at all times thereafter.
6. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the

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protected area.

7. A Tree Preservation Plan (TPP) shall be approved by Planning Commission staff prior to transmittal to the office responsible for permit issuance. No clearing and/or grading activities may take place until a Tree Preservation Plan has been approved. The Tree Preservation Plan shall identify and submit for approval by designated DPDS staff, a plan showing the location of Tree Preservation Areas on site (exclusive of areas dedicated as public right-of-way) prior to beginning any construction procedure (i.e., clearing, grading, demolition). All construction shall be conducted in accordance with the approved Tree Preservation Plan. A partial plan may be submitted to delineate clearing necessary for preliminary site investigation. All Tree Preservation Plans must be prepared in accordance with the standards set forth by DPDS.
8. Before any permit (including but not limited to building, parking lot, change of use or alteration permit) is requested:
 - a. The development plan must receive full construction approval from Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
 - b. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter
 - c. A minor plat or legal instrument shall be recorded consolidating the property into one lot. A copy of the recorded instrument shall be submitted to the Division of Planning and Development Services; transmittal of the approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
 - d. The property owner, applicant, or developer shall submit to the Planning Commission and the Natural Resources and Environmental Protection Cabinet written procedures for tire/oil disposal that comply with applicable state and federal regulations. Said procedures shall be submitted prior to requesting a building permit and shall be followed for the duration of the use unless otherwise approved by the Planning Commission.
9. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the

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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.

10. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
11. 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.
12. If work is required within the easements causing removal or damage of landscape materials, the property owner shall be responsible for replacement of materials according to the approved landscape plan.
13. The dumpster shall not be emptied between the hours of 10 p.m. and 7 a.m.
14. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the March 7th, 2002 Planning Commission meeting and the May 8, 2019 Development Review Committee meeting. Canopy treatments for the gas station shall be submitted to the Planning Commission staff for review and approval.
15. The landscape plan shall be developed in consultation with Mr. Cain (12515 Old Lagrange Rd. Louisville, KY 40245) and Mr. Rick Wardlow, for specific landscape materials and placement of landscaping.

The vote was as follows:

YES: Commissioners Brown, Jarboe, and Carlson

ABSENT: Commissioner Smith, Robinson, and Tomes

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NEW BUSINESS

CASE NUMBER 19DEVPLAN1030

Request: Revised District Development Plan with revisions to Binding Elements
Project Name: US Express
Location: 1319 Tile Factory Ln
Owner/Applicant: US Express, LLC.
Representative: Dinsmore and Shohl, LLP.
Jurisdiction: Louisville Metro
Council District: 21 – Nicole George

Case Manager: Jay Luckett, AICP, 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. (The staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

00:18:48 Jay Luckett presented the case (see staff report and recording for detailed presentation.)

00:21:50 Commissioner Brown asked would there be a sidewalk requirement and the threshold requirement. Mr. Luckett replied this development did not meet the threshold requirement.

The following spoke in favor of this request:

Cliff Ashburner, 101 S 5th Street, Suite 2500, Louisville, Kentucky, 40202

Summary of testimony of those in favor:

00:23:34 Cliff Ashburner detailed history of site and presented areal views of the site via Staff Report (see recording for detailed presentation.)

00:26:46 Commissioner Carlson and Mr. Ashburner discussed the difference between “truck transfer” and “truck storage” for this development site (see recording for detailed presentation.)

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00:31:15 Mr. Ashburner asked if they can hear the next Case so he can talk to his client about the change of condition in the binding elements. Commissioner Carlson agreed.

NOTE: This case stopped being heard approx. 00:31:44 and recalled approx. 00:46:32

00:46:39 Cliff Ashburner noted there is one building on the property if there is no other use for the building if there were any changes to the plan it would have to come to the committee to be approved. Commissioner Carlson and Mr. Ashburner discussed hours of operations restrictions for trucks operating on the site (see recording for detailed presentation.)

The following spoke in opposition to this request:
No one spoke.

Deliberation:

00:49:12 Commissioner deliberation

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

00:49:17 On a motion by Commissioner Brown, seconded by Commissioner Jarboe, the following resolution, based on the Standard of Review and Staff Analysis and testimony heard today, was adopted:

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

WHEREAS, the Louisville Metro Development Review Committee further finds provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community has been provided, and Metro Public Works has approved the preliminary development plan. The applicant has agreed to improve Tile Factory Ln to accommodate the proposed use; and

WHEREAS, the Louisville Metro Development Review Committee further finds there are no open space requirements pertinent to the current proposal; and

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

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

WHEREAS, the Louisville Metro Development Review Committee further finds the development plan conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code, therefor be it

Existing binding elements to be replaced

1. ~~The development will be in accordance with the approved district development plan. No further development will occur unless approved by the Planning Commission.~~
2. ~~The development shall not exceed 81,500 square feet of gross floor area.~~
3. ~~Before a building permit is requested:~~
 - a) ~~The development plan must be reapproved by the Jefferson County Department of Public Works and Transportation and the Metropolitan Sewer District.~~
 - b) ~~The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Article 12. Such plan shall be implemented prior to requesting a certificate of occupancy and maintained thereafter. The west property boundary shall maintain a 30-foot landscape/buffer area.~~
 - c) ~~A plat or legal document shall be recorded consolidating the lots. The deed book and page number of the recorded instrument shall be submitted to the Planning Commission.~~
 - d) ~~All necessary recording fees shall be paid.~~

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4. ~~Outdoor lighting shall be directed downward and away from adjoining residential areas.~~
5. ~~There shall be no freestanding business sign. Only directional signage ("Do Not Enter") is permitted.~~
6. ~~Small freestanding (temporary) signs shall not be permitted on the site.~~
7. ~~The owner shall repair any damage to the roadway shoulder on Tile Factory Lane caused by vehicles exiting the subject property.~~
8. ~~Access onto Tile Factory Lane from subject tract shall be "exit only."~~
9. ~~Subject property shall be limited to warehouse use unless the Planning Commission approves otherwise.~~
10. ~~If a building permit is not issued within one year 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.~~
11. ~~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.~~
12. ~~The above binding elements may be amended as provided for in the Zoning District Regulations.~~

Proposed Binding Elements

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

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2. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
3. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
4. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit is requested:
 - a) The development plan must receive full construction approval from Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b) The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - c) A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
5. Prior to the issuance of a certificate of occupancy, the applicant will improve Tile Factory Ln to a minimum of 24' with 6' shoulders on each side from the proposed access point to Poplar Level Rd. Final design will be approved by Louisville Metro Public Works prior to final approval of the construction plans for the site.
6. No idling of trucks shall take place within 200 feet of single-family residences. No overnight idling of trucks shall be permitted on-site.
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.
8. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties

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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.

RESOLVED, that the Louisville Metro Development Review Committee does hereby **APPROVE** Revised District Development Plan with amendments to binding elements on page 7 of the staff report with the addition of binding element number 9

The vote was as follows:

YES: Commissioners Brown, Jarboe, and Carlson

ABSENT: Commissioner Smith, Robinson, and Tomes

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NEW BUSINESS

CASE NUMBER 19DEVPLAN1051

Request: Revised District Development Plan
Project Name: Private Proprietary School
Location: 3050 Terra Crossing Blvd
Owner/Applicant: JDG 1849, LLC.
Representative: JDG 1849, LLC.
Jurisdiction: Louisville Metro
Council District: 19 – Anthony Piagentini

Case Manager: Jay Luckett, AICP, 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. (The staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

00:32:16 Jay Luckett presented the case (see staff report and recording for detailed presentation.)

00:33:11 Commissioner Brown asked if they addressed the noise levels on the building design. Mr. Luckett replied they have presented documentation and there has been adequate justification to reduce noise levels for the development.

00:33:40 Commissioner Jarboe asked what a private proprietary school is. Mr. Luckett replied the applicant will be able to go into detail the type of school the development will be. It is a use is allowed in a C2 zoning and no conditional use permit is needed.

The following spoke in favor of this request:

Nick Pregliasco, 1000 N. Hurtsbourne Pkwy, Louisville, Kentucky, 40207

Summary of testimony of those in favor:

00:34:31 Nick Pregliasco, representing the applicant, presented a Power Point slide show (see recording for detailed presentation.) Mr. Pregliasco noted the portion of the building to be built within the Gene Snyder Freeway noise buffer area and the plan for sound proofing to reduce noise levels inside of the building.

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00:41:12 Commissioner Brown asked if the development plan was updated and if there was a noise impact study conducted for this development. Mr. Lockett replied the plan was updated and the development plans presented today via Power Point are current.

00:42:12 Mr. Pregliasco and Commissioner Carlson discussed the noise buffer area and the noise impact study (see recording for detailed presentation.)

The following spoke in opposition to this request:
No one spoke.

Deliberation:

00:45:20 Commissioner deliberation

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

00:45:50 On a motion by Commissioner Brown, seconded by Commissioner Jarboe, the following resolution, based on the Standard of Review and Staff Analysis and testimony heard today, was adopted:

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

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

WHEREAS, the Louisville Metro Development Review Committee further finds there are no open space requirements pertinent to the current proposal; and

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

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

WHEREAS, the Louisville Metro Development Review Committee further finds the development plan conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code, therefor be it

Existing General Plan Binding Elements

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. Prior to development (includes clearing and grading) of each site or phase of this project, the applicant, developer, or property owner shall obtain approval of a detailed district development plan in accordance with Chapter 11, Part 6. Each plan shall be in adequate detail and subject to additional binding elements.
3. The development shall be in accordance with the approved Preliminary Subdivision Plan. No further subdivision of the land into a greater number of lots than originally approved shall occur without approval of the Planning Commission.
4. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
5. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.

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6. Before any permit (including but not limited to building, parking lot, change of use, site disturbance) is requested:
 - a. The development plan must receive full construction approval from Develop Louisville, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 for each lot prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - c. An 80' access and public utility easement will be dedicated with the first plat. All roads shall be dedicated and recorded to Public R/W on a major subdivision plat once 80% of the lots are developed.
 - d. A reciprocal access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be created between the adjoining property owners and recorded.
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.
8. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line
9. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
10. The property owner shall provide a cross over access easement to the property to the east (Jewish Hospital property) if it is developed for a nonresidential use. A copy of the signed easement agreement shall be provided to Planning Commission staff upon request.

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11. The materials and design of proposed structures shall be substantially the same as depicted in the exhibits as presented at the January 19, 2017 Planning Commission meeting.
12. No idling of trucks between the site and adjacent residential uses. No overnight idling of trucks shall be permitted on-site.
13. All street name signs shall be installed prior to requesting a certificate of occupancy for any structure. The address number shall be displayed on a structure prior to requesting a certificate of occupancy for that structure.
14. A note shall be placed on the preliminary plan, construction plan and the record plat that states, "Construction fencing shall be erected prior to any grading or construction activities - preventing compaction of root systems of trees to be preserved. The fencing shall enclose the area beneath the dripline of the tree canopy and shall remain in place until all construction is completed. No parking, material storage, or construction activities shall be permitted within the fenced area."
15. Threshold for road improvements detailed within shall be based on current ITE trip generation peak hour rates and calculated prior to construction approval for each site. Construction plans, bond and encroachment permit shall be required from the developer prior to construction plan approval of each site as the trip generation thresholds are met, and improvements shall be constructed and operational prior to issuance of Certificate of Occupancy for the site. A table containing approved sites and trips generated shall be maintained by Transportation Planning.
 - a. Prior to issuance of a building permit for a site-generated 100th peak hour trip from the entire development, a stabilized road bed connecting Factory Lane and Old Henry Road shall be provided. Prior to the issuance of a certificate of occupancy (CO) for this site-generated 100th peak hour trip, the roadway connecting Factory Lane and Old Henry Road shall be completed.
 - b. Prior to the issuance of the building permit for the 150th site-generated peak hour trip, construction plans for the dual right-turn lane from the I-265 northbound ramp to Old Henry Road shall be submitted to KYTC. The turn lane shall be operational before issuance of a C.O. related to this 150th site generated peak hour trip.
 - c. Prior to the issuance of a building permit for the site generating the 225th peak hour trip of the entire development, a traffic signal shall be present at

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the I-265 southbound at Old Henry Rd intersection. Traffic signal shall be operational prior to the issuance of Certificate of Occupancy.

- d. Prior to the issuance of a building permit for the site generating the 500th peak hour trip of the entire development, a dual left turn lane and signalization shall be provided at the Old Henry and Terra Crossing intersection. Signal and left turn lanes shall be operational prior to the issuance of Certificate of Occupancy. Implementation of this binding element is conditioned on KTC approval.
16. A Uniform signage plan in compliance with LDC 5.12.1 shall be submitted with or prior to approval of the first Detailed District Development Plan of this GDDP"

Existing Detailed Plan Binding Elements with proposed changes

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
3. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
4. Before any permit (including but not limited to building, parking lot, change of use, site disturbance) is requested:
 - a. The development plan must receive full construction approval from Develop Louisville, Louisville Metro Public Works and the Metropolitan Sewer District.

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- b. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - c. The appropriate variances and conditional use permit shall be obtained from the Board of Zoning Adjustment to allow the development as shown on the approved district development plan.
- 5. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
 - 6. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
 - 7. The applicant, developer, or property owner shall provide copies of these binding elements 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.
 - 8. The applicant will provide plantings within the 50' Gene Snyder Freeway landscape buffer area up to the extent allowed by the holder of electrical transmission easement. Any required plantings that cannot be planted within that buffer due to the requirements of the easement holder will be provided elsewhere on site.

Proposed Detailed Plan Binding Elements

- 1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning

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Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.

2. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
3. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
4. Before any permit (including but not limited to building, parking lot, change of use, site disturbance) is requested:
 - a. The development plan must receive full construction approval from Develop Louisville, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
5. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
6. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
7. 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,

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successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.

8. The applicant will provide plantings within the 50' Gene Snyder Freeway landscape buffer area up to the extent allowed by the holder of electrical transmission easement. Any required plantings that cannot be planted within that buffer due to the requirements of the easement holder will be provided elsewhere on site.

RESOLVED, that the Louisville Metro Development Review Committee does hereby **APPROVE** the Revised Detailed District Development Plan and the binding elements listed on page 9 and 10 of the staff report.

The vote was as follows:

YES: Commissioners Brown, Jarboe, and Carlson

ABSENT: Commissioner Smith, Robinson, and Tomes

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NEW BUSINESS

CASE NUMBER 19WAIVER1017

Request: Sidewalk Waiver
Project Name: Sidewalk Waiver
Location: 7105 Lucille Avenue
Owner/Applicant: Russell T. Golladay
Representative: Russell T. Golladay
Jurisdiction: Louisville Metro
Council District: 12 – Rick Blackwell

Case Manager: Lacey Gabbard, AICP, 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. (The staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

00:50:38 Lacey Gabbard presented the case (see staff report and recording for detailed presentation.)

The following spoke in favor of this request:

No one spoke

The following spoke in opposition to this request:

Russell T. Golladay, 7105 Lucille Ave, Louisville, Kentucky, 40258

Summary of testimony of those in opposition:

00:52:23 Russell Golladay stated he is opposed to the sidewalks along Lucille Avenue.

Deliberation:

00:52:54 Commissioner's Deliberation.

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

Waiver of Land Development Code section 5.8.1.B to not provide the sidewalk for a new single family home along Lucille Ave

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NEW BUSINESS

CASE NUMBER 19WAIVER1017

00:53:38 On a motion by Commissioner Brown, seconded by Commissioner Jarboe, the following resolution, based on the Standard of Review and Staff Analysis and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Development Review Committee finds the waiver will not adversely affect adjacent property owners, as there are currently no existing sidewalks along Lucille Avenue or any of the streets in the vicinity; and

WHEREAS, the Louisville Metro Development Review Committee further finds Land Use & Development Goal 1, Policy 1.3 promotes sidewalks along the streets of all developments. Land Use & Development Goal 1, Policy 1 states that in order for promote healthy lifestyles and reduce congestion, new development and redevelopment should provide for the movement of pedestrians, bicyclists and transit users, where appropriate. Land Use & Development Goal 3, Policy 5 states that developments should be evaluated for their impact on the transportation network (including the street, pedestrian, transit, freight movement and bike facilities and services) and air quality.

The subject site appears to be the only currently undeveloped lot on Lucille Avenue. There are no sidewalks on either side of Lucille Avenue or on any of the streets in the general vicinity of the subject site. A sidewalk on this property would not be utilized by pedestrians and does not seem appropriate since there does not appear to be the opportunity for future connectivity; and

WHEREAS, the Louisville Metro Development Review Committee further finds the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant, as there are no other sidewalks in the general vicinity of the subject site; and

WHEREAS, the Louisville Metro Development Review Committee further finds the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant, as they would be forced to construct an impractical sidewalk that would likely never connect to any useable pedestrian network, therefore be it

RESOLVED, the Louisville Metro Development Review Committee does hereby **APPROVE** the requested Waiver of Land Development Code section 5.8.1.B to not provide the sidewalk for a new single family home along Lucille Ave

The vote was as follows:

YES: Commissioners Brown, Jarboe, and Carlson

ABSENT: Commissioner Smith, Robinson, and Tomes

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NEW BUSINESS

CASE NUMBER 19DEVPLAN1011

Request: Revised Detailed District Development Plan and Binding Element Amendments
Project Name: Malone's - Springhurst
Location: 4100 Towne Center Dr
Owner/Applicant: Matt Levitt, Meijer Stores LTD PTR
Representative: Derek Triplett, Land Design & Development Inc
Jurisdiction: Louisville Metro
Council District: 17 – Markus Winkler

Case Manager: Lacey Gabbard, AICP, 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. (The staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

00:54:41 Lacey Gabbard presented the case (see staff report and recording for detailed presentation.)

The following spoke in favor of this request:

Derek Triplett, 503 Washburn Ave, Louisville, Kentucky, 40222

Summary of testimony of those in favor:

00:56:32 Derek Triplett presented Power Point slide show (see recording for detailed presentation.)

The following spoke in opposition to this request:

No one spoke.

Deliberation:

00:58:13 Commissioners Deliberation

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

Revised Detailed District Development Plan and General Plan Binding Element Amendment

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NEW BUSINESS

CASE NUMBER 19DEVPLAN1011

00:58:25 On a motion by Commissioner Brown, seconded by Commissioner Jarboe, the following resolution, based on the Standard of Review and Staff Analysis and testimony heard today, was adopted:

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

WHEREAS, the Louisville Metro Development Review Committee further finds Provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community has been provided, and Metro Public Works has approved the preliminary development plan; and

WHEREAS, the Louisville Metro Development Review Committee further finds There are no open space requirements pertinent to the current proposal. Future multi- family development proposed on the subject site will be required to meet Land Development Code requirements; and

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

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

Existing General Plan Binding Elements

1. Prior to requesting issuance of building permits for development of lot 707 (non-residential uses), detailed district development plans shall be approved by the Planning Commission for each site or phase. Each plan shall be in adequate detail to ensure compliance with binding elements of the general district development plan as shown below. Each plan may be subject to additional binding elements which may relate to, but not be limited to the following items:

- a) Screening, buffering, landscaping as described in Article 12.
- b) Points of access

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- c) Signs
 - d) Loading berths
2. ~~The commercial development shall not exceed the following:~~
- ~~a) Mall area — 1,076, 744 square feet of gross floor area~~
 - ~~b) Retail North — 159,500 square feet of gross floor area~~
 - ~~c) Retail South — 19,000 square feet of gross floor area~~
 - ~~d) 4 buildings — 26,000 square feet of gross floor area~~
3. The R-7 Multi-Family development shall not have more than 940 dwelling units.
4. Vehicular access to Westport Road shall be prohibited from the outlots.
5. The order or resolution of Jefferson County Fiscal Court closing Simcoa Lane will be conditioned to become effective upon the completion of Hurstbourne Parkway from Brownsboro Road to Westport Road, the order or resolution of Jefferson County Fiscal Court closing Old Chamberlain Lane will be conditioned to become effective upon the transfer of title consolidating the Anderson tract with the property on the west side of Old Chamberlain Lane.
6. a) Uses in Lot 705 (south of lake bearing elevation 640°) may be occupied or open for business when the intersection and taper improvements at the Freys Hill – Westport Road intersection are substantially completed.
- b) Uses on Lot 705 (north of lake bearing elevation 640°) may be occupied or open for business when Road A between Hurstbourne Parkway and Westport Road is substantially completed (plus improvements in No.1 above).
- c) The shopping mall in Lot 707 may be occupied or open for business when all of the improvements to Westport Road and intersecting streets (as shown in Exhibit A-1), including four through lanes to Hurstbourne Parkway, are substantially completed (plus improvements listed in Nos. 1 and 2 above).
- d) The developer shall submit a preliminary engineering study showing the ultimate right-of-way required along Westport Road. This study shall be approved by the State Highway Department and County Works Department prior to development approval of Springhurst Subdivision sections adjacent to Westport Road.
7. Access points shall be limited to those shown on the approved general district development plan and the preliminary subdivision plan.
8. The developer will provide storm water retention in excess of the minimum amount required by the Metropolitan Sewer District. The retention will provide for a reduction in the pre-development storm water flow through the City of Ten Broeck. The

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reduction will amount to 15% for the 2-year storm and 10% for the 10 and 100-year storm.

9. Before a building permit is requested:
 - a) The development plan must be reapproved by the Jefferson County Department of Public Works and Transportation and the Metropolitan Sewer District.
 - b) The size and location of any proposed sign must be approved by the Planning Commission. The Planning Commission 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.
 - d) A major subdivision plat shall be recorded creating the lots and roadways shown on the approved general district development plan and preliminary subdivision plan.
 - e) The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Article 12. Such plan shall be implemented prior to requesting a certificate of occupancy and maintained thereafter.
 - f) All necessary recording fees shall be paid.
10. The applicant shall requested abandonment of the existing CUP on the site (B-34-78) within two months of the approval of the change in zoning.
11. Outdoor advertising signs (billboards) and small freestanding (temporary) signs, pennants and banners shall be prohibited on the site.
12. When developer determines it is necessary to develop property on land which includes the Jacob Hite House (JF502), Fischer Family Bungalow, believed to be a Sears "kit" house, and the "Simcoe House", also purported to be a Sears "Kit" house, in each case, the developer will give ninety days notice to the Jefferson County Office of Historic Preservation and Archives so that the homes may be relocated.

The Brenner House (JF506) which is presently adjacent to the development, and is located at the intersection of Road "A" at Westport Road, will be buffered by a fifteen foot landscape buffer of trees and shrubs as called for in Article 12.

The Young Dorsey Springhouse (JF694) will be preserved if detailed engineering studies by Developer's engineers determine that it is economically feasible to move Road "A" to allow its preservation. If preservation is not feasible, developer will permit the Jefferson County Office of Historic Preservation and Archives to document the Springhouse, through photographs and drawings, prior to its removal.

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13. The following C-2 Commercial uses otherwise allowed in the C-2 district shall be prohibited in this development:

- Billboards
- Automobile repair garages
- Beer depots where alcoholic beverages are not consumed on the premises
- Boarding and lodging houses
- Building materials, storage and sales provided all operations are totally enclosed in a building
- Business schools
- Colleges, schools and institutions of learning
- Flea markets
- Fraternities, sororities, clubs and lodges excluding those the chief activity of which is a service customarily carried on as a business
- Garage or yard sales
- Golf courses, except miniature courses, driving ranges, or privately owned golf courses operated for commercial purposes
- Kennels
- Monument sales
- Plumbing, and heating shops, storage and sales provided all operations are totally enclosed in a building
- Printing, lithographing, or publishing establishments, if constructed to ensure that there is no noise or vibration evident outside the walls of the building
- Rubber stamp manufacturing, where products are sold on premises
- Trade schools
- Used car sales areas

14. If a building permit is not issued within one year 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.

15. 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.

16. The above binding elements may be amended as provided for in the Zoning District Regulations.

Existing Site Binding Elements

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1. The development shall be in accordance with the approved district development plan and agreed upon binding elements unless amended pursuant to the Zoning District Regulations. No further development shall occur without prior approval from the Planning Commission, except for land uses permitted in the established zoning district.
2. The development shall not exceed 271,000 square feet on lot "E-1", 7,625 square feet on lot "E-2", and 2,500 square feet on lot "W."
3. The only permitted freestanding sign shall be as shown on the approved master sign plan dated "received June 29, 1995," and as shown on the approved development plan for lot E-2, and shall strictly conform to all provisions of this plan. The sign shall be of the monument style depicted in the originally approved signage concept drawings. All freestanding signs shall be indicated at least five feet from any right-of-way line and shall not exceed the height or area shown. Attached sign for building "E" shall strictly conform to the provisions noted on the master sign plan. The freestanding sign for Lot W shall be located as shown on the approved development plan.
4. No outdoor advertising signs (billboards), small free-standing (temporary) signs, pennants or banners shall be permitted on the site.
5. There shall be no outdoor storage on the site.
6. Outdoor lighting shall be directed down and away from surrounding residential properties.
7. Before any permit (including but not limited to building, parking lot, change of use or alteration permit) is requested:
 - a. The development plan must receive full construction approval from Louisville Metro Department of Inspections, Permits and Licenses, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. The applicant shall submit a plan for approval by the Planning Commission staff landscape architect showing trees/tree masses to be preserved prior to beginning any construction procedure (i.e. clearing, grading, demolition). Any modification of the tree preservation plan requested by the applicant may be approved by the Planning Commission staff landscape architect if the changes are in keeping with the intent of the approved tree preservation plan. The plan shall exhibit the following information:
 - a. Proposed site plan (showing buildings, edges of pavement, property/lot lines, easements, existing topography, and other

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- significant site features (LOJIC topographic information is acceptable).
 - b. Preliminary drainage considerations (retention/detention, ditches/large swales, etc.).
 - c. Location of all existing trees/tree masses existing on the site as shown by aerial photo or LOJIC maps.
 - d. Location of construction fencing for each tree/tree mass designated to be preserved.
 - c. A minor subdivision plat shall be recorded creating the lot lines as shown on the development plan. A copy of the 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.
8. 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 requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
9. The property owner/developer shall provide copies of these binding elements to tenants, contractors and other parties engaged in development of this project, and shall inform them of the content of these binding elements. Further, the property owner/developer shall require contractors to similarly notify all of their sub-contractors whose duties relate to the binding elements. The property owner/developer shall ensure their compliance with the binding elements.
10. Before a building permit is requested:
- a. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
11. The façade elevations for lot E-2 shall be in accordance with applicable form district standards and shall be approved by PDS staff prior to construction permit approval.
5. Proposed Site Binding Elements
- 1. The development shall be in accordance with the approved district development plan and agreed upon binding elements unless amended pursuant to the Zoning District

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Regulations. No further development shall occur without prior approval from the Planning Commission, except for land uses permitted in the established zoning district.

2. The development shall not exceed 271,000 square feet on lot "E-1", 7,625 square feet on lot "E-2", and 2,500 square feet on lot "W."

3. The only permitted freestanding sign shall be as shown on the approved master sign plan dated "received June 29, 1995," and as shown on the approved development plan for lot E-2, and shall strictly conform to all provisions of this plan. The sign shall be of the monument style depicted in the originally approved signage concept drawings. All freestanding signs shall be indicated at least five feet from any right-of-way line and shall not exceed the height or area shown. Attached sign for building "E" shall strictly conform to the provisions noted on the master sign plan. The freestanding sign for Lot W shall be located as shown on the approved development plan.

4. No outdoor advertising signs (billboards), small free-standing (temporary) signs, pennants or banners shall be permitted on the site.

5. There shall be no outdoor storage on the site.

6. Outdoor lighting shall be directed down and away from surrounding residential properties.

7. Before any permit (including but not limited to building, parking lot, change of use or alteration permit) is requested:

- a. The development plan must receive full construction approval from Louisville Metro Department of Inspections, Permits and Licenses, Louisville Metro Public Works and the Metropolitan Sewer District.
- b. The applicant shall submit a plan for approval by the Planning Commission staff landscape architect showing trees/tree masses to be preserved prior to beginning any construction procedure (i.e. clearing, grading, demolition). Any modification of the tree preservation plan requested by the applicant may be approved by the Planning Commission staff landscape architect if the changes are in keeping with the intent of the approved tree preservation plan. The plan shall exhibit the following information:
 - a. Proposed site plan (showing buildings, edges of pavement, property/lot lines, easements, existing topography, and other significant site features (LOJIC topographic information is acceptable).
 - b. Preliminary drainage considerations (retention/detention, ditches/large swales, etc.).

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- c. Location of all existing trees/tree masses existing on the site as shown by aerial photo or LOJIC maps.
 - d. Location of construction fencing for each tree/tree mass designated to be preserved.
 - c. A minor subdivision plat shall be recorded creating the lot lines as shown on the development plan. A copy of the 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.
- 8. 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 requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
- 9. The property owner/developer shall provide copies of these binding elements to tenants, contractors and other parties engaged in development of this project, and shall inform them of the content of these binding elements. Further, the property owner/developer shall require contractors to similarly notify all of their sub-contractors whose duties relate to the binding elements. The property owner/developer shall ensure their compliance with the binding elements.
- 10. Before a building permit is requested:
 - a. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
- 11. The façade elevations for lot E-2 shall be in accordance with applicable form district standards and shall be approved by PDS staff prior to construction permit approval.
- 12. Final elevations/renderings shall be submitted for review and approval by Planning Commission staff. A copy of the approved rendering shall be available in the case file on record in the offices of the Louisville Metro Planning Commission.

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NEW BUSINESS

CASE NUMBER 19DEVPLAN1011

RESOLVED, the Louisville Metro Development Review Committee does hereby **APPROVE** the requested Revised Detailed District Development Plan and General Plan Binding Element Amendment

The vote was as follows:

YES: Commissioners Brown, Jarboe, and Carlson

ABSENT: Commissioner Smith, Robinson, and Tomes

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NEW BUSINESS

CASE NUMBER 19DEVPLAN1020

Request: Revised Detailed District Development Plan and Binding
Element Amendments
Project Name: Hardees Restaurant
Location: 5352 Dixie Hwy
Owner/Applicant: Thomas Ventures, LLC
Representative: Phil Gambrell, Prism Engineering & Design Group
Jurisdiction: Louisville Metro
Council District: 12 – Rick Blackwell

Case Manager: Lacey Gabbard, AICP, 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. (The staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

00:59:37 Lacey Gabbard presented the case (see staff report and recording for detailed presentation)

The following spoke in favor of this request:

Phil Gambrell, 2309 Watterson Trail, Suite 200, Louisville, Kentucky, 40299

Summary of testimony of those in favor:

01:01:09 Phil Gambrell, representing the developer, detailed the current conditions of the development. There are plans for this site to be raised and a fast food restaurant to be built on the development.

The following spoke in opposition to this request:

No one spoke.

Deliberation:

01:02:12 Commissioners' deliberation (see recording for detailed presentation.)

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

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Revised Detailed District Development Plan and Binding Element Amendments

01:02:30 On a motion by Commissioner Brown, seconded by Commissioner Jarboe, the following resolution, based on the Standard of Review and Staff Analysis and testimony heard today, was adopted:

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

WHEREAS, the Louisville Metro Development Review Committee further finds provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community has been provided, and Metro Public Works has approved the preliminary development plan; and

WHEREAS, the Louisville Metro Development Review Committee further finds there are no open space requirements pertinent to the current proposal. Future multi-family development proposed on the subject site will be required to meet Land Development Code requirements; and

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

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

WHEREAS, the Louisville Metro Development Review Committee further finds the development plan conforms to applicable guidelines and policies of Plan 2040 and to requirements of the Land Development Code, therefore be it

Existing General Plan Binding Elements

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1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. ~~The development shall not exceed 99,300 square feet of gross floor area.~~
3. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested:
 - a. The development plan must receive full construction approval from Louisville Metro Department of Inspections, Permits and Licenses, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
 - c. The property owner/developer must obtain approval of the detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - d. A reciprocal access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be created/revised between the applicant and the Eastern House Restaurant. 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.
 - e. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
4. At the time of landscape plan approval, the applicant shall provide additional landscaping to compensate for plant material displaced by reduction of the VUA/LBA along Dixie Highway. Commissioner Carlson seconded the motion.
5. The improvements to the northern half of Lower Hunters Trace shall be made in accordance with the design and standards approved by the Jefferson County Department of Public Works and Transportation. These improvements shall be made concurrent with construction of the shopping center. The westernmost entrance shall not be open or available for use until construction is complete and the roadway open from Dixie Highway to Upper Hunters Trace, if deemed necessary by the Jefferson County Road Engineer.

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~~6. If a building permit is not issued within one year 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.~~

7. 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.

8. The above binding elements may be amended as provided for in the Zoning District Regulations.

9. "Out Parcel No. 3" on the approved district development plan shall not include the following: restaurants having drive-thru capacity, service stations, taverns, bars and saloons, car or auto washes, skating rinks, and dance halls.

Proposed General Plan Binding Elements

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

2. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested:

- a. The development plan must receive full construction approval from Louisville Metro Department of Inspections, Permits and Licenses, Louisville Metro Public Works and the Metropolitan Sewer District.
- b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
- c. The property owner/developer must obtain approval of the detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
- d. A reciprocal access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be created/revised between the applicant and the Eastern House Restaurant. A copy of the recorded instrument shall be submitted to the Division of

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Planning and Design Services; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.

- e. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
- 4. At the time of landscape plan approval, the applicant shall provide additional landscaping to compensate for plant material displaced by reduction of the VUA/LBA along Dixie Highway. Commissioner Carlson seconded the motion.
- 5. The improvements to the northern half of Lower Hunters Trace shall be made in accordance with the design and standards approved by the Jefferson County Department of Public Works and Transportation. These improvements shall be made concurrent with construction of the shopping center. The westernmost entrance shall not be open or available for use until construction is complete and the roadway open from Dixie Highway to Upper Hunters Trace, if deemed necessary by the Jefferson County Road Engineer.
- 6. 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.
- 7. The above binding elements may be amended as provided for in the Zoning District Regulations.
- 8. "Out Parcel No. 3" on the approved district development plan shall not include the following: restaurants having drive-thru capacity, service stations, taverns, bars and saloons, car or auto washes, skating rinks, and dance halls.

RESOLVED, the Louisville Metro Development Review Committee does hereby **APPROVE** the requested Revised Detailed District Development Plan with General Plan Binding Element Amendments on page 7 of the staff report.

The vote was as follows:

YES: Commissioners Brown, Jarboe, and Carlson

ABSENT: Commissioner Smith, Robinson, and Tomes.

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NEW BUSINESS

CASE NUMBER 19DEVPLAN1027

Request: Revised Detailed District Development Plan with associated Waiver and Floyds Fork Development Review Overlay
Project Name: Toadvine Enterprises
Location: 14617 Taylorsville Road
Owner/Applicant: Michael L Lausman, Marvin G Lausman Revocable Trust
Representative: Marv A. Blomquist, Blomquist Design Group LLC
Jurisdiction: Louisville Metro
Council District: 20 – Stuart Benson

Case Manager: Lacey Gabbard, AICP, 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. (The staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

01:03:39 Lacey Gabbard presented the case (see staff report and recording for detailed presentation)

The following spoke in favor of this request:

Marv Blomquist, 10529 Timberwood Circle Suite D, Louisville, Kentucky, 40223

Charles Keyes, 3005 Taylor Blvd, Louisville, Kentucky, 40218

Summary of testimony of those in favor:

01:07:00 Marv Blomquist detailed history of site and use of proposed development. Mr. Blomquist noted the scenic parkway buffer and intended landscaping plans to comply with the buffer.

01:09:28 Commissioner Brown asked if a handicap accessible ramp will be provided to connect to the intersection. Mr. Blomquist replied they will need to discuss the ramp with public works as the incline towards the intersection exceeds 5 percent. Mr. Blomquist stated he will provide access to the intersection for pedestrians along South English Station Road.

01:11:06 Commissioner Carlson asked if the developer could put faux windows on the proposed waiver portion of the building. Charles Keyes responded the current plan

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for the building is to keep the appearance of the building consistent with the surrounding area and they are willing to place faux windows on that side of the building.

The following spoke neither for nor against the request:

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

Jeff Frank, P.O. Box 3, Fisherville, Kentucky, 40023

Angela Webster, 601 W. Jefferson Street, Louisville, Kentucky, 40202

Summary of testimony of those neither for nor against:

01:13:42 Steve Porter, representing the Fisherville Area Neighborhood Association, he is in support of this development. He proposed binding elements regarding outdoor lighting:

- a. All exterior lighting, whether freestanding or attached to any structure, including street lights, lot lights and lighting for any signage, shall be fully shielded, shall utilize flat or hidden lenses, and shall be pointed directly to the ground.
- b. No LED or metal halide lighting shall have a correlated color temperature (CCT) exceeding 3000° Kelvins.
- c. No parking lot fixtures shall be more than fourteen feet high, measured from ground level.

Mr. Porter also proposed binding elements regarding signage:

- a. No lighted signage shall be placed above the first-floor level, except it shall be allowed on a gable over an entrance if fully shielded and pointed directly to the ground and not backlit.
- b. No changing image or moving signs shall be permitted.
- c. There shall be no freestanding signs except directional signs.

Mr. Porter stated his concern with the lack of windows and will accept faux windows along the façade of the building. Steve asked if they could discuss the hours of operation for this site due to the proximity of residential areas.

01:16:18 Jeff Frank, speaking on behalf of Dr. Henry of future fund and an adjacent property owner, is pleased with the process of this development and accommodations allowed. Mr. Frank noted drainage issues on the site and if the applicant is willing to share findings on drainage and retention to the neighborhood.

01:18:50 Angela Webster stated there is a discrepancy of the address of the development listed on notices mailed to adjacent property owner. Ms. Webster,

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Commissioner Carlson, and Commissioner Jarboe discussed the addresses listed for the property (see recording for detailed presentation.)

Rebuttal:

01:22:42 Jeff Frank stated the parcel is correctly identified within the logics system. Commissioner Jarboe and Commissioner Carlson discussed with Mr. Frank the notices sent to neighboring properties (see recording for detailed presentation.)

1:25:32 Marv Blomquist addressed the notice discrepancy and detailed the history of the site to explain the multiple addresses for this development. Mr. Blomquist stated they are willing to follow the proposed binding elements, presented by Steve Porter, in regarding to signage and outdoor lighting. In addition, Mr. Blomquist stated he agreed with the proposed hours of operation for the development.

01:27:02 John Carroll, legal counsel, noted everyone should be in agreement with the additional binding elements. Mr. Blomquist replied he is in agreement with the binding elements.

01:27:20 Commissioner Jarboe, Commissioner Carlson, and Mr. Blomquist discussed the requested waiver for the development (see recording for detailed presentation.)

The following spoke in opposition to this request:

No one spoke.

Deliberation:

01:29:11 Commissioners Brown and Commissioner Carlson discussed the mitigation of the waiver and the faux windows proposed for the building (see recording for detailed presentation.)

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

Waiver of Land Development Code section 5.6.1.B and 5.6.1.C to allow a building façade facing Taylorsville Road to have less than 50% of the wall surfaces consist of windows and doors

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01:30:27 On a motion by Commissioner Brown, seconded by Commissioner Jarboe, the following resolution, based on the Standard of Review and Staff Analysis and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds the requested waiver will not adversely affect adjacent property owners since the façade faces Taylorsville Road and does not create a known safety concern. Additionally, the existing building (which is proposed to be demolished) does not meet the façade requirements; and

WHEREAS, the Louisville Metro Planning Commission further finds Land Use & Development Goal 1, Policy 4 indicates the proposal ensures new development and redevelopment are compatible with the scale and site design of nearby existing development and with the desired pattern of development within the Form District. Quality design and building materials should be promoted to enhance compatibility of development and redevelopment projects. Land Use & Development Goal 1, Policy 20 calls to mitigate adverse visual intrusions when there are impacts to residential areas, roadway corridors, and public spaces.

The Floyds Fork Overlay requires a 50 foot scenic parkway buffer along Taylorsville Road, which is a Scenic Corridor that would typically only require a 25 foot buffer. The 50 foot buffer and required plantings will mitigate the building façade on the north elevation. Additionally, the Overlay indicates there should be a three foot berm located in the buffer.

The main entrance to the building meets the design requirements of section 5.6.1 and is located on the western facing façade along South English Station Road; and

WHEREAS, the Louisville Metro Planning Commission further finds the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since the main entrance to the proposed building faces South English Station Road, to the west, and meets the design requirements; and

WHEREAS, the Louisville Metro Planning Commission further finds the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant because the main entrance to the proposed building faces South English Station Road, to the west, and meets design requirements. The Taylorsville Road façade will be mitigated by the 50 foot scenic parkway buffer plantings, therefore be it

RESOLVED, the Louisville Metro Development Review Committee does hereby **APPROVE** the requested waiver of Land Development Code section 5.6.1.B and 5.6.1.C to allow a building façade facing Taylorsville Road to have less than 50% of the

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wall surfaces consist of windows and doors **ON THE CONDITION** that three additional faux windows are provided along that façade to mitigate the impact of the waiver

The vote was as follows:

YES: Commissioners Brown, Jarboe, and Carlson

ABSENT: Commissioner Smith, Robinson, and Tomes

STANDARD OF REVIEW AND STAFF ANALYSIS FOR RDDDP and AMENDMENT TO BINDING ELEMENTS

01:31:13 On a motion by Commissioner Brown, seconded by Commissioner Jarboe, the following resolution, based on the Standard of Review and Staff Analysis and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds there do not appear to be any environmental constraints on the subject site. Tree canopy requirements of the Land Development Code will be provided on the subject site. Urban Design has reviewed the subject site for historic resources and determined that the demolition of the structures could have an adverse effect on sites potentially eligible for the National Register. If structures are over 50 years old and determined eligible for the National Register, as per Wrecking Ordinance Section 150.110, there will be a required 30-day hold on the issuance of the permit; and

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

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

WHEREAS, the Louisville Metro Planning Commission further finds the Metropolitan Sewer District and Health Department have approved the preliminary development plan and will ensure the provision of adequate drainage facilities on the subject site in order to prevent drainage problems from occurring on the subject site or within the community; and

WHEREAS, the Louisville Metro Planning Commission further finds the overall site design and land uses are compatible with the existing and future development of the

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area. Appropriate landscape buffering and screening will be provided to screen adjacent properties and roadways. Buildings and parking lots will meet all required setbacks; and

WHEREAS, the Louisville Metro Planning Commission further finds the development plan conforms to applicable guidelines and policies of the Plan 2040 and to requirements of the Land Development Code, therefore be it

Existing Binding Elements

1. The site will be limited to C-1 uses plus the sale of fuel oil and related petroleum products.
2. Screening will be provided along the fuel oil area.
3. Fifty feet will be given to the right-of-way for English Station Road.
4. Re-approval from the Water Management Section of the Jefferson County Works Department and Traffic Engineering Department before any building permits are issued for additional facilities:
5. No expiration date.

Proposed Binding Elements

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. Prior to development (includes clearing and grading) of each site or phase of this project, the applicant, developer, or property owner shall obtain approval of a detailed district development plan in accordance with Chapter 11, Part 6. Each plan shall be in adequate detail and subject to additional binding elements.
3. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.

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4. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
5. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit is requested:
 - a. The development plan must receive full construction approval from Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. Encroachment permits must be obtained from the Kentucky Transportation Cabinet.
 - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - d. Final elevations/renderings shall be submitted for review and approval by Planning Commission staff. A copy of the approved rendering shall be available in the case file on record in the offices of the Louisville Metro Planning Commission.
6. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
7. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line or permitted on the site.
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,

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contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.

RESOLVED, the Louisville Metro Development Review Committee does hereby **APPROVE** the requested Floyds Fork Development Review Overlay (FFRO) and **APPROVE** the requested Revised Detailed District Development Plan with Binding Elements on pages 7 and 8 of the staff report **WITH THE ADDITIOIN** of binding element number 9

The vote was as follows:

YES: Commissioners Brown, Jarboe, and Carlson

ABSENT: Commissioner Smith, Robinson, and Tomes

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NEW BUSINESS

CASE NUMBER 19DEVPLAN1047

Request: Revised Detailed District Development Plan with associated Waiver and Binding Element Amendments
Project Name: Scooter's Triple B's Restaurant
Location: 3840 S Hurstbourne Pky
Owner/Applicant: Scott A. Weis, Weis Properties LLC
Representative: Chris Guffey, Allegiant Construction LLC
Jurisdiction: Louisville Metro
Council District: 11 – Kevin Kramer

Case Manager: Lacey Gabbard, AICP, 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. (The staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

01:33:13 Lacey Gabbard presented the case (see staff report and recording for detailed presentation.)

01:35:32 Commissioner Carlson inquired to which building on the property is being considered and its existing use. Ms. Gabbard replied it is the building on the northern side of the property and currently is a carwash business.

The following spoke in favor of this request:

Jason L. Hall, 2309 Watterson Trail, Suite 200, Louisville, Kentucky, 40299

Chris Guthrie, 15505 Crystal Valley Way, Louisville, Kentucky, 40299

Summary of testimony of those in favor:

01:36:43 Jason Hall, Prism Engineering, presented Power Point slide show (see recording for detailed presentation.)

01:43:00 Commissioner Jarboe inquired how many spaces will be available for parking. Mr. Hall replied there will be 55 parking spaces, including 3 handicap spaces and 7 motorcycle spaces. There will be an adequate number of spaces for both the proposed restaurant and retail business on site.

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NEW BUSINESS

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01:44:24 Commissioner Carlson, Commissioner Jarboe, and Julia Williams discussed binding element number 7 (see recording for detailed presentation.)

01:46:12 Commissioner Carlson asked for the seating compacity of the proposed restaurant. Mr. Guthrie, applicant, replied the interior seating compacity is 72 and patio seating is 27.

The following spoke in opposition to this request:

Karen Norton, 3917 Village Green Dr. Louisville. Kentucky, 40299

Summary of those in opposition:

01:47:16 Karen Norton, representing the Spring Hurst Condominium association, noted she is concerned with excessive lighting and parking on the development. Ms. Norton stated she would like to see parking notices on both the restaurants property and Spring Hurst Condominium's property to prevent parking in the residential areas. In addition, she asked for signage to discourage revving engine activity on the restaurants property. Ms. Norton addressed her concerns with dumpster pickup hours.

01:53:15 Commissioner Brown, Carlson and Karen Norton discussed dumpster pick up hours to comply in the land development code (see recording for detailed presentation.)

Rebuttal:

01:55:25 Chris Guthrie stated he will ensure the owner of the property is aware of a violation the agreement in binding restrictions regarding the dumpster pick up hours. In addition, Mr. Guthrie agreed with posting no parking and revving of engine signs on the property

01:58:57 Commissioner Carlson, Jarboe and Lacey Gabbard discussed lighting regulations in the development code (see recording for detailed presentation.)

Deliberation:

02:01:27 Commissioners' deliberation.

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

- #1-Waiver of Land Development Code section 5.6.1.B and 5.6.1.C to allow a building façade facing Taylorsville Road to have less than 50% of the wall surfaces consist of windows and doors
- #2-Waiver of Land Development Code section 10.2.4.A to not provide the 25 foot LBA along the zoning boundary near the western property line and to instead allow the existing 15 foot LBA and existing plantings along the property line to fulfill the requirement

02:05:34 On a motion by Commissioner Brown, seconded by Commissioner Jarboe, the following resolution, based on the Standard of Review and Staff Analysis and testimony heard today, was adopted:

(#1-Waiver) WHEREAS, the Louisville Metro Planning Commission finds the waiver will not adversely affect adjacent property owners since the existing plantings are already in place and the retail building on the south of the property is not changing use, so the intensity will not increase. Additionally, the closest residential structure in the neighboring property is approximately 50 feet from the southern property line. In addition to the existing plantings, the plan indicates an existing 8 foot wood screen fence at the southern property line; and

WHEREAS, the Louisville Metro Planning Commission further finds Land Use & Development Goal 1, Policy 9 calls to ensure an appropriate transition between uses that are substantially different in scale and intensity or density of development. The transition may be achieved through methods such as landscaped buffer yards, vegetative berms, compatible building design and materials, height restrictions and setback requirements. Land Use & Development Goal 1, Policy 20 calls for mitigation of adverse visual intrusions when there are impacts to residential areas, roadway corridors, and public spaces.

The subject site is commercial and the neighboring property to the south is zoned R-6 Multi-family Residential, so the intensity and density of the two properties are different. However, the closest residential structure is approximately 50 feet from the property line. Additionally, the applicant is not proposing to change the use of the retail building on the southern property line and the landscaping in the existing 15 foot LBA is already in place; and

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WHEREAS, the Louisville Metro Planning Commission further finds the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since the existing retail building on the southern property line would encroach into a 25 foot LBA. Additionally, the plantings along the southern property line are already existing; and

WHEREAS, the Louisville Metro Planning Commission further finds the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant since there is already an existing 15 foot LBA on the southern property border and the existing retail building would encroach into a 25 foot LBA, therefore be it

(#2-Waiver) WHEREAS, the Louisville Metro Planning Commission finds the waiver will not adversely affect adjacent property owners since there are already plantings in existence at the property line, not at the zoning boundary. In addition to the existing plantings, the plan indicates an existing 8 foot wood screen fence at the western property line; and

WHEREAS, the Louisville Metro Planning Commission further finds Land Use & Development Goal 1, Policy 9 calls to ensure an appropriate transition between uses that are substantially different in scale and intensity or density of development. The transition may be achieved through methods such as landscaped buffer yards, vegetative berms, compatible building design and materials, height restrictions and setback requirements. Land Use & Development Goal 1, Policy 20 calls for mitigation of adverse visual intrusions when there are impacts to residential areas, roadway corridors, and public spaces.

The subject site is commercial and the neighboring property to the west is zoned R-6 Multi- family Residential, so the intensity and density of the two properties are different. However, the closest residential structure is approximately 75 feet from the property line, and the landscaping in the existing 15 foot LBA is already in place; and

WHEREAS, the Louisville Metro Planning Commission further finds the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since the zoning boundary is internal to the property rather than located along a property line. Additionally, there is already a 15 foot LBA with existing plantings located along the western property line; and

WHEREAS, the Louisville Metro Planning Commission further finds the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant since the zoning

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boundary is internal to the property rather than located along a property line. Additionally, there is already a 15 foot LBA with existing plantings located along the western property line, therefore be it

RESOLVED, the Louisville Metro Development Review Committee does hereby **APPROVE** the requested waiver of Land Development Code section 10.2.4.A to reduce the 25 foot LBA along the southern property line to 15 feet and to allow the existing plantings to fulfill the requirements and Waiver of Land Development Code section 10.2.4.A to not provide the 25 foot LBA along the zoning boundary near the western property line and to instead allow the existing 15 foot LBA and existing plantings along the property line to fulfill the requirement

The vote was as follows:

YES: Commissioners Brown, Jarboe, and Carlson

ABSENT: Commissioner Smith, Robinson, and Tomes

STANDARD OF REVIEW AND STAFF ANALYSIS FOR RDDDP and AMENDMENT TO BINDING ELEMENTS

01:31:13 On a motion by Commissioner Brown, seconded by Commissioner Jarboe, the following resolution, based on the Standard of Review and Staff Analysis and testimony heard today, was adopted:

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

WHEREAS, the Louisville Metro Planning Commission further finds provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community has been provided. Public Works' preliminary approval is pending the sidewalk waiver requests. MSD has provided preliminary approval; and

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

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

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

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

Existing General Plan Binding Elements

1. The development shall be in accordance with the approved district development plan and agreed upon binding elements unless amended pursuant to the Zoning District Regulations. Any changes, additions or alterations of any binding elements shall be submitted to the Planning Commission for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. The following uses, although permitted generally in the C-2, are prohibited uses with the C-2 areas of Stony Brook South: adult entertainment, automobile repair garages, bookbinding facilities, dance halls, kennels, monument sales, plumbing and heating shops, sign painting, skating rinks, taverns, theaters, used car sales unless in connection with a new car sales dealership, and advertising signs (billboards). The remaining of the C-2 uses (being those that are not also specifically listed in the C-1) shall be allowed in the C-2 areas of Stony Brook South, but only to the extent of one-third of the allowable commercial square footage allowed above $\frac{1}{3} \times 639,477 = 213,159$ square feet.
3. The development shall not exceed 177,560 square feet of gross floor area (174,320 square feet of retail buildings and 4488 square feet for the bank).
4. Signs shall be in accordance with Chapter 8.
5. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
6. There shall be no outdoor storage on the site.
7. Outdoor lighting shall be directed down and away from surrounding residential properties. Lighting fixtures shall have a 90 degree cutoff and height of the light

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standard shall be set so that no light source is visible off-site. Light levels due to lighting on the subject site shall not exceed two foot candles measured at the property line.

8. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) (NOTE: to be used for sites within an historic preservation district) is requested:
 - a. The development plan must receive full construction approval from Louisville Metro Department of Inspections, Permits and Licenses, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - c. A reciprocal access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be created between the adjoining property owners and recorded. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
 - d. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
9. If a building permit is 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
10. 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.
11. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line or permitted on the site.
12. 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 the site and shall advise them of the content of these

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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.

13. If work is required within the easements causing removal or damage of landscape materials, the property owner shall be responsible for replacement of materials according to the approved landscape plan.
14. The exterior design and materials of the shopping center shall be substantially the same as approved by the Planning Commission designee on 01/18/2007.
15. The rear façade of the shopping center shall be a mix of brick, split-face block and dryvit.
16. The dumpster shall not be emptied between the hours of 11pm and 7am.
17. There shall be no idling of trucks permitted between the shopping center and the Hurstbourne Ridge Condominium property.
18. The applicant shall construct the turn lane improvements as required by the Kentucky Department of Highways.
19. Stonybrook, LLC shall plant 55 six feet to eight feet tall Northern Spruce trees along the west berm.
20. Stonybrook, LLC shall widen the existing berm on the shopping center side of the property line.
21. Stonybrook, LLC shall install an irrigation system in said berm to maintain all vegetation on the berm.
22. Stonybrook, LLC shall install a six foot green vinyl chain link fence along the shopping center side of berm and plantings.
23. Stonybrook, LLC shall maintain all vegetation on the entire berm.

Existing Site Plan Binding Elements

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1. ~~The development shall be in accordance with the approved district development plan and agreed upon binding elements unless amended pursuant to the Zoning District Regulations. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission for review and approval; any changes/additions/alterations not so referred shall not be valid.~~
2. ~~The development shall not exceed 6,675 square feet of gross floor area.~~
3. ~~There shall be no freestanding sign permitted on site without prior approval. Monument style signs that meet the size and height limits established in the "Policies for Future Development Along Designated Parkways" may be approved by DPDS staff. Signs that exceed those limits are permitted only if approved by LD&T or the Commission. LD&T or the Planning Commission may require that the signs be smaller than would otherwise be permitted by the Zoning District Regulations.~~
4. ~~No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.~~
5. ~~See revised binding element below.~~
6. ~~Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in 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.~~
7. ~~Before any permit (including but not limited to building, parking lot, change of use or alteration permit) is requested:~~
 - a) ~~The development plan must receive full construction approval from the Jefferson county Department of Public Works and Transportation (400 Fiscal Court Building) and the Metropolitan Sewer District (700 West Liberty).~~
 - b) ~~The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Article 12 (and in conformance with the Parkway Policy) prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.~~
8. ~~If a (building permit) is not issued within one year of the date of approval of the plan, the property shall not be used in any manner unless a revised district~~

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development plan is approved or an extension is granted by the Planning Commission.

9. ~~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.~~
10. ~~There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system permitted on the site.~~
11. ~~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.~~
12. ~~If work is required within the easements causing removal or damage of landscape materials, the property owner shall be responsible for replacement of materials according to the approved landscape plan.~~
13. ~~The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the June 13, 2002 LD&T.~~
14. ~~The hours of operation of the facilities car wash shall not exceed the following: Customer hours shall be limited to the following hours: 6AM to 11:59PM daily. These customer hours shall apply to all operations on the site, including the automated washing facilities and vacuum cleaners.~~

REVISION TO BINDING ELEMENT #5:

5. ~~Outdoor lighting (for parking lot illumination and security) shall be directed down and away from surrounding residential properties. Lighting fixtures shall have a 90-degree cutoff and height of the light standard shall be set no higher than 20 feet so that no light source is visible off-site. Light levels due to lighting on the subject site shall not exceed 0.5 foot candles measured at the property line. The applicant shall obtain certification by a qualified expert in measurement of lighting~~

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~~levels prior to requesting a certificate of occupancy. Such certification shall be maintained on site at all times thereafter.~~

Proposed Site Plan Binding Elements

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

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. Prior to development (includes clearing and grading) of each site or phase of this project, the applicant, developer, or property owner shall obtain approval of a detailed district development plan in accordance with Chapter 11, Part 6. Each plan shall be in adequate detail and subject to additional binding elements.
3. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
4. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
5. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit is requested:
 - a. The development plan must receive full construction approval from Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. Encroachment permits must be obtained from the Kentucky Transportation Cabinet.
 - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to

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requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.

- d. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
 - e. Final elevations/renderings shall be submitted for review and approval by Planning Commission staff. A copy of the approved rendering shall be available in the case file on record in the offices of the Louisville Metro Planning Commission.
6. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
7. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line or permitted on the site.
9. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.

RESOLVED, the Louisville Metro Development Review Committee does hereby **APPROVE** the requested Revised Detailed District Development Plan and Binding Element Amendments.

The vote was as follows:

YES: Commissioners Brown, Jarboe, and Carlson

ABSENT: Commissioner Smith, Robinson, and Tomes

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Adjournment

The meeting adjourned at approximately 3:07 p.m.


Chairman


Division Director