

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO DEVELOPMENT REVIEW COMMITTEE MEETING
October 30, 2019**

A meeting of the Louisville Metro Development Review Committee was held on October 30, 2019 at 1:00 p.m. at the Old Jail Building, located at 514 W. Liberty Street, Louisville, KY 40202.

Commissioners present:

David Tomes, Chair
Rich Carlson, Vice Chair
Jeff Brown
Jim Mims

Commissioners absent:

No one.

Staff members present:

Joe Reverman, Assistant Director, Planning & Design Services
Brian Davis, Planning & Design Manager
Beth Jones, Planner II
Jay Lockett, Planner I
Lacey Gabbard, Planner I
Zach Schwager, Planner I
Travis Fiechter, Legal Counsel
Beth Stuber, Transportation
Chris Cestaro, Management Assistant

The following matters were considered

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APPROVAL OF MINUTES

October 16, 2019 DRC Meeting Minutes

00:02:50 On a motion by Commissioner Carlson, seconded by Commissioner Brown, the following resolution was adopted:

RESOLVED, that the Louisville Metro Development Review Committee does hereby **APPROVE** the minutes of its meeting conducted on October 16, 2019.

The vote was as follows:

YES: Commissioners Carlson and Brown.
ABSTAIN: Commissioners Tomes and Mims.

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NEW BUSINESS

CASE NUMBER 19-WAIVER-0009

Request: Sidewalk Waiver
Project Name: Sidewalk Waiver
Location: 2905 McMahan Boulevard
Owner/Applicant: Frank Fleck Jr.
Semonin Realtors
Representative: Tim Martin, Frost Brown Todd LLC
Jurisdiction: Louisville Metro
Council District: 18 – Marilyn Parker

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:

00:04:04 Lacey Gabbard presented the case (see staff report and recording for detailed presentation.)

00:05:54 In response to a question from Commissioner Brown, Ms. Gabbard said the applicant may be able to clarify the location of the TARC stop on Taylorsville Road.

00:06:24 Commissioner Mims asked if the townhouse developer (development on McMahan) has asked for sidewalk waivers for their property/s? Ms. Gabbard pointed out the locations Mr. Mims is asking about and said she did not believe the owners are requesting sidewalk waivers. Joe Reverman, Assistant Director of Planning and Design Services, said there is a recently-constructed house just to the north of this site that has had a sidewalk waiver approved.

The following spoke in favor of this request:

Frank Fleck Jr., 2903 McMahan Boulevard, Louisville, KY 40220

Summary of testimony of those in favor:

00:07:45 Frank Fleck Jr., the applicant, handed out exhibits to the Commissioners and presented his case (see recording for detailed presentation.) He described places where there are and are not sidewalks. He asked when sidewalks on the east side of

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McMahan were going to be connected, since there are three other homes that are not interested in building a sidewalks on the east side of McMahan Boulevard. He said "island" sidewalks do not serve any purpose. He discussed the swale in front of the existing residences from Lowe Road up to Taylorsville Road and how this could impede any sidewalks.

The following spoke in opposition to this request:

No one spoke.

00:12:48 Commissioners' deliberation.

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

00:14:52 On a motion by Commissioner Carlson, seconded by Commissioner Brown, 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 that the waiver will adversely affect adjacent property owners, as there are sidewalks on the west side of McMahan Boulevard to the south of the subject site, and sidewalks on the subject site would support additional pedestrian connectivity; and

WHEREAS, the Committee further finds that 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; and

WHEREAS, the Committee further finds that there are existing sidewalks in the vicinity of the subject site, on both McMahan Boulevard to the south and north, and on Browns Lane/Lowe Road to the north. Sidewalks along the subject site frontage would enhance pedestrian connectivity in the area and provide access to the public transit on Taylorsville Road to the south, where a new housing development has been approved; and

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WHEREAS, the Committee further finds that the applicant can reasonably comply with one of the listed methods of compliance, as sidewalks are buildable and trees can be preserved; and

WHEREAS, the Committee further finds that the strict application of the provisions of the regulation would not create an unnecessary hardship on the applicant, as sidewalks are required on new single family development sites. Other design measures have not been incorporated by the applicant; and

WHEREAS, the Committee further finds that sidewalks exist in the area and there is a likelihood for sidewalks to be constructed in the future; now, therefore be it

RESOLVED, the Louisville Metro Development Review Committee does hereby **DENY** the requested **Waiver** of Land Development Code section 5.8.1.B to not provide the sidewalk for a single-family home on McMahan Blvd.

The vote was as follows:

YES: Commissioners Carlson, Brown, Tomes, and Mims.

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NEW BUSINESS

CASE NUMBER 19-DDP-0024

Request: Detailed District Development Plan with landscape waivers
Project Name: Middletown Station
Location: 12965 Shelbyville Road
Owner/Applicant: J. Layson Hagan
Middletown Partners LLC
Representative: Nick Pregliasco – Bardenwerper Talbott & Roberts PLLC
Jurisdiction: City of Middletown
Council District: 19 – Anthony Piagentini

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:

00:16:04 Lacey Gabbard presented the case (see staff report and recording for detailed presentation.)

The following spoke in favor of this request:

Nick Pregliasco, Bardenwerper Talbott & Roberts PLLC, 1000 North Hurstbourne Parkway, Louisville, KY 40222

Jon Henney, Gresham Smith & Partners, 111 West Main Street Suite 201, Louisville, KY 40202

Summary of testimony of those in favor:

00:18:43 Nick Pregliasco, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.)

00:27:20 Jon Henney, landscape architect, presented information about another waiver not addressed by Mr. Pregliasco - the perimeter landscape buffer along Aiken as well as the interior roadway. See recording for detailed presentation.

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00:30:37 In response to a question from Mr. Mims, Mr. Henney said the applicant has met with TARC and TARC is still evaluating how this site will be served.

00:31:40 In response to a question from Commissioner Brown, Mr. Pregliasco and Mr. Henney discussed Waiver #1 (waiver of Land Development Code section 10.2.11.B to increase the 120 foot maximum distance between ILAs). Commissioner Brown had said that, based on the site plan, there appeared to be many areas where that 120-foot was being exceeded. Mr. Henney noted that the gas and water easements running through the property were causing “a challenge” but that all appropriate screening would be provided along the stretch of road pointed out by Commissioner Brown.

00:34:11 Commissioner Carlson asked about the possibility of underground parking to meet parking requirements and also increase landscaping. Mr. Pregliasco said the issue is whether greenspaces in the parking areas are designated as “ILA’s” or not (see recording for detailed discussion.) Mr. Henney explained the process of determining what the target number of tenants will be for these apartments to determine how much parking will be needed. Also, he discussed in detail the Interior Landscape requirements and the difficulty of providing many trees due to not being able to plant trees on about 20% of the site.

00:38:20 Commissioner Tomes asked about tree planting along the edge of Aiken Road. Mr. Henney said there will be additional trees in addition to the street trees.

The following spoke in opposition to this request:

No one spoke.

00:39:29 Commissioners’ deliberation

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

Waivers:

Waiver #1 - of Land Development Code section 10.2.11.B to increase the 120 foot maximum distance between ILAs (19-WAIVER-0014)

Waiver #2 - of Land Development Code section 10.2.9 to reduce the LBA from 15 feet to 5 feet between C-2 and C-2 (19-WAIVER-0013)

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00:44:38 On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

(Waiver #1) WHEREAS, the Louisville Metro Development Review Committee finds that the waiver will not adversely affect adjacent property owners since the neighboring properties are interior to Middletown Station, or are located on the opposite side of Aiken Road. The parking spaces will be primarily used by residents of the proposed development. Additionally, the proposed VUA is about 340,000 square feet less than the existing VUA, and the applicant is proposing to provide about 1,000 square feet more ILA than is required; and

WHEREAS, the Committee further finds that the waiver will not violate specific guidelines of Plan 2040 because Land Use & Development Goal 1, Policy 4 says the proposal ensures new development and redevelopment are compatible with the scale and design of nearby existing development and with the desired pattern of development within the Form District.

The subject site is interior to Middletown Station, in the Suburban Marketplace Corridor form district. The proposed parking spaces will be primarily used by residents of the proposed development. The maximum allowed parking for the proposed development is 963 spaces and the minimum is 482. At 551 spaces, the proposed development is closer to the minimum parking spaces allowed than the maximum. Additionally, the proposed VUA is about 340,000 square feet less than the existing VUA, and the applicant is proposing to provide about 1,000 square feet more ILA than is required by the Land Development Code. Staff recommends the Committee discuss with the applicant the additional landscaping proposed as justification for the increased distance between ILAs; and

WHEREAS, the Committee further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since they are closer to the minimum amount of parking required for a multi-family residential development. Staff recommends the Committee discuss with the applicant the mitigation of the distance between ILAs through additional plantings; and

WHEREAS, the Committee further finds that the applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance by providing an additional 1,000 square feet of ILA in excess of what is required by the Land Development Code. Staff recommends the Committee discuss

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with the applicant additional landscaping to mitigate the waiver request, as indicated in the applicant's justification statement; and

(Waiver #2) WHEREAS, the Committee further finds that the waiver will not adversely affect adjacent property owners since the line between the two C-2 zoned properties is located between two parking lots interior to Middletown Station. Since the proposed development on the subject site is residential and the neighboring C-2 zoned property to the east is commercially used, the less intense residential use will not adversely affect the adjacent property; and

WHEREAS, the Committee further finds that the waiver will not violate specific guidelines of Plan 2040 because Land Use & Development Goal 1, Policy 5 says to allow a mixture of densities as long as their designs are compatible. When incompatible developments unavoidably occur adjacent to one another impacts are to be mitigated. Appropriate transitions are to be provided between uses that are substantially different in scale and intensity or density of development. Examples include vegetative buffers of variable designs, open spaces, landscaping and/or a transition of densities, site design, building heights, building design, materials and orientation that is compatible with those of nearby residences.

The applicant proposes parking along the east perimeter of the subject site, which will provide additional separation between the proposed residential structures and the commercial parcel to the east. The subject site is internal to the Middletown Station development, and is a less intense use than proposed in the previously approved plan; and

WHEREAS, the Committee further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since the landscape buffer will still be provided. Additionally, both the subject site and the adjacent C-2 zoned site to the east are interior to Middletown Station; and

WHEREAS, the Committee further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant since they are proposing to reduce, not eliminate, the LBA along the property perimeter and buffering will still be provided; now, therefore be it

RESOLVED, that the Louisville Metro Development Review Committee does hereby **RECOMMEND** to the city of Middletown that the requested **Waiver #1** of Land Development Code section 10.2.11.B to increase the 120 foot maximum distance

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between ILAs (19-WAIVER-0014) AND **Waiver #2** of Land Development Code section 10.2.9 to reduce the LBA from 15 feet to 5 feet between C-2 and C-2 (19-WAIVER-0013) be **APPROVED**.

The vote was as follows:

YES: Commissioners Carlson, Brown, Tomes, Mims.

Detailed District Development Plan

00:45:35 On a motion by Commissioner Brown, seconded by Commissioner Carlson, 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 that there do not appear to be any environmental constraints or historic resources on the subject site. Tree canopy requirements of the Land Development Code will be provided on the subject site; and

WHEREAS, the Committee further finds that provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community has been provided. Public Works and MSD have provided preliminary approvals; and

WHEREAS, the Committee further finds that there are no Outdoor Amenity Area requirements with this proposal; and

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

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

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

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RESOLVED, that the Louisville Metro Development Review Committee does hereby **RECOMMEND** to the city of Middletown that the requested Detailed District Development Plan be **APPROVED, SUBJECT** to the following binding elements:

Existing General Plan Binding Elements

1. The following uses permitted in a C-2 district will not be allowed in any phase of Middletown Station Center:
 - (a) Bowling Alleys
 - (b) Ice Storage Houses
 - (c) Funeral Homes
 - (d) Veterinary Hospitals
 - (e) Automobile Garages and used Car Sales Area, except as part of a new automobile sales agency.
 - (f) Dance Halls
 - (g) Kennels
 - (h) Monument Sales
 - (i) Plumbing and Heating Shops
 - (j) Refrigerated Lockers
 - (k) Sign Painting
 - (l) Skating Rinks
 - (m) Storage Garages
 - (n) Trade Schools
 - (o) Upholstery and Furniture Repair Shops

2. The development shall not exceed 730,245 of gross floor area. (Tract A to have 537,981 sf retail and 1,738 non-retail; Tract B to have 36,040 sf retail; Tract B to have 5,875 sf of restaurant and 16,525 sf of retail in a single 22,400 sf building, and Tract D to have 17,500 sf office. The remaining square footage is taken up by outlots.) Prior to the submittal of any detailed plan for tracts A, B and D, an updated traffic study shall be submitted at the direction of Planning and Design staff.

3. The only permitted development identification signs shall be located as shown on the approved general district development plan. The primary entrance sign shall not exceed 255 square feet in area per side and 40 feet in height. The secondary entrance signs (2) shall not exceed 71 square feet in area per side and 10 feet in height. No sign shall have more than two sides.

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4. The size and location of any proposed freestanding sign must be approved by the Planning Commission and the City of Middletown. The Planning Commission or the City of Middletown may require that the signs be smaller than would otherwise be permitted by the Zoning District regulations.
5. There shall be no direct vehicular access from outlots to Shelbyville Road.
6. There shall be no further creation of outlots along Shelbyville Road. Outlots are subject to all original binding elements.
7. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee and to the City of Middletown for review and approval; any changes/additions/alterations not so referred shall not be valid.
8. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
9. 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. The appropriate variances shall be obtained from the Board of Zoning Adjustment to allow the development as shown on the approved district development plan.
 - 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. 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

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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.

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.
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 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.
13. The materials and design of the proposed Wal-Mart shall be substantially the same as depicted in the rendering as presented at the November 29, 2006 Development Review Committee meeting. The materials and design of the proposed Target shall be substantially the same as depicted in the rendering as presented at the June 18, 2008 Development Review Committee meeting.
14. No idling of trucks shall take place within 200 feet of single-family residences. No overnight idling of trucks shall be permitted on-site.
15. 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.

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16. The developer shall contribute up to 50% of the cost of signal installation at Aiken Rd and N. English Station Rd., not to exceed \$35,000. This shall be paid within 30 days of the request by the Director of Metro Public Works. The request shall be made to the developer when Metro Public Works obtains the balance of the cost of installation, no sooner than construction plan approval of the Target building.

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 designee and the City of Middletown 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. A minor subdivision plat or legal instrument shall be recorded creating the lot lines as shown on the development plan. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.

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

The vote was as follows:

YES: Commissioners Carlson, Brown, Tomes, and Mims.

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NEW BUSINESS

CASE NUMBER 17DEVPLAN1162

Request: Category 3 Development Plan for contractor shops, retail space, and office space
Project Name: Koppel Center
Location: 102 Outer Loop
Owner/Applicant: 100 Outer Loop LLC
Representative: Mark Madison – Milestone Design Group, Inc.
Jurisdiction: Louisville Metro
Council District: 13 – Mark Fox

Case Manager: Zach Schwager, 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:

00:46:26 Zach Schwager presented the case (see staff report and recording for detailed presentation.)

00:48:01 In response to a question from Commissioner Mims, Mr. Schwager said retail by itself is not permitted in an Industrial zone, unless it's accessory to another use that is permitted. See recording for detailed discussion.

The following spoke in favor of this request:

Mark Madison, Milestone Design Group, 108 Daventry Lane, Louisville, KY 40223

Summary of testimony of those in favor:

00:49:22 Mark Madison, the applicant's representative, presented the applicant's case (see recording for detailed presentation.)

00:53:15 Travis Fiechter, legal counsel for the Planning Commission, asked about the carpool parking spaces on the site plan.

The following spoke in opposition to this request:

No one spoke.

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00:53:49 Commissioners' deliberation

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

00:00:00 On a motion by Commissioner Brown, seconded by Commissioner Howard, the following resolution, based on the staff report and evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Development Review Committee finds that the proposed development plan is in compliance with the Land Development Code; now, therefore be it

RESOLVED, the Louisville Metro Development Review Committee does hereby **APPROVE** the requested Category 3 Development Plan.

The vote was as follows:

YES: Commissioners Carlson, Brown, Tomes, and Mims.

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NEW BUSINESS

CASE NUMBER 19-AMEND-0002

Request: Binding Element Amendment
Project Name: Mortenson Family Dental
Location: 3701 Hopewell Road
Owner: John K. Gutterman
Applicant: Karla Hill - Smart LED Signs & Lighting
Representative: Tanner Nichols - Frost Brown Todd, LLC
Jurisdiction: Louisville Metro
Council District: 20 – Stuart Benson

Case Manager: Beth Jones, 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:

00:56:11 Beth Jones presented the case (see staff report and recording for detailed presentation.) The proposed amendment is to binding element #14.

Current binding element #14 reads:

14. The buildings, including 42” high entrance wall, shall be constructed using the architectural design features shown on the rendering submitted to the LD&T Committee on June 28, 2001. Building materials, including the rear façade, shall be brick and stone or masonry-type material or a combination thereof using earth-tone-type colors. No backlit awnings shall be permitted. Attached signage shall be restricted to channel-cut letter signs.

Proposed binding element #14 reads:

14. The buildings, including 42” high entrance wall, shall be constructed using the architectural design features shown on the rendering submitted to the LD&T Committee on June 28, 2001. Building materials, including the rear façade, shall be brick and stone or masonry-type material or a combination thereof using earth-tone-type colors. No backlit awnings shall be permitted.

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01:00:22 Commissioner Carlson asked why this binding element was part of the rezoning – was the issue controversial? Ms. Jones said she reviewed the rezoning case and there did not appear to be a lot of discussion about this issue, within the staff report or according to the minutes of the hearing. Commissioner Mims discussed what he remembered about the rezoning case. He said there was concern at that time about bright, changing signage and night-sky issues. In response to a question from Commissioner Tomes, Ms. Jones said the applicant is here today to ask that the binding element reflect what is already on the property.

The following spoke in favor of this request:

Karla Hill, 11441 Blankenbaker Access Drive, Louisville, KY 40299

Tanner Nichols, Frost Brown Todd, 400 West Market Street, Louisville, KY 40202

Summary of testimony of those in favor:

01:03:34 Tanner Nichols, the applicant's representative, gave a brief background about the case and why the applicant is making this request today (see recording for his detailed presentation.) He noted that this binding element was included in the original zoning change, but that the later development plan did **not** include this binding element.

01:05:43 in response to a question from Travis Fiechter, legal counsel for the Planning Commission, Mr. Nichols affirmed that, although he was representing one tenant of a multi-tenant property, the owner of the multi-tenant property has given their approval and authority to request this binding element change.

01:06:10 Ms. Jones added that this site is not included in the Floyds Fork Overlay District. In response to a question from Commissioner Mims, Ms. Jones reviewed requirements for changing-image signs. See recording for detailed discussion. After some discussion, she stated that the problem is apparently with a violation of the binding element, not a violation of the Land Development Code.

The following spoke in opposition to this request:

No one spoke.

01:10:50 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.

01:16:21 On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution was adopted:

RESOLVED, that the Louisville Metro Development Review Committee does hereby **CONTINUE** this case to a date uncertain in order to permit the applicant to modify the notification list to include those from the original zone change request.

The vote was as follows:

YES: Commissioners Carlson, Brown, Mims, and Tomes.

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NEW BUSINESS

CASE NUMBER 19-CAT3-0017

Request: Category 3 Development Plan
Project Name: Chamberlain Lane Apartments
Location: 3750 Chamberlain Lane
Owner: Owner/Applicant: King Chamberlain Lane, LLC
Representative: Doug Schultz - Sabak, Wilson & Lingo
Jurisdiction: Louisville Metro
Council District: 17 – Marcus 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:

01:16:57 Jay Lockett presented the case (see staff report and recording for detailed presentation.)

01:17:55 In response to a question from Commissioner Brown, Mr. Lockett confirmed that MSD and Transportation had stamped approval of the plan.

The following spoke in favor of this request:

Doug Schultz, 608 South Third Street, Louisville, KY 40245

Summary of testimony of those in support:

01:18:14 Doug Schultz, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.)

01:21:29 In response to questions from Commissioner Brown and Commissioner Mims, Mr. Schultz and Mr. Lockett discussed the potential noise impact and the proximity of the development to Interstate-265.

01:23:48 In response to a question from Commissioner Mims, Mr. Lockett said the buildings were compliant with the form district and multi-family standards.

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The following spoke in opposition to this request:

No one spoke.

01:24:27 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.

01:24:42 On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution, based on the staff report and testimony heard today, was adopted:

RESOLVED, that the Louisville Metro Development Review Committee does hereby **APPROVE** the requested Category 3 Development Plan.

The vote was as follows:

YES: Commissioners Carlson, Brown, Tomes, and Mims.

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NEW BUSINESS

CASE NUMBER 19DEVPLAN1115

Request: Revised Detailed District Development Plan with revisions to binding elements and a waiver
Project Name: Anchorage Landmark II
Location: 2600 Chamberlain Lane
Owner/Applicant: Ghasem Properties
Representative: Nick Pregliasco - Bardenwerper Talbot & Roberts PLLC
Mark Madison - Milestone Design Group
Jurisdiction: Louisville Metro
Council District: 17 – Marcus 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:

01:25:10 Jay Lockett presented the case (see staff report and recording for detailed presentation.) Mr. Lockett handed out copies of the plan to the Committee members. He noted that the applicant has shown that they can meet all of the planting and screening requirements in the remaining buffer area along Old LaGrange Road. He addressed minor proposed changes to binding elements (see staff report.)

01:28:19 In response to a question from Commissioner Brown, Mr. Lockett addressed proposed binding element #14, which reads as follows:

14. 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.

Mr. Lockett said he has gone through the original case file and was not able to determine what that referenced, and suggested that maybe the applicant can discuss what this refers to. No one has brought this up as something that has or has not been complied with.

01:29:24 Commissioner Brown also asked about the dumpster hours and if they comply with the current Louisville Metro Noise Ordinance. Mr. Lockett said the

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referenced hours of dumpster operation can be adjusted to comply with the current Noise Ordinance.

The following spoke in favor of this request:

Nick Pregliasco, Bardenwerper Talbot and Roberts PLLC, 1000 North Hurstbourne Parkway, Louisville, KY 40223

Mark Madison, Milestone Design Group, 108 Daventry Ln, Louisville, KY 40223

Summary of testimony of those in favor:

01:30:10 Nick Pregliasco, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.)

01:32:30 During his presentation, Mr. Pregliasco stated that the original request to close a portion of Old LaGrange Road has been withdrawn, due to concerns received from emergency services (Fire Department and EMS). The modified request is to close the portion of Old LaGrange Road ROW that is outside the pavement. He pointed out the exact location of this proposed closure during his Power Point presentation.

01:38:38 In response to a question from Commissioner Mims, Mr. Pregliasco and Mr. Lockett discussed more detail about emergency services' concerns about closing this ROW (see recording.)

01:40:25 Mr. Lockett discussed an e-mail he received this morning from E-911 and the Anchorage/Middletown Fire Protection District regarding their lack of support for the partial closure. Mr. Pregliasco said the applicant will meet with emergency services, because he thought there might be some misunderstanding about what, exactly, would be closed.

01:41:44 In response to a question from Commissioner Brown, Mr. Pregliasco discussed elevations.

The following spoke in opposition to this request:

No one spoke.

01:42:13 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.

Waiver

Waiver of Land Development Code 10.2.10 to not provide the 15 foot Vehicle Use Area Landscape Buffer Area along Old La Grange Rd.

01:44:47 On a motion by Commissioner Brown, seconded by Commissioner Carlson, , the following resolution, based on evidence and testimony heard today, was adopted:

RESOLVED, that the Louisville Metro Development Review Committee does hereby **APPROVE** the requested **Waiver** from Land Development Code 10.2.10 to not provide the 15 foot Vehicle Use Area Landscape Buffer Area along Old La Grange Rd.

The vote was as follows:

YES: Commissioners Carlson, Brown, Tomes, and Mims.

Revised District Development Plan with revisions to binding elements.

01:45:29 On a motion by Commissioner Brown, seconded by Commissioner Carlson, 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 that there do not appear to be any environmental constraints or historic resources on the subject site. Tree canopy requirements of the Land Development Code will be provided on the subject site; and

WHEREAS, the 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 has approved the preliminary development plan; and

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

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

WHEREAS, the Committee further finds that the overall site design and land uses are compatible with the existing and future development of the area, but the applicant will need to address screening along Old La Grange Rd. Buildings and parking lots will meet all required setbacks; and

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

RESOLVED, the Louisville Metro Development Review Committee does hereby **APPROVE** the requested Revised District Development Plan with Amendment to Existing Binding Elements, **SUBJECT** to the following binding elements:

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 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

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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 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.
 - 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 Chapter 10 prior

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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 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.

f. A road closure approval for the portion of Old La Grange Rd shall be approved prior to requesting a building permit

g. 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.

- 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 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,

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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.

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.

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.

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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 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.
 - 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 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 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 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.
 - f. A road closure approval for the portion of Old La Grange Rd shall be approved prior to requesting a building permit.
 - g. 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.
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 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

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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 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 Carlson, Brown, Tomes, and Mims.

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NEW BUSINESS

CASE NUMBER 19-DDP-0019

Request: Revised General District Development Plan; Revised Detailed District Development Plan with revisions to binding elements, and a waiver
Project Name: Blankenbaker Station II lots 11, 12, 14, 15A and 15B
Location: 2211 Tucker Station Road
Owner/Applicant: Hosts Development
Representative: Mindel Scott & Associates
Jurisdiction: Louisville Metro
Council District: 20 – Stuart Benson

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:

01:46:12 Mr. Lockett asked that this case be removed from the agenda today due to improper notification, and *continued* to a date uncertain.

The following spoke in favor of this request:

No one spoke.

The following spoke in opposition to this request:

No one spoke.

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

01:47:18 On a motion by Commissioner Carlson, seconded by Commissioner Brown, the following resolution was adopted:

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NEW BUSINESS

CASE NUMBER 19-DDP-0019

RESOLVED, that the Louisville Metro Development Review Committee does hereby **CONTINUE** this case to a date uncertain.

The vote was as follows:

YES: Commissioners Carlson, Brown, Tomes, and Mims.

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NEW BUSINESS

CASE NUMBER 19-DDP-0022

Request: Revised Detailed District Development Plan with revisions to binding elements
Project Name: JJJ Enterprises
Location: 8012 National Turnpike
Owner/Applicant: JJJ Enterprises
Representative: Renaissance Design Build
Jurisdiction: Louisville Metro
Council District: 13 – Mark Fox

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:

01:47:45 Jay Lockett explained that this case had been heard and approved at the October 16, 2019 DRC meeting. It came to staff's attention after that meeting that proper notice had not been given. It is now before the DRC Committee again, after proper notice has been given. No changes have been made since the October 16th, 2019 DRC meeting. See staff report and recording for detailed presentation and discussion.

The following spoke in favor of this request:

Brian Smallwood, 117 South Indiana Avenue, Sellersburg, IN 47172

Summary of testimony of those in favor:

01:49:41 Brian Smallwood, the applicant's representative, asked about expediting the case so he can apply for permits as soon as possible.

The following spoke in opposition to this request:

No one spoke.

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CASE NUMBER 19-DDP-0022

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

01:51:23 On a motion by Commissioner Carlson, seconded by Commissioner Brown, 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 that there do not appear to be any environmental constraints or historic resources on the subject site. Tree canopy requirements of the Land Development Code will be provided on the subject site; and

WHEREAS, the 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 and the Kentucky Transportation Cabinet have approved the preliminary development plan; and

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

WHEREAS, the Committee further finds that the Metropolitan Sewer District 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. The applicant must address all MSD concerns prior to final plan approval; and

WHEREAS, the Committee further finds that the overall site design and land uses are compatible with the existing and future development of the area. 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 Committee further finds that the development plan conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code; now, therefore be it

RESOLVED, that the Louisville Metro Development Review Committee does hereby **APPROVE** the requested **Revised Detailed District Development Plan** with revisions to binding elements, **SUBJECT** to the following 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. 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.
 - 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.
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.

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6. 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.
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, 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 property owner shall provide a cross over access easement to the properties to the north and south if those properties are redeveloped for non-residential use. A copy of the signed easement agreement shall be provided to Planning Commission staff upon request.
9. No idling of trucks between the rear of the building and adjacent single-family residences. No overnight idling of trucks shall be permitted on-site.
10. Auto sales shall not be permitted on subject property.

The vote was as follows:

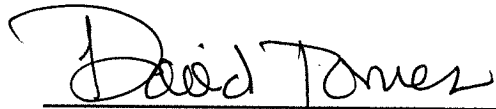
YES: Commissioners Carlson and Brown.

ABSTAINING: Commissioners Tomes and Mims.

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ADJOURNMENT

The meeting adjourned at approximately 2:54 p.m.



Chairman



Division Director

