

MINUTES OF THE MEETING
OF THE
LAND DEVELOPMENT AND TRANSPORTATION COMMITTEE

September 8, 2016

A meeting of the Land Development and Transportation Committee was held on Thursday, September 8, 2016, at 1:00 p.m. in the Old Jail Building, located at 514 West Liberty Street, Louisville, Kentucky.

Committee Members present:

Jeff Brown, Chair Pro Tem
Clifford Turner
Lula Howard
Robert Kirchdorfer

Committee Members absent:

Vince Jarboe, Chair
Marilyn Lewis, Vice Chair
Donnie Blake

Staff Members present:

Joe Reverman, Assistant Director
Julia Williams, Planner Supervisor
Brian Mabry, Planning Supervisor
Beth Jones, Planner II
Laura Mattingly, Planner I
Joel Dock, Planner I
John Carroll, Legal Counsel
Tammy Markert, Transportation Planning
Kristen Loeser, Management Assistant

*Committee Member Turner arrived at approximately 1:10 p.m.

*Committee Member Kirchdorfer left at approximately 1:45 p.m.

The following matters were considered:

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Selection of Chair Pro Tem

00:00:50 On a motion by Committee Member Howard, seconded by Committee Member Kirchdorfer, the following resolution was adopted:

RESOLVED, that the Land Development and Transportation Committee does hereby **APPROVE** the selection of Jeff Brown as Chair Pro Tem for the September 8, 2016 meeting.

The vote was as follows:

YES: Howard, Kirchdorfer, and Brown
ABSENT: Turner, Jarboe, Lewis, and Blake
ABSTAIN: None
NO: None

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Approval of the August 25, 2016 LD&T Committee Meeting Minutes

NOTE: This item was heard out of order as the second item on the agenda.

00:40:45 On a motion by Committee Member Turner, seconded by Committee Member Howard, the following resolution was adopted:

RESOLVED, that the Land Development and Transportation Committee does hereby **APPROVE** the minutes of its meeting conducted on August 25, 2016.

The vote was as follows:

YES: Turner and Brown

ABSENT: Jarboe, Lewis, Kirchdorfer, and Blake

ABSTAIN: Howard

NO: None

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NEW BUSINESS

CASE NUMBER 18175

Request:	Street Closure
Project Name:	Expressway Church
Location:	W. Florence, S. 6th, & S. 5th Streets; & Expressway Avenue
Owner:	Louisville Metro
Applicant:	Rich Design Studios
Representative:	Rich Design Studios – Kevin Rich
Jurisdiction:	Louisville Metro
Council District:	15 – Marianne Butler
Case Manager:	Joel P. Dock, Planner I

NOTE: This case was heard out of order as the first item on the agenda.

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

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

Agency Testimony:

00:04:05 Joel Dock presented the case. He stated that Transportation originally approved the plat in 2014 prior to the Land Development and Transportation Committee Meeting of April 2014. A bond and permit are required by Transportation before final approval of a partial closure (see staff report and recording for detailed presentation).

00:08:46 Tammy Markert of Transportation Planning stated that the comment about the bond and permit was made in October of 2012 by Jennifer Caummisar in regards to an alley curb cut along W Florence Ave. The 2012 meeting regarding this case was for a full closure, not a partial closure. Tammy showed the Committee a photograph as an example of why a bond is still needed for the request today.

The following spoke in favor of the request:

Kevin Rich, 640 S 4th Street, Suite 200, Louisville, KY 40202
Jayme Burden, PO Box 1241, Elizabethtown, KY 42701

Summary of testimony of those in favor:

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00:10:50 Kevin Rich spoke on behalf of the applicant. He confirmed the initial request in 2012 was for a full alley closure; the request today is for a partial alley closure only. Since 2012, the church has purchased all of the properties on the east side of the alley, so the alley closure was modified to just include the properties that the church owns on both sides of the alley. The portion of the alley from the north of that line to Florence Ave. would remain as it is today. The alley is unimproved and contains plant life. They could not move forward with the approval process for the CAT 3 plan that was submitted because the alley closure has not been resolved.

00:12:52 Chair Pro Tem Brown is not supportive of a partial alley closure without a provision for a future connection or turn around. It is unimproved, but it is a public right of way that could be developed in the future.

00:15:40 Mr. Rich explained what parking would remain unchanged and what would be added in the area and he showed the Committee the plan.

00:19:15 Jayme Burden, who is with Expressway Church of Christ, explained why the neighbors did not want to sign for a full closure, but they do not have a problem with the request for a partial closure.

00:19:56 Chair Pro Tem Brown still finds issue with a partial closure. He believes that an unimproved alley that doesn't have a public right of way connection from one public road to another is useless.

00:21:35 Mr. Burden stated that this process has been going on for four years and is preventing the growth and expansion of their congregation. They have tried everything they know of to resolve this process and have even gone so far as to buy surrounding properties to get the alley closed.

00:22:55 Mr. Rich stated that it was determined based on a discussion with Planning and Design that if they modify the application from a full closure to a partial closure, that they could get the case placed on the Planning Commission consent agenda rather than public hearing.

00:26:38 Mr. Dock stated that the reason for the deferral from the 2014 LD&T was because there was an issue with the abutting property owners not giving LG&E consent for an easement that would be within their property once the alley is closed. The applicant discussed the partial closure with Planning staff and it was stated that partial closure would alleviate concerns with the LG&E easement and full closure.

00:33:15 The Committee discussed with Mr. Rich how to keep some of the alley open to public right of way.

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00:39:35 On a motion by Committee Member Kirchdorfer, seconded by Committee Member Howard, the following resolution was adopted:

RESOLVED, that the Louisville Metro Land Development and Transportation Committee, in Case Number 18175, does hereby **CONTINUE** the case to the September 22, 2016 meeting of the Land Development and Transportation Committee.

The vote was as follows:

YES: Turner, Howard, Kirchdorfer, and Brown

ABSENT: Jarboe, Lewis, and Blake

ABSTAIN: None

NO: None

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NEW BUSINESS

CASE NUMBER 16WAIVER1032

Request:	Landscape Waiver
Project Name:	KCC International
Location:	2716 Grassland Drive
Owner:	Mike Neely, KCC
Applicant:	Mike Neely, KCC
Representative:	Mark Patterson, Power of Design
Jurisdiction:	Jeffersontown
Council District:	11 – Kevin Kramer
Case Manager:	Laura Mattingly, Planner I

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

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

Agency Testimony:

00:41:17 Laura Mattingly presented the case (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Mark Patterson, 11490 Bluegrass Pkwy., Louisville, KY 40291

Summary of testimony of those in favor:

00:45:00 Mark Patterson spoke on behalf of the applicant and provided details regarding the construction of the project. He stated there would be approximately 300 employees at the facility when the project is complete.

00:46:55 Ms. Mattingly confirmed that trees will be required as part of the ILAs if they are constructed and she stated that parking calculations have been corrected.

00:48:21 The applicant, Mike Neely, also spoke regarding the request. He stated they are willing to plant more trees, but they are concerned about a lack of space for parking. He stated that 100 employees have been hired already in 2016 and at least 75

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more are expected through the end of the year, which will increase the need for more parking. For example, they had 18 cars parked in the front lawn just today because of the lack of parking. It has been discussed that a parking area will be constructed in the front lawn as part of the second phase of the expansion, but that would only add up to potentially 25 spaces. He also stated that there is a bioswale on the east side of the lot that has been approved by MSD.

00:57:00 On a motion by Committee Member Howard, seconded by Committee Member Turner, the following resolution was adopted:

WHEREAS, the Louisville Metro Land Development and Transportation Committee finds that the waiver will adversely affect adjacent property owners as the total impervious area is being increased significantly and run off to adjacent property owners will increase without the replacement of tree canopy on site, and

WHEREAS, the Committee further finds that Guideline 13, Policy 5 calls for standards to ensure the creation and/or preservation of tree canopy as a valuable community resource. The purpose of interior landscape areas is to break up large impervious areas and allow for a greater distribution of tree canopy coverage. This policy is violated as there will be no tree canopy created on a large impervious surface where there will be no shade or water retention, increasing water runoff and creating a hotter surface temperature, and

WHEREAS, the Committee further finds that the extent of the waiver of the regulation is not the minimum necessary to afford relief to the applicant as trees are being removed in additional open space areas and are not being replaced on site or in the proposed parking area, and

WHEREAS, the Committee further finds that the strict application of the provisions of the regulation would not deprive the applicant of the reasonable use of the land as sufficient parking could still be provided with the addition of the required Internal Landscape Areas; now, therefore be it

RESOLVED, that the Louisville Metro Land Development and Transportation Committee, in Case Number 16WAIVER1032, does hereby **RECOMMEND APPROVAL** of the waiver of section 10.2.11 to eliminate the Internal Landscape Area requirement for a parking expansion to the City of Jeffersontown, provided that the applicant provides trees in the yellow areas of the plan noted with hatch marks located in the northwest, northeast, and south east corners, as well as the hatched area along the western property line of the new parking area.

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The vote was as follows:

YES: Turner, Howard, and Brown

ABSENT: Kirchdorfer, Jarboe, Lewis, and Blake

ABSTAIN: None

NO: None

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NEW BUSINESS

CASE NUMBER 16DEVPLAN1071

Project Name:	4208 Simcoe Lane
Location:	4208 Simcoe Lane
Owner(s):	Jaytee Springhurst, LLC
Applicant(s):	Same
Representative(s):	Glenn Price, Frost Brown Todd, LLC
Project Area/Size:	6.32 acres
Existing Zoning District:	Office Tourist Facility
Existing Form District:	Neighborhood
Jurisdiction:	Louisville
Council District:	17 – Glen Stuckel
Case Manager:	Laura Mattingly, Planner I

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

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

Agency Testimony:

00:59:54 Laura Mattingly presented the case (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Glenn Price, 400 W Market Street, Suite 3200, Louisville, KY 40202

Summary of testimony of those in favor:

01:04:48 Glenn Price spoke on behalf of the applicant and stated that this is a request to approve a development plan that is almost identical to a plan that was approved by the Planning Commission in 2012 and has since expired. He also stated that CityScape Residential has proposed to develop property south of this site.

01:06:45 Chair Pro Tem Brown stated that the developer who begins construction on their project first would be responsible for the construction of the road improvement

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to prevent left turns onto Simcoe Lane, but no one would receive a certificate of occupancy until the road improvement was complete.

01:08:33 On a motion by Committee Member Howard, seconded by Committee Member Turner, the following resolution was adopted:

WHEREAS, the Louisville Metro Land Development and Transportation Committee finds that LOJIC does not indicate any environmental constraints on the site. Tree canopy requirements of the Land Development Code will be provided on the subject site by providing 54,886 square feet or 20% of the site area in tree canopy, and

WHEREAS, the Committee further finds that provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community have been provided through the proposed vehicular crossover access and the proposed sidewalk network throughout the development and connecting to the adjacent property to the west, and

WHEREAS, the Committee further finds that there is no open space requirement with this proposal, and

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

WHEREAS, the Committee further finds that the overall land uses are compatible with the existing and future development of the area, as office and commercial uses have become characteristic of this area surrounding Brownsboro Road, and

WHEREAS, the Committee further finds that this development conforms to the Land Development Code and the Comprehensive Plan as all requirements have been met; now, therefore be it

RESOLVED, that the Louisville Metro Land Development and Transportation Committee, in Case Number 16DEVPLAN1071, does hereby **APPROVE** the Revised Detailed District Development Plan review for medical/office development based on the Staff Report and testimony heard today and **SUBJECT** to the following amendments to binding elements:

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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. The development shall not exceed 40,800 square feet of gross floor area.
3. There shall be no direct vehicular access to Simcoe Lane.
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.
6. 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 Louisville Metro Public Works.
 - c. A minor subdivision plat shall be recorded dedicating additional right-of-way to Simcoe Lane as shown on the approved development plan. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
 - d. The property owner/developer must obtain approval 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.

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- e. A minor plat or legal instrument shall be recorded consolidating the property into one lot. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of the approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
 - f. 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.
 - g. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
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 engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
9. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the ~~4/5/2012 Planning Commission meeting~~ **September 8, 2016 Land Development & Transportation Meeting**.
10. At the time a building permit is requested, the applicant shall submit a certification statement to the permit issuing agency, from an engineer, or other qualified professional stating that the lighting of the proposed development is in compliance with Chapter 4 Part 1.3 of the land development code and shall be maintained thereafter. No building permits shall be issued unless such certification statement is submitted. Lighting shall be maintained on the property in accordance with Chapter 4 Part 1.3 of the land development code. Lighting shall be maintained on the property in accordance with Chapter 4 Part 1.3 of the land development code.
11. Upon development or redevelopment of the adjacent properties, a cross-access agreement and details thereof, and responsibilities for construction and maintenance

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of said cross-access agreement, shall be required. The appropriate location/s shall be mutually agreed upon by the property owners and Metro Public Works. In the event a location cannot be mutually agreed upon, the development plan shall be returned to the Planning Commission or its Committee designee thereof for final decision. Cross-access agreement to run with the land and in a form acceptable to the Planning Commission Legal Counsel shall be recorded prior to the time of construction approval for the adjacent property to be developed.

12. Prior to the first certificate of occupancy being issued for this site written proof confirming that the previous Conditional Use Permit for the parking lot (Case No. 9783) has been abandoned by action of the Board of Zoning Adjustments or its staff designee.
13. The applicant shall preserve existing trees and vegetation within the variable 25- to 35-foot area marked by green cross-hatching (the "Buffer Area") as shown on the Tree/Vegetation Buffer Exhibit immediately adjacent to property owned by Village of Abbeywood Residents Association, Inc. (DB 6792, P 0088), subject to (a) applicant's right to remove trees or vegetation as necessary to stabilize the slopes of the stream within the proposed 15-foot Sanitary Sewer & Drainage Easement shown on the Exhibit or to locate necessary utilities within the Buffer Area, and (b) the removal of any trees or branches within the Buffer Area which are dead, diseased or hazardous to the public.
14. A screen abutting 4206 Simcoe Lane shall be implemented pursuant to LDC 10.2.4 following a meeting between applicant's representatives and the owner of 4206 Simcoe Lane, subject to DPDS staff approval. Implementation shall occur prior to issuance of certificates of occupancy.
15. Perimeter screening abutting the rear property lines of 4206, 4200 and 4113 Simcoe Lane and abutting the rear property line of the Springhurst Tennis Club shall be implemented following a meeting between the owners of these abutting properties and representatives of the applicant, subject to DPDS staff approval. Implementation shall occur prior to issuance of certificate of occupancy.
16. Developer shall construct intersection improvements at KY 22 & Simcoe Ln to prohibit left turn traffic from Simcoe to KY 22. Construction plans, bond & permit for the intersections improvements shall be completed prior to the issuance of building permit. Intersection improvements shall be constructed prior to the issuance of certificate of occupancy.

The vote was as follows:

YES: Turner, Howard, and Brown

ABSENT: Kirchdorfer, Jarboe, Lewis, and Blake

ABSTAIN: None

NO: None

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NEW BUSINESS

CASE NUMBER 16DEVPLAN1101

Project Name:	Volunteers of America
Location:	1025 S. 2nd St.
Owner(s):	Planned Parenthood of Kentucky
Applicant(s):	Volunteers of America of Kentucky
Representative(s):	Jeff Rawlins, Architectural Artisans
Project Area/Size:	3,000 SF addition
Existing Zoning District:	TNzd – Mapped Institutional
Existing Form District:	TN, Traditional Neighborhood Form District
Jurisdiction:	Louisville Metro
Council District:	6 – David James
Case Manager:	Brian Mabry, AICP, Planning & Design Supervisor

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

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

Agency Testimony:

01:10:08 Brian Mabry presented the case (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Jeff Rawlins, 748 E Market Street, Louisville, KY 40202

Summary of testimony of those in favor:

01:15:16 Jeff Rawlins spoke on behalf of the applicant. He showed photos of the existing building and lot and explained what would be changed. The exterior of the building will be made with Dryvit.

01:19:48 On a motion by Committee Member Turner, seconded by Committee Member Howard, the following resolution was adopted:

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NEW BUSINESS

CASE NUMBER 16DEVPLAN1101

Revised Detailed District Development Plan

WHEREAS, the Louisville Metro Land Development and Transportation Committee finds that the proposal is maintaining and adding to the tree canopy on site. The proposed addition will not obstruct any scenic views in Old Louisville, and

WHEREAS, the Committee further finds that provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community has been provided, and Metro Public Works have approved the preliminary development plan, including a waiver of their Access Management provisions which would have prohibited the existing driveway on S. 2nd Street, and

WHEREAS, the Committee further finds that the proposal reduces the existing impervious area (parking) by almost 4,000 square feet and replaces it with a play yard and landscaping, and

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

WHEREAS, the Committee further finds that the overall land uses are compatible with the existing and future development of the area. The existing building blends in with its surroundings and the proposed 3,000 square foot addition is unobtrusive, and

WHEREAS, the Committee further finds that the development plan conforms to requirements of the Comprehensive Plan and Land Development Code with the exception of the requested land development code waiver to allow the existing driveway to remain on South 2nd Street; now, therefore be it

Waiver – Section 2.7.5.D.2

WHEREAS, the Louisville Metro Land Development and Transportation Committee finds that granting of the waiver will not adversely affect adjacent property owners, will not disrupt the flow of traffic to which drivers in the area are accustomed, and will enable the alley that surrounds the subject property to continue to function as a one-way street, and

WHEREAS, the Committee further finds that neither Cornerstone 2020 nor Amendments to the Old Louisville / Limerick Neighborhood Plans have any applicable guidelines specific to driveways, and

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WHEREAS, the Committee further finds that The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as all other elements of the revised plan conform to the LDC and the applicant is requesting to retain the use of a long-standing access point, and

WHEREAS, the Committee further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant by requiring the closure of a long-standing access point as the result of a modest expansion of the building on the subject property; now, therefore be it

RESOLVED, that the Louisville Metro Land Development and Transportation Committee, in Case Number 16DEVPLAN1101, does hereby **APPROVE** the Revised Detailed District Development Plan for a rehabilitation home, the Binding Elements Amendment, and the Waiver of Section 2.7.5.D.2 of the Land Development Code to allow an existing driveway on S. 2nd Street to remain in place, based on the Staff Report and testimony heard today and **SUBJECT** to the following amendments to binding elements:

Binding Elements

1. The development will be in accordance with the approved revised district development plan. No further development will occur without prior approval from the Planning Commission.
2. The development shall not exceed ~~8,400~~ **11,590** square feet of gross floor area.
3. Before a building permit is requested:
 - a) The revised district development plan must be reapproved by **Develop Louisville** ~~the City of Louisville Department of Inspections, Permits and Licenses~~ and the Metropolitan Sewer District.
 - b) Encroachment permits must be obtained from the Kentucky ~~Department of Transportation Cabinet, 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 of the Land Development Code**. Such plan shall be implemented prior to requesting a certificate of occupancy and maintained thereafter.

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- ~~d) A minor plat or legal instrument will be recorded consolidating the property into one lot. The deed book and page number of the recorded instrument shall be submitted to the Planning Commission.~~

- ~~e) All necessary recording fees shall be paid.~~

- ~~4. The only permitted free-standing sign shall be located as shown on the approved district development plan. The sign shall not exceed 9 square feet in area and 2.75 feet in height.~~

- ~~5. 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.~~

- ~~4. 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.~~

The vote was as follows:

YES: Turner, Howard, and Brown
ABSENT: Kirchdorfer, Jarboe, Lewis, and Blake
ABSTAIN: None
NO: None

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NEW BUSINESS

CASE NUMBER 16DEVPLAN1142

Request:	Revised Detailed District Development Plan, Sidewalk Waiver, Pedestrian Connection Waiver
Project Name:	Highlands Latin School
Location:	10901 Shelbyville Road
Owner:	Brian Lowe, HLS LC
Applicant:	Brian Lowe, HLS LC
Representative:	Jennifer Caummisar-Kern, Accurus Engineering
Jurisdiction:	Louisville Metro
Council District:	19- Julie Denton
Case Manager:	Laura Mattingly, Planner I

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

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

Agency Testimony:

01:21:41 Laura Mattingly presented the case (see staff report and recording for detailed presentation).

01:25:53 Tammy Market stated that the \$10,000 contribution that was a part of the original binding elements was dropped from the 2013 case.

The following spoke in favor of the request:

Jennifer Caummisar-Kern, 2408 Chatterworth Lane, Louisville, KY 40242
Brian Lowe, 400 Mockingbird Valley Road, Louisville, KY 40207

Summary of testimony of those in favor:

01:27:30 Jennifer Caummisar-Kern spoke on behalf of the applicant. She presented photographs of the site entryway to the Committee Members to show why the waivers were being requested. She stated that walking traffic along Shelbyville Road is discouraged for safety reasons. She has attempted to contact TARC multiple times and has not heard back from them.

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CASE NUMBER 16DEVPLAN1142

01:33:16 The applicant, Brian Lowe, advised that the water in the creek at the front of the property does occasionally rise and has even risen as high as Shelbyville Road.

01:34:07 On a motion by Committee Member Turner, seconded by Committee Member Howard, the following resolution was adopted:

Revised Detailed District Development Plan

WHEREAS, the Louisville Metro Land Development and Transportation Committee finds that this site includes trees and a protected waterway. With the approval of the sidewalk waiver, the waterway will not be disturbed. Two trees will be affected by the expansion, one of which will be relocated and the site meets the tree canopy requirements, and

WHEREAS, the Committee further finds that provisions for safe and efficient vehicular transportation within and around the development and the community has been provided through the existing vehicular access and the completion of a connected loop within the development with this proposal. There are existing sidewalks on site, providing safe pedestrian connectivity within the site, although the applicant is not providing the pedestrian connection or public sidewalks, and

WHEREAS, the Committee further finds that there is no open space requirement with this proposal, although there is abundance open, green space on site to meet the needs of the school, and

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

WHEREAS, the Committee further finds that the overall land uses are compatible with the existing and future development of the area, as this area is mostly residential and institutional uses are encouraged and highly compatible with residential development, and

WHEREAS, the Committee further finds that this development conforms to the Land Development Code and the Comprehensive Plan with the exception of the requested sidewalk and pedestrian connection waivers; now, therefore be it

WAIVER - Section 5.8.1.B

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CASE NUMBER 16DEVPLAN1142

WHEREAS, the Louisville Metro Land Development and Transportation Committee finds that the waiver will not adversely affect adjacent property owners as there are no existing sidewalks to connect to along this side of Shelbyville Road, and

WHEREAS, the Committee further finds that Guideline 7, Policy 1 states that developments should be evaluated for their impact on the street and roadway system and to ensure that those who propose new developments bear or reasonably share in the costs of the public facilities and services made necessary by development. Guideline 9, Policy 1 states that new development should provide, where appropriate, for the movement of pedestrians, bicyclists and transit users with sidewalks along the streets of all developments where appropriate. These guidelines are not violated with this waiver as the topography of the site constrains the ability to construct sidewalks in accordance with 6.2.6 without disturbing the creek that runs along Shelbyville Road. In addition, the development proposed does not warrant the burden of the costs of constructing a sidewalk with the additional site constraints, and

WHEREAS, the Committee further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the construction of the sidewalk would trigger relief from Section 4.8.6 for protected waterway encroachment, and

WHEREAS, the Committee further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as the cost of constructing a sidewalk in compliance with 6.2.6 would be unreasonable.

WAIVER - Section 5.9.2.A.1.b

WHEREAS, the Louisville Metro Land Development and Transportation Committee finds that the waiver will not adversely affect adjacent property owners as the pedestrian connection would only affect attendees and staff of the school, and

WHEREAS, the Committee further finds that the Guideline 9, Policy 1 states that new development should provide, where appropriate, for the movement of pedestrians, bicyclists and transit users with walkways for access to public transportation stops. This guideline is not violated as most students travel by automobile and providing a pedestrian connection to Shelbyville road would be a safety issue for students as there are no existing sidewalks in this area, and

WHEREAS, the Committee further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the pedestrian connection throughout the site is provided, and

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NEW BUSINESS

CASE NUMBER 16DEVPLAN1142

WHEREAS, the Committee further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as the costs to build this connection would be unnecessary due to the lack of need for such a connection; now, therefore be it

RESOLVED, that the Louisville Metro Land Development and Transportation Committee, in Case Number 16DEVPLAN1142, does hereby **APPROVE** the Revised Detailed District Development Plan, the waiver to Section 5.8.1.B to not provide sidewalks along Shelbyville Road, and the waiver to Section 5.9.2.A.1.b to not provide a pedestrian connection from Shelbyville Road to entrance of school, based on the Staff Report and testimony heard today and **SUBJECT** to the following amendments to binding elements:

Binding Elements

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) 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 ~~51,393~~ **61,089** square feet of gross floor area.
3. Signs shall be in accordance with Chapter 8.
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.
6. Before any permit (including but not limited to building, parking lot, change of use, or site disturbance permit is requested:

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- 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.
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 engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
9. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the ~~June 4th, 2014 Development Review Committee~~ **September 8, 2016 Land Development & Transportation** meeting.
10. At the time a building permit is requested, the applicant shall submit a certification statement to the permit issuing agency, from an engineer, or other qualified professional stating that the lighting of the proposed development is in compliance with Chapter 4 Part 1.3 of the land development code and shall be maintained thereafter. No building permits shall be issued unless such certification statement is submitted. Lighting shall be maintained on the property in accordance with Chapter 4 Part 1.3 of the land development code. Lighting shall be maintained on the property in accordance with Chapter 4 Part 1.3 of the land development code.
11. The address number shall be displayed on a structure prior to requesting a certificate of occupancy for that structure.
12. All exterior lighting, shall be fully shielded, shall utilize flat or hidden lenses or bulbs and shall be pointed directly to the ground. No light sources shall be visible from the street or adjacent properties.
13. A plan for streambed protection and plantings shall be presented to and reviewed for approval by the Planning Commission's staff landscape architect. In planning the

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development and treatment of the streambed, the applicant shall follow the direction of MSD in order to apply best practices and methods so all issues of water volume, velocity and quality are addressed. Protection of upstream and downstream properties and neighbors shall be important to that plan. This plan shall be implemented and completed prior to Certificate of Occupancy.

14. ALL HVAC equipment and trash receptacles shall be screened from the view of any neighboring properties to the west, north and east of the development.
15. In the event that a traffic signal is approved at the Shelbyville Road entrance to the development, the Forum at Brookside shall be allowed, at its expense and subject to reasonable terms and conditions, to construct a roadway from the common property line to the main access road of the development generally as shown on the proposed access layout, on condition that the owner of the subject property of the Forum at Brookside shall enter into an easement agreement providing for crossover vehicular access between properties subject to reasonable terms and additions all subject to prior approval of a revised development plan by the Planning Commission.
16. If at any time there are changes to the development plan, the sidewalk and pedestrian connections will come back for review as additional sidewalks and pedestrian connections may need to be constructed.

The vote was as follows:

YES: Turner and Howard

ABSENT: Kirchdorfer, Jarboe, Lewis, and Blake

ABSTAIN: Brown

NO: None

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NEW BUSINESS

CASE NUMBER 16ZONE1022

Request: Change in zoning from R-4, R-7, OR-3, M-1, M-2, and M-3 to C-2 with Waivers
Project Name: Bellarmine Athletic Fields
Location: 3408, 3416, 3420, & 3430 Newburg Rd. & 4300 Champions Trace Ln.
Owner: Bellarmine University LLC; WMC2 LLC.; KY Assoc. of Electric Cooperatives Inc.
Applicant: Bellarmine University LLC
Representative: Heritage Engineering LLC.; Bardenwerper Talbott and Roberts PLLC.
Jurisdiction: Louisville Metro
Council District: 10- Pat Mulvihill
Case Manager: Julia Williams, RLA, AICP, Planning Supervisor

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

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

Agency Testimony:

01:36:24 Julia Williams presented the case (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Nick Pregliasco, 1000 N Hurstbourne Pkwy., 2nd Floor, Louisville, KY 40223
Linda Chesser, 4308 Connium (sp) Drive, Louisville, KY

Summary of testimony of those in favor:

01:46:39 Nick Pregliasco spoke on behalf of the applicant and showed a presentation (see recording for detailed presentation).

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NEW BUSINESS

CASE NUMBER 16ZONE1022

01:58:27 Linda Chesser, Mayor of Watterson Park, spoke in favor of the request. She stated the people of Watterson Park are very excited about this development, and she thinks it will be a great addition to the area.

By general consensus, the Land Development and Transportation Committee **SCHEDULED** Case Number 16ZONE1022 to be heard at the September 29, 2016 Planning Commission public hearing.

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NEW BUSINESS

CASE NUMBER 16ZONE1028

Request:	Change in zoning from R-5B to CR with Waivers
Project Name:	1832 Frankfort Avenue
Location:	1832 Frankfort Avenue
Owner:	RC Bell Holdings LLC
Applicant:	Cecily Bell
Representative:	Cecily Bell
Jurisdiction:	Louisville Metro
Council District:	9-Bill Hollander
Case Manager:	Julia Williams, RLA, AICP, Planning Supervisor

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

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

Agency Testimony:

02:02:18 Julia Williams presented the case (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Cecily Bell, 1832 Frankfort Ave., Louisville, KY 40206
Mike O'Leary, 1963 Payne St., Louisville, KY 40206

Summary of testimony of those in favor:

02:08:14 Applicant, Cecily Bell, stated that those who attended her neighborhood meeting were supportive of these requests. She said that this change in zoning will clarify for her renters what type of business can locate in this building. She responded to questions from the Committee Members.

02:13:44 Mr. O'Leary, Vice President of Clifton Community Council, stated that he is supportive of these requests, but is asking that there be a binding element to not allow restaurants or delicatessens to rent from this property because there are single family homes next to this building.

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NEW BUSINESS

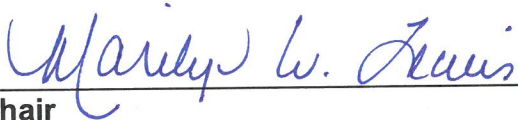
CASE NUMBER 16ZONE1028

By general consensus, the Land Development and Transportation Committee **SCHEDULED** Case Number 16ZONE1028 to be heard at the September 29, 2016 Planning Commission public hearing.

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ADJOURNMENT

The meeting adjourned at approximately 3:30 p.m.



Chair



Planning Director