

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO DEVELOPMENT REVIEW COMMITTEE MEETING
February 20, 2019**

A meeting of the Louisville Metro Development Review Committee was held on February 20, 2019 at 1:00 p.m. at the Old Jail Building, located at 514 W. Liberty Street, Louisville, KY 40202.

Commissioners present:

Rich Carlson, Vice Chair (Acting Chair)
Jeff Brown
Donald Robinson

Commissioners absent:

David Tomes, Chair
Emma Smith

Staff members present:

Brian Davis, Planning Manager
Dante St. Germain, Planner II
Lacey Gabbard, Planner I
Zach Schwager, Planner I
Jay Lockett, Planner I
John Carroll, Legal Counsel
Beth Stuber, Transportation
Chris Cestaro, Management Assistant

The following matters were considered

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APPROVAL OF MINUTES

February 6, 2019 DRC Meeting Minutes

00:02:19 On a motion by Commissioner Brown, seconded by Commissioner Robinson, the following resolution was adopted:

RESOLVED, that the Louisville Metro Development Review Committee does hereby **APPROVE** the minutes of its meeting conducted on February 6, 2019.

The vote was as follows:

YES: Commissioners Brown, Robinson, and Carlson.

ABSENT: Commissioners Smith and Tomes.

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NEW BUSINESS

CASE NUMBER 18DEVPLAN1213

NOTE: The minutes for this case were voted on and approved at today's meeting to facilitate an immediate transmittal. The following are the minutes from this case that were approved.

Request:	Revised District Development Plan for a warehouse expansion
Project Name:	Hi-Float Building Expansion
Location:	13025 Middletown Industrial Boulevard
Owner(s):	M & D Enterprises
Applicant:	M & D Enterprises
Representative:	Civil Design, Inc.
Jurisdiction:	City of Middletown
Council District:	19 – Anthony Piagentini
Case Manager:	Jay Lockett, AICP, Planner I

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

The staff report prepared for this case was incorporated into the record. The Commissioners received this report in advance of the hearing, and this report was available to any interested party prior to the public hearing. (The staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

00:03:28 Jay Lockett presented the case (see recording for detailed presentation). The plat is to construct a 5,012 square foot addition onto an existing 11,990 square foot office/warehouse facility. The Board of Zoning Adjustment will consider a variance at the March 18 meeting to allow the proposed addition to encroach into the 25 foot setback along the easement.

00:05:28 He noted that an adjoining property owner expressed some concerns about drainage.

00:06:12 In response to questions from the Commissioners, Mr. Lockett said MSD has reviewed the plan and given preliminary approval.

The following spoke in favor of the request:

Missy Legel, Civil Design, Inc., 3404 Stony Spring Circle, Louisville, KY 40220

Jason Lange, 11106 Decimal Drive, Louisville, KY 40299 (signed in but did not speak)

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Summary of testimony of those in support:

00:06:55 Missy Legel, the applicant's representative, presented the applicant's case (see recording for detailed presentation.) She noted that MSD has already approved the drainage plans, and the applicant is waiting for the Board of Zoning Adjustment (BOZA) to review a requested variance for a setback on an access road.

The following spoke in opposition to the request:

No one spoke.

00:09:04 Commissioners' deliberation.

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.

00:10:04 On a motion by Commissioner Brown, seconded by Commissioner Robinson, 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

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

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

RESOLVED, the Louisville Metro Development Review Committee does hereby **RECOMMEND APPROVAL** to the City of Middletown the requested revised district development plan, and **SUBJECT** to the following binding elements:

General Plan Binding Elements:

1. No building permit shall be allowed on any site until a detailed district development plan has been submitted to and approved by the Planning Commission in accordance with Section 31-A, 2, D of the Zoning District Regulations. The detailed district development plan must be in adequate detail for the Planning Commission to evaluate the effect that the proposed development will have on the community and to determine what provisions of such plan should be made binding with respect to the use of the property. Binding elements of any such detailed district development plan may relate to any of the following:
 - a. location of building,
 - b. site layout with respect to circulation on the site,
 - c. access points to public streets,
 - d. landscaping, fencing and open space desirable for screening, buffering or protective purposes,
 - e. a surface water drainage plan
 - f. the location, size and height of signs,
 - g. each detailed district development plan must be approved by the Water Management Engineer and Traffic Engineering,
 - h. square footage of gross leasable area.
2. The preliminary plan for Middletown Industrial Park (Docket No. 10-50-73) will be the general district development plan.
3. Lots 1 and 24 as shown on the approved general district development plan shall have no direct access to English Station Road. Access will be via "Road A."

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4. The plan must be reapproved by the Water Management Section of the Jefferson County Works Department and the Traffic Engineering Department before building permits are issued.
5. Unless use in accordance with the approved plan and binding elements has been substantially established within one year from the date of approval of the plan or rezoning whichever is later, the property may not be used in any manner until such time as a district development plan has been approved by the Planning Commission.

Detailed Plan Binding Elements:

1. The development shall be in accordance with the approved district development plan and agreed upon binding elements unless amended pursuant to the Zoning District Regulations. Any Changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. The development shall not exceed 17,002 square feet of gross floor area.
3. There shall be no freestanding sign permitted on site without prior approval. Monument style signs that meet the size and height limits established in the "Policies for Future Development Along Designated Parkways" may be approved by DPDS staff. Signs that exceed those limits are permitted only if approved by LD&T or the Commission. LD&T or the Planning Commission may require that the signs be smaller than would otherwise be permitted by the Zoning District Regulations.
4. No outdoor advertising signs, small free-standing signs, pennants, balloons, or banners shall be permitted on the site.
5. Outdoor lighting (for parking lot illumination and security) shall be directed down and away from surrounding residential properties. Lighting fixtures shall have a 90 degree cutoff and height of the light standard shall be set so that no light source is visible off-site.
6. 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 Develop Louisville and the Metropolitan Sewer District.

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- b. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - c. 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. The appropriate variances shall be obtained from the Board of Zoning Adjustment to allow the development as shown on the approved district development plan.
- 7. If a building permit is not issued within one year of the date of approval of the plan, the property shall not be used in any manner unless a revised district development plan is approved or an extension is granted by the Planning Commission.
 - 8. 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.
 - 9. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
 - 10. 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.
 - 11. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the February 20, 2019 DRC meeting.

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The vote was as follows:

YES: Commissioners Robinson, Brown, and Carlson.

NOT PRESENT: Commissioners Smith and Tomes

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NEW BUSINESS

CASE NUMBER 19WAIVER1002

Request:	Sidewalk Waiver
Project Name:	Allgeier Residence
Location:	5005 South Watterson Trail
Owner(s):	Norman Allgeier
Applicant:	Norman Allgeier
Jurisdiction:	Louisville Metro
Council District:	22 – Robin Engel

Case Manager: Jay Lockett, AICP, Planner I

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

The staff report prepared for this case was incorporated into the record. The Commissioners received this report in advance of the hearing, and this report was available to any interested party prior to the public hearing. (The staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

00:10:44 Jay Lockett presented the case (see staff report and recording for detailed presentation.)

The following spoke in favor of this request:

Barbara Allgeier, 5003 South Watterson Trail, Louisville, KY 40291

Summary of testimony of those in favor:

00:12:01 Barbara Allgeier spoke in favor of her request.

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.

00:12:41 Commissioners' deliberation.

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NEW BUSINESS

CASE NUMBER 19WAIVER1002

Waiver of Land Development Code section 5.8.1.B to not construct a sidewalk for a new single family home.

00:12:54 On a motion by Commissioner Brown, seconded by Commissioner Robinson, 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 the waiver will not adversely affect adjacent property owners, as there are currently no existing sidewalks along S Watterson Trail in this area; and

WHEREAS, the Committee further finds that Guideline 7, Policy 1 states that developments should be evaluated for their impact on the street and roadway system and to ensure that those who propose new developments bear or reasonably share in the costs of the public facilities and services made necessary by development. Guideline 9, Policy 1 states that new development should provide for the movement of pedestrians, bicyclists and transit users with sidewalks along the streets of all developments where appropriate. Most of the lots on this side of S Watterson Trail are developed with single family homes, and there are no sidewalks. There is a suburban-style commercial area at the intersection of Bardstown Rd and S Watterson Trail that also has no sidewalks; 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 all other provisions of the Land Development Code will be met on the subject site; 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 they would be forced to construct an impractical sidewalk that would likely never connect to any useable pedestrian network; now, therefore be it

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

The vote was as follows:

YES: Commissioners Robinson, Brown, and Carlson.

ABSENT: Commissioners Smith and Tomes.

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NEW BUSINESS

CASE NUMBER 18DEVPLAN1181

Request:	Landscape Waiver
Project Name:	Zips Express Car Wash
Location:	3000 Breckenridge Lane
Owner:	Bayside Properties, LLC
Applicant:	Bayside Properties, LLC
Representative:	James J. Baker – Bryant Engineering Inc.
Jurisdiction:	Louisville Metro
Council District:	26 – Brent T. Ackerson
Case Manager:	Molly Clark, Associate Planner
Presented By:	Jay Lockett, AICP, Planner I

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

The staff report prepared for this case was incorporated into the record. The Commissioners received this report in advance of the hearing, and this report was available to any interested party prior to the public hearing. (The staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

00:13:30 Jay Lockett presented the case (see staff report and recording for detailed presentation.) In response to a question from Commissioner Brown, Mr. Lockett said the applicant is proposing to provide all of the required plantings, just in a smaller space.

The following spoke in favor of this request:

Jason Baker, 1535 Frederica Street, Owensboro, KY 42301

Rob Sweet, McBride Dale Clarion, 5721 Dragon Way #300, Cincinnati, OH 45227

Summary of testimony of those in favor:

00:15:07 Rob Sweet, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.)

The following spoke in opposition to this request:

No one spoke.

Deliberation:

00:17:01 Commissioners' deliberation.

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NEW BUSINESS

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00:17:25 In response to a question from Commissioner Brown, Mr. Sweet said the car wash will **not** be open 24 hours. The hours will most likely be 8:00 a.m. to 8:00 p.m. He feels the landscaping that will be in place will be enough to adequately buffer the noise. He pointed out the location of the vacuum station.

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 from 10.2.10 to allow encroachment into the required 15 foot vehicle use area (VUA) land scape buffer area (LBA).

00:20:00 On a motion by Commissioner Brown, seconded by Commissioner Robinson, 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 not adversely affect adjacent property owners since all the required plantings and screening will be provided on the subject site. The proposed development will allow the adjacent condominium complex to continue to park on a portion of their property and maintain access on El Conquistador Place, a private road; and

WHEREAS, the Committee further finds that Guideline 2 policy 9 of Cornerstone 2020 calls for shared entrance and parking facilities with adjacent uses to reduce curb cuts and surface parking, and locates parking to balance safety, traffic, transit, pedestrian, environmental and aesthetic concerns. Guideline 3, Policies 21 and 22 call for appropriate transitions between uses that are substantially different in scale and intensity or density, and mitigation of the impact caused when incompatible developments occur adjacent to one another through the use of landscaped buffer yards, vegetative berms and setback requirements to address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances. Guideline 3, Policy 24 states that parking, loading and delivery areas located adjacent to residential areas should be designed to minimize impacts from noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered; and

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WHEREAS, the Committee further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since all other required buffers and plantings will be provided on site; and

WHEREAS, the Commission further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant, as the portion of the buffer area in question is requested to be waived to allow plantings along a private road that is not along the property line; now, therefore be it

RESOLVED, the Louisville Metro Development Review Committee does hereby **APPROVE** the requested Waiver from 10.2.10 to allow encroachment into the required 15 foot vehicle use area (VUA) land scape buffer area (LBA) **ON CONDITION** that the hours of operation shall be between 8:00 a.m. to 8:00 p.m. seven days per week.

The vote was as follows:

YES: Commissioners Robinson, Brown, and Carlson.

ABSENT: Commissioners Smith and Tomes.

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NEW BUSINESS

CASE NUMBER 19DEVPLAN1005

Request: Community Facility Review for the Kentucky Center for the Arts Harmony Music Garden
Project Name: Kentucky Center for the Arts Harmony Music Garden
Location: 720 Brent Street
Owner: Kentucky Ceramics, LLC
Applicant: Kentucky Ceramics, LLC
Representative: Kelli Jones – Sabak Wilson & Lingo
Jurisdiction: Louisville Metro
Council District: 4 – Barbara Sexton Smith

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:

00:21:00 Zach Schwager presented the case (see staff report and recording for detailed presentation.)

The following spoke in favor of this request:

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

Amber Halloran, 501 West Main Street, Louisville, KY 40202

Summary of testimony of those in favor:

00:22:26 Kelli Jones, the applicant's representative, presented the applicant's case (see recording for detailed presentation.) She said the music garden will be located adjacent to the proposed building which was previously approved. This space will be used as an outdoor venue for small scale performances.

00:24:42 In response to a question from Commissioner Brown, Amber Halloran said they have not yet established hours of operation but will comply with any and all metro noise regulations.

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CASE NUMBER 19DEVPLAN1005

00:25:17 In response to a question from Commissioner Carlson, Ms. Jones was asked to explain why this plan is in compliance with the Comprehensive Plan (see recording for her detailed statement.)

The following spoke in opposition to this request:

No one spoke.

Deliberation:

00:26:00 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.

00:26:27 On a motion by Commissioner Brown, seconded by Commissioner Robinson, the following resolution, based on the staff finding and testimony heard today, was adopted:

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

RESOLVED, the Louisville Metro Development Review Committee does hereby **APPROVE** the requested Community Facility Review.

The vote was as follows:

YES: Commissioners Robinson, Brown, and Carlson.

ABSENT: Commissioners Smith and Tomes.

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NEW BUSINESS

CASE NUMBER 19MOD1001

Request:	Binding Element Amendment
Project Name:	Preston Crossing Binding Element Amendment
Location:	9900 Preston Crossing Boulevard
Owner:	Freeway Associates & Bohn Properties, LLC
Applicant:	Freeway Associates & Bohn Properties, LLC
Representative:	John Addington - BTM Engineering
Jurisdiction:	Louisville Metro
Council District:	24 – Madonna Flood

Case Manager: Dante St. Germain, 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:

00:27:06 Dante St. Germain presented the case (see staff report and recording for detailed presentation.)

00:30:04 In response to a question from Commissioner Brown, Ms. St. Germain confirmed that the residential structures have been completely cleared.

00:30:21 In response to a question from Commissioner Carlson, Ms. St. Germain pointed out some aspects of the property that were referred to in the binding elements proposed for removal.

The following spoke in favor of this request:

John Addington, BTM Engineering, 3001 Taylor Springs Drive, Louisville, KY 40220

Summary of testimony of those in favor:

00:31:58 John Addington, the applicant's representative, presented the applicant's case (see recording for detailed presentation.)

The following spoke in opposition to this request:

No one spoke.

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Deliberation:

00:33:45 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.

Removal of Binding Elements 25, 33, 34, 35 and 37

00:34:19 On a motion by Commissioner Brown, seconded by Commissioner Robinson, 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 the removal of the five binding elements will allow for development on Lot 3 (previously Lot 1). This lot is currently wooded, and a tributary of Fishpool Creek runs through it. The developer, however, must present a new revised detailed district development plan for the site as the previous plan has expired, and will be required to comply with Land Development Code regulations with respect to the natural resources on the site; and

WHEREAS, the Committee further finds that there are no changes to existing vehicular or pedestrian circulation in and around the subject site associated with this request; 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 must approve the revised detailed district development plan that the developer will have to submit in the future to develop this site; and

WHEREAS, the Committee further finds that there are no changes to the site proposed at this time, associated with this binding element modification request; and

WHEREAS, the Committee further finds that the requested modification of binding elements 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 **Removal of Binding Elements 25, 33, 34, 35 and 37**.

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Existing Binding Elements 9-34-98

1. The development shall be in accordance with the approved district development plan and agreed upon binding elements unless amended pursuant to the Zoning District Regulations. No further development shall occur without prior approval from the Planning Commission.
2. Prior to development of each site (Lots 1, 2, 3, 4, 5, 7, 8, 9, 10 & 11) of this project, a detailed district development plan shall be submitted to the Planning Commission for approval, except for the cinema complex (Lot 6). Each plan shall be in adequate detail and subject to additional binding elements. The additional binding elements may relate, but not be limited, to the following items:
 - a. screening, buffering, landscaping, tree preservation
 - b. density, floor area, size and height of buildings
 - c. points of access and site layout with respect to on-site circulation
 - d. land uses
 - e. signage
 - f. loading berths
 - g. parking
 - h. sidewalks
 - i. site design elements relating to alternative transportation modes
 - j. outdoor lighting
 - k. minor subdivision plat approval
 - l. air pollution
 - m. the timing of construction to coincide with the availability of flood protection measures, municipal sewer and water service, and adequate fire protection
 - n. dumpsters
3. . Uses permitted in the C-2 District shall be allowed, except for the following:
Adult entertainment;
Auction sales;
Automobile sales (new or used); Automobile repair;
Beer depots and packaged liquor stores where alcoholic beverages are not consumed on the premises;
Bingo halls and parlors;
Bowling alleys;

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Bookbinding;
Dance halls;
Ice houses;
Refrigerated lockers;
Skating rinks;
Taverns, bars, saloons and lounges that do not include a restaurant

4. The development shall not exceed the following:
 - a) cinema 122,000 square feet of gross floor area
 - b) retail 11 0,000 square feet of gross floor area
 - c) restaurant 10,000 square feet of gross floor area
 - d) motel 1 33,600 square feet of gross floor area and 80 rooms
 - e) motel 2 75,715 square feet of gross floor area and 105 rooms
5. The cinema shall not exceed 5,200 seats and 20 screens
6. There shall be no direct vehicular access to Preston Highway.
7. Advertising signs (billboards) shall be prohibited.
8. The only permitted freestanding signs shall be located as shown on the approved development plan. No sign shall have more than two sides. No portion of the signs, including the leading edge of the sign frame, shall be closer than below setback distance from the front property line.

Use	Height'	Area (sq.)	Setback'	Style
Cinema (B)	23.5	216	30 (Road A)	Pylon
Retail	28	125	30 (Preston)	Pylon
Restaurant	6	60		Monument
Motel 1	6	60		Monument
Motel 2	6	60		Monument

9. The only permitted signature entrance sign shall be located as shown on the approved development plan and not exceed 8 feet in height. The details of the sign shall be submitted to Planning Commission Staff and the Jefferson County Department of Public Works and Transportation for review and approval prior to obtaining a building permit. No portion of the sign, including the leading edge of the sign frame, shall be closer than 15 feet from the front property line.
10. Additional landscaping shall be provided around the marquee sign base. The landscaping shall screen the support berms and provide an opaque

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screen below the sign board.

11. No small free-standing (temporary) signs, pennants or banners shall be permitted on the site. No flag poles over 35 feet in height shall be permitted on site.
12. There shall be no outdoor storage on the site.
13. Outdoor lighting shall be directed down and away from surrounding residential properties. Lighting fixtures shall have a 90 degree cutoff so that no light source is visible off-site. Lighting levels attributable to the fixtures located on the subject site shall not exceed two foot candles at the property line.
14. The applicant shall submit a plan for approval by the Planning Commission Staff landscape architect showing trees/tree masses to be preserved prior to beginning any construction procedure (i.e. clearing, grading, demolition). Any modification of the tree preservation plan requested by the applicant may be approved by the Planning Commission staff landscape architect if the changes are in keeping with the intent of the approved tree preservation plan. The plan shall exhibit the following information:
 - a. Proposed site plan (showing buildings, edges of pavement, property/lot lines, easements, existing topography, and other significant site features (LOJIC topographic information IS acceptable).
 - b. Preliminary drainage considerations (retention/detention, ditches/large swales, etc.).
 - c. Location of all existing trees/tree masses existing on the site as shown by aerial photo or LOJIC maps.
 - d. Location of construction fencing for each tree/tree mass designated to be preserved.
15. Construction fencing shall be erected at the edge of the area of development in accordance with the tree preservation plan prior to any grading or construction to protect the existing tree stands and their root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage, or construction activities are permitted within the protected area.
16. There shall be a 3 foot high berm in the 25 foot LBA located between Lots 5 and 6. Six foot high evergreens shall be planted 10 feet on center on top of the berm.
17. Before any permit (including but not limited to building, parking lot, change of use or alteration permit) is requested:

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- a. The construction plan must receive full construction approval from the Jefferson County Department of Public Works and Transportation (400 Fiscal Court Building) and the Metropolitan Sewer District (700 West Liberty)
 - b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
 - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Article 12 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - d. A major subdivision plat creating the new public roadways as shown on the approved district development plan shall be recorded prior to issuance of any certificates of occupancy for any lot fronting thereon. Individual lots may be created by major or minor subdivision plat. Private access easements shown on the subdivision or district development plans may be created by minor plat. It shall be the applicant's responsibility to update the general district development plan to show the configuration of lots created by minor plat.
18. If a building permit is not issued within two years of the date of approval of the plan or rezoning, whichever is later, the property shall not be used in any manner unless a revised district development plan is approved or an extension is granted by the Planning Commission.
19. A certificate of occupancy must be received from the appropriate code enforcement office prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
20. There shall be no outdoor music (live, piped, radio or amplified), outdoor entertainment, or outdoor PA system permitted on the site.
21. The property owner/developer shall provide copies of these binding elements to tenants, contractors and other parties engaged in development of this project, and shall inform them of the content of these binding elements. Further, the property owner/developer shall require contractors to similarly notify all of their sub-contractors whose duties relate to the binding elements. The property owner/developer shall ensure their compliance with the binding elements.
22. A soil erosion and sedimentation control plan shall be developed and

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implemented in accordance with the Metropolitan Sewer District and the USDA Natural Resources Conservation Service recommendations. Documentation of the MSD's approval of the plan shall be submitted to the Planning Commission prior to grading and construction activities.

23. If work is required within an easement causing removal or damage of landscape materials, the property owner will be responsible for replacement of materials according to the approved landscape plan.
24. Sidewalks shall be constructed along the westerly and southerly sides of Roads "A" & "B" at the time the lots are developed along these roadways. These walkways shall connect the development to Oldshire Road and Cooper Chapel Road. The balance of the sidewalks along the north side of Cooper Chapel Road and the entirety of the subject property shall be constructed as the adjoining properties are developed.
25. ~~Lot 1 shall not be developed until the property to the south (4800 & 4900) and to the east (4901) on Cooper Chapel Road no longer are used residentially, or until the Planning Commission finds that development of Lot 1 for non-residential purposes is compatible with the existing land uses to the south and east.~~
26. The developer will construct improvements to Cooper Chapel Road as shown on the 50 scale drawing submitted to Planning Commission Staff stamped received July 24, 1998 and the Jefferson county Department of Public Works and Transportation.
27. The developer will construct improvements to the intersection of Cooper Chapel Road and Preston Highway. Improvements shown on the general district development plan include those proposed to be constructed by developers of other projects in the area. The developer of Preston Crossings will not be responsible for improvements previously required of other projects.
28. If Jefferson County acquires adequate right-of-way along the north side of Cooper Chapel Road between Road B and Chapel Hill Road within 5 years, the developer will extend the third lane and sidewalk from Road B to Chapel Hill Road, unless constructed as part of a development by others.
29. The developer will install a traffic signal at the intersection of Road A and Cooper Chapel Road.
30. The developer will, if required by Jefferson County Public Works and

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Transportation, participate in funding the necessary signal modifications to the traffic signal at Cooper Chapel Road and Preston Highway.

31. The existing frontage road on site shall be closed. The street closure approval shall be obtained prior to obtaining a building permit or certificate of occupancy.
32. Land owned by the applicant zoned R4 and R-5 within 150 feet of the single-family detached homes in the adjacent subdivision to the east, shall remain in its natural vegetation until developed, in order to provide a visual buffer to such existing development.
- ~~33. The developer shall install an evergreen buffer along the front property line of 4900 Cooper Chapel Road to deflect the headlights from existing Road A onto Cooper Chapel Road. This shall occur at the request of the property owner (Mr. Goomey).~~
- ~~34. The developer shall construct driveway improvements to 4900 Cooper Chapel Road as depicted on a plan received August 20, 1998.~~
- ~~35. The developer shall construct a green vinyl clad 6 foot chain fence and plant evergreens on the east side of Road A along the street side yard at Cooper Chapel Road. A dense buffer shall be provided from Cooper Chapel Road to the creek. In addition, the developer shall plant several large evergreen trees in front of the master bedroom window.~~
36. The applicant shall not receive a certificate of occupancy for Lot 2, 3, 4 and 5 until two years from August 20, 1998.
- ~~37. The applicant shall meet with Mr. Charles Davis, Jr., residing at 4901 Cooper Chapel Road to come to a mutual decision regarding driveway improvements.~~

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. No further development shall occur without prior approval from the Planning Commission.
2. Prior to development of each site (Lots 1, 2, 3, 4, 5, 7, 8, 9, 10 & 11) of this project, a detailed district development plan shall be submitted to the Planning Commission for approval, except for the cinema complex (Lot 6). Each plan shall be in adequate detail and subject to additional binding elements. The

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additional binding elements may relate, but not be limited, to the following items:

- a. screening, buffering, landscaping, tree preservation
- b. density, floor area, size and height of buildings
- c. points of access and site layout with respect to on-site circulation
- d. land uses
- e. signage
- f. loading berths
- g. parking
- h. sidewalks
- i. site design elements relating to alternative transportation modes
- j. outdoor lighting
- k. minor subdivision plat approval
- l. air pollution
- m. the timing of construction to coincide with the availability of flood protection measures, municipal sewer and water service, and adequate fire protection
- n. dumpsters

3. . Uses permitted in the C-2 District shall be allowed, except for the following:

Adult entertainment;
Auction sales;
Automobile sales (new or used); Automobile repair;
Beer depots and packaged liquor stores where alcoholic beverages are not consumed on the premises;
Bingo halls and parlors;
Bowling alleys; Bookbinding; Dance halls; Ice houses;
Refrigerated lockers; Skating rinks;
Taverns, bars, saloons and lounges that do not include a restaurant

4. The development shall not exceed the following:

- a) cinema 122,000 square feet of gross floor area
- b) retail 11 0,000 square feet of gross floor area
- c) restaurant 10,000 square feet of gross floor area
- d) motel 1 33,600 square feet of gross floor area and 80 rooms
- e) motel 2 75,715 square feet of gross floor area and 105 rooms

5. The cinema shall not exceed 5,200 seats and 20 screens

6. There shall be no direct vehicular access to Preston Highway.

7. Advertising signs (billboards) shall be prohibited.

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8. The only permitted freestanding signs shall be located as shown on the approved development plan. No sign shall have more than two sides. No portion of the signs, including the leading edge of the sign frame, shall be closer than below setback distance from the front property line.

Use	Height'	Area (sq.)	Setback'	Style
Cinema (B)	23.5	216	30 (Road A)	Pylon
Retail	28	125	30 (Preston)	Pylon
Restaurant	6	60		Monument
Motel 1	6	60		Monument
Motel 2	6	60		Monument

9. The only permitted signature entrance sign shall be located as shown on the approved development plan and not exceed 8 feet in height. The details of the sign shall be submitted to Planning Commission Staff and the Jefferson County Department of Public Works and Transportation for review and approval prior to obtaining a building permit. No portion of the sign, including the leading edge of the sign frame, shall be closer than 15 feet from the front property line.
10. Additional landscaping shall be provided around the marquee sign base. The landscaping shall screen the support berms and provide an opaque screen below the sign board.
11. No small free-standing (temporary) signs, pennants or banners shall be permitted on the site. No flag poles over 35 feet in height shall be permitted on site.
12. There shall be no outdoor storage on the site.
13. Outdoor lighting shall be directed down and away from surrounding residential properties. Lighting fixtures shall have a 90 degree cutoff so that no light source is visible off-site. Lighting levels attributable to the fixtures located on the subject site shall not exceed two foot candles at the property line.
14. The applicant shall submit a plan for approval by the Planning Commission Staff landscape architect showing trees/tree masses to be preserved prior to beginning any construction procedure (i.e. clearing, grading, demolition). Any modification of the tree preservation plan requested by the applicant may be approved by the Planning Commission staff landscape architect if the changes are in keeping with the intent of the approved tree preservation plan. The plan shall exhibit the following information:
- a. Proposed site plan (showing buildings, edges of pavement, property/lot lines, easements, existing topography, and other significant site features (LOJIC

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- topographic information IS acceptable).
 - b. Preliminary drainage considerations (retention/detention, ditches/large swales, etc.).
 - c. Location of all existing trees/tree masses existing on the site as shown by aerial photo or LOJIC maps.
 - d. Location of construction fencing for each tree/tree mass designated to be preserved.
15. Construction fencing shall be erected at the edge of the area of development in accordance with the tree preservation plan prior to any grading or construction to protect the existing tree stands and their root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage, or construction activities are permitted within the protected area.
16. There shall be a 3 foot high berm in the 25 foot LBA located between Lots 5 and 6. Six foot high evergreens shall be planted 10 feet on center on top of the berm.
17. Before any permit (including but not limited to building, parking lot, change of use or alteration permit) is requested:
- a. The construction plan must receive full construction approval from the Jefferson County Department of Public Works and Transportation (400 Fiscal Court Building) and the Metropolitan Sewer District (700 West Liberty)
 - b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
 - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Article 12 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - d. A major subdivision plat creating the new public roadways as shown on the approved district development plan shall be recorded prior to issuance of any certificates of occupancy for any lot fronting thereon. Individual lots may be created by major or minor subdivision plat. Private access easements shown on the subdivision or district development plans may be created by minor plat. It shall be the applicant's responsibility to update the general district development plan to show the configuration of lots created by minor plat.
18. If a building permit is not issued within two years of the date of approval of the plan or rezoning, whichever is later, the property shall not be used in any manner unless a revised district development plan is approved or an extension is granted by the Planning Commission.

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19. A certificate of occupancy must be received from the appropriate code enforcement office prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
20. There shall be no outdoor music (live, piped, radio or amplified), outdoor entertainment, or outdoor PA system permitted on the site.
21. The property owner/developer shall provide copies of these binding elements to tenants, contractors and other parties engaged in development of this project, and shall inform them of the content of these binding elements. Further, the property owner/developer shall require contractors to similarly notify all of their sub-contractors whose duties relate to the binding elements. The property owner/developer shall ensure their compliance with the binding elements.
22. A soil erosion and sedimentation control plan shall be developed and implemented in accordance with the Metropolitan Sewer District and the USDA Natural Resources Conservation Service recommendations. Documentation of the MSD's approval of the plan shall be submitted to the Planning Commission prior to grading and construction activities.
23. If work is required within an easement causing removal or damage of landscape materials, the property owner will be responsible for replacement of materials according to the approved landscape plan.
24. Sidewalks shall be constructed along the westerly and southerly sides of Roads "A" & "B" at the time the lots are developed along these roadways. These walkways shall connect the development to Oldshire Road and Cooper Chapel Road. The balance of the sidewalks along the north side of Cooper Chapel Road and the entirety of the subject property shall be constructed as the adjoining properties are developed.
25. The developer will construct improvements to Cooper Chapel Road as shown on the 50 scale drawing submitted to Planning Commission Staff stamped received July 24, 1998 and the Jefferson county Department of Public Works and Transportation.
26. The developer will construct improvements to the intersection of Cooper Chapel Road and Preston Highway. Improvements shown on the general district development plan include those proposed to be constructed by developers of

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other projects in the area. The developer of Preston Crossings will not be responsible for improvements previously required of other projects.

27. If Jefferson County acquires adequate right-of-way along the north side of Cooper Chapel Road between Road B and Chapel Hill Road within 5 years, the developer will extend the third lane and sidewalk from Road B to Chapel Hill Road, unless constructed as part of a development by others.
28. The developer will install a traffic signal at the intersection of Road A and Cooper Chapel Road.
29. The developer will, if required by Jefferson County Public Works and Transportation, participate in funding the necessary signal modifications to the traffic signal at Cooper Chapel Road and Preston Highway.
30. The existing frontage road on site shall be closed. The street closure approval shall be obtained prior to obtaining a building permit or certificate of occupancy.
31. Land owned by the applicant zoned R4 and R-5 within 150 feet of the single-family detached homes in the adjacent subdivision to the east, shall remain in its natural vegetation until developed, in order to provide a visual buffer to such existing development.
32. The applicant shall not receive a certificate of occupancy for Lot 2, 3, 4 and 5 until two years from August 20, 1998.

The vote was as follows:

YES: Commissioners Robinson, Brown, and Carlson.

ABSENT: Commissioners Smith and Tomes.

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Request: District Development Plan and Amendment to Binding Elements; Sidewalk and Landscape Waivers
Project Name: Vehicle Storage Parking Expansion
Location: 12101 Westport Road
Owner: Westport Road Development LLC
Applicant: Westport Road Development LLC
Representative: Ground Effects, LLC
Jurisdiction: Louisville Metro
Council District: 17 – Markus Winkler

Case Manager: Lacey Gabbard, AICP, Planner I

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

The staff report prepared for this case was incorporated into the record. The Commissioners received this report in advance of the hearing, and this report was available to any interested party prior to the public hearing. (The staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

00:35:31 Lacey Gabbard presented the case (see staff report and recording for detailed presentation.)

00:37:11 Commissioner Robinson asked if there were existing sidewalks in the area. Ms. Gabbard showed an aerial photo of the area showing no sidewalks in the vicinity of the project.

The following spoke in favor of this request:

Chris Brown, BTM Engineering, 3001 Taylor Springs Drive, Louisville, KY 40220

Summary of testimony of those in favor:

00:38:17 Chris Brown presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.)

00:41:09 In response to a question from Commissioner Brown, Mr. Brown said the applicant would not be working on vehicles outside.

00:41:49 In response to a question from Commissioner Carlson, Mr. Brown said these will be operable vehicles stored here (operable but going through customization.)

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The property will be gated. Commissioner Carlson asked, if there is any change in ownership, if this property could become a junkyard. Mr. Brown said that, in order to operate a junkyard, any new owner would have to apply for a CUP that is required under the Land Development Code. They discussed the detention structure on the property to the right of the site.

The following spoke in opposition to this request:

No one spoke.

Deliberation:

00:43:47 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.

Waiver #1 - Waiver of Land Development Code Section 5.5.4.B.1 to reduce the 50 foot landscape buffer area with a six (6) foot screen to 30 feet

Waiver #2 - Waiver of Land Development Code Section 5.8.1.B to not provide the sidewalk along Westport Road

Waiver #3 - Waiver of Land Development Code Section 5.9.2.A.1.b.i and 5.9.2.A.1.b.ii to not provide sidewalk connections to adjacent properties and the street

00:44:23 On a motion by Commissioner Brown, seconded by Commissioner Robinson, the following resolution, based on the Standard of Review and Staff Analysis and testimony heard today, was adopted:

(Waiver #1) WHEREAS, the Louisville Metro Development Review Committee finds that the waiver will not adversely affect neighboring property owners because there is an existing 30 foot buffer area with plantings between this property and the residentially zoned property to the north; and

WHEREAS, the Commission further finds that Guideline 3, Policy 9 of Cornerstone 2020 calls for protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigation when appropriate. Guideline 3, Policies 21 and 22 call for appropriate transitions between uses that are substantially different in scale and intensity or density, and mitigation of the impact caused when incompatible developments occur adjacent to one another through the use of

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landscaped buffer yards, vegetative berms and setback requirements to address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances. Guideline 3, Policy 24 states that parking, loading and delivery areas located adjacent to residential areas should be designed to minimize impacts from noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered. Guideline 13, Policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. Guideline 13, Policy 6 calls for screening and buffering to mitigate adjacent incompatible uses. The intent of landscape buffer areas is to create suitable transitions where varying forms of development adjoin, to minimize the negative impacts resulting from adjoining incompatible land uses, to decrease storm water runoff volumes and velocities associated with impervious surfaces, and to filter airborne and waterborne pollutants. Though this is a warehouse site abutting a residentially zoned property, the existing LBA that is in place between these two uses is providing screening and buffering which appears to be adequate. Staff has no knowledge of any complaints from neighboring properties regarding nuisances from the subject site. The parking lot expansion should not create additional impacts or nuisances that would make the existing LBA inadequate; and

WHEREAS, the Commission further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant, as the existing LBA should provide adequate screening and buffering; and

WHEREAS, the Commission 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 there is already an LBA in place between the subject site and the neighboring residential property which appears to provide adequate screening; and

(Waiver #2) WHEREAS, the Commission further finds that the waiver will not adversely affect neighboring property owners because there are no sidewalks along this portion of Westport Road on either side of the street; and

WHEREAS, the Commission further finds that Guideline 7, Policy 1 states that developments should be evaluated for their impact on the street and roadway system and to ensure that those who propose new developments bear or reasonably share in the costs of the public facilities and services made necessary by development. Guideline 9, Policy 1 states that new development should provide for the movement of pedestrians, bicyclists and transit users with sidewalks along the streets of all developments where appropriate. This development is proposing a parking lot expansion only, not an increase in building square footage that could more feasibly

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produce an increase in pedestrian (employee) traffic to the site. Additionally, no other sidewalks exist along this portion of Westport Road; and

WHEREAS, the Commission further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant, as sidewalks do not currently exist along this portion of Westport Road; and

WHEREAS, the Commission 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 by requiring the applicant to build sidewalks with no foreseeable future connection to other sidewalks; and

(Waiver #3) WHEREAS, the Committee further finds that STAFF: The waiver will not adversely affect neighboring property owners because there are no sidewalks along this portion of Westport Road on either side of the street, so there are no sidewalk connections to be made; and

WHEREAS, the Committee further finds that Guideline 7, Policy 1 states that developments should be evaluated for their impact on the street and roadway system and to ensure that those who propose new developments bear or reasonably share in the costs of the public facilities and services made necessary by development. Guideline 9, Policy 1 states that new development should provide for the movement of pedestrians, bicyclists and transit users with sidewalks along the streets of all developments where appropriate. This development is proposing a parking lot expansion only, not an increase in building square footage that could more feasibly produce an increase in pedestrian (employee) traffic to the site. Additionally, no other sidewalks exist along this portion of Westport Road; 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 sidewalks do not currently exist along this portion of Westport Road; 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 by requiring the applicant to build sidewalks with no foreseeable future connection to other sidewalks; now, therefore be it

RESOLVED, the Louisville Metro Development Review Committee does hereby **APPROVE** the requested **Waiver** of Land Development Code Section 5.5.4.B.1 to reduce the 50 foot landscape buffer area with a six (6) foot screen to 30 feet; the requested **Waiver** of Land Development Code Section 5.8.1.B to not provide the sidewalk along Westport Road; and the requested **Waiver** of Land Development Code

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Section 5.9.2.A.1.b.i and 5.9.2.A.1.b.ii to not provide sidewalk connections to adjacent properties and the street.

The vote was as follows:

YES: Commissioners Robinson, Brown, and Carlson.

ABSENT: Commissioners Smith and Tomes.

Revised Development Plan with Binding Element Amendments

00:45:26 On a motion by Commissioner Brown, seconded by Commissioner Robinson, 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 there do not appear to be any environmental constraints or historic resources on the subject site. The proposed additions do not substantially alter the site or its natural resources; 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. The exception to this is the sidewalk along Westport Road, for which the applicant has submitted a waiver; 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 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. The applicant is requesting a waiver for the LBA/screening at the rear of the property abutting a residential zone; 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, the Louisville Metro Development Review Committee does hereby **APPROVE** the requested Revised Development Plan, **SUBJECT** to the following binding elements:

Existing Binding Elements

- ~~1. The development shall be in accordance with the approved district development plan, land use and agreed upon binding elements unless amended pursuant to the Zoning District Regulations. No further development shall occur without prior approval from the Planning Commission.~~
- ~~2. The development shall not exceed 48,155 square feet of gross floor area.~~
- ~~3. The property shall be used for only the following uses:~~
 - ~~a. Leasing of mini-warehouses (the mini-warehouse operation will involve storage and incidental assembly of items stored in the mini-warehouse. All storage will be enclosed).~~
 - ~~b. Warehouse storage (all enclosed).~~
 - ~~c. Manufacture and assembly of automotive parts and accessories.~~
 - ~~d. Moving of "household goods" as defined in Tariff Association of America, issued March 1, 1974, which is located in the file for this case.~~
 - ~~e. Office buildings~~
 - ~~f. Accessory buildings and parking as shown on the development plan~~
- ~~4. There shall be no outdoor storage on the site.~~
- ~~5. Before a building or alteration permit and/or a certificate of occupancy is requested:~~
 - ~~g. The development plan must be re-approved by the Jefferson County Department of Public Works and Transportation and the Metropolitan Sewer District.~~
 - ~~h. The size and location of any proposed freestanding sign must be approved by the Planning Commission. The Planning Commission may require that the signs be smaller than would otherwise be permitted by the Zoning District Regulations.~~
 - ~~i. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Article 12. Such plan shall be implemented prior to requesting a certificate of occupancy and maintained thereafter.~~
- ~~6. If a building permit is not issued within one year of the date of approval of the plan, the property shall not be used in any manner unless a revised district development plan is approved or an extension is granted by the Planning Commission.~~
- ~~7. A certificate of occupancy must be received from the appropriate code enforcement officer prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to~~

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~~requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.~~

Proposed Binding Elements

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

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of the date of approval of the plan or rezoning, whichever is later, the property shall not be used in any manner unless a revised district development plan is approved or an extension is granted by the Planning Commission.

7. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
8. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line or permitted on the site.
9. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.

The vote was as follows:

YES: Commissioners Robinson, Brown, and Carlson.

ABSENT: Commissioners Smith and Tomes.

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APPROVAL OF THE MINUTES FOR CASE NUMBER 18DEVPLAN1213 ONLY

Request:	Landscape Waivers
Project Name:	13501 Aiken Road - Salon
Location:	13501 Aiken Road
Owner:	Scott Lingo, Donnascott LLC
Applicant:	Scott Lingo, Donnascott LLC
Representative:	Scott Lingo, Donnascott LLC
Jurisdiction:	Louisville Metro
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:

00:46:01 Lacey Gabbard presented the case (see staff report and recording for detailed presentation.)

The following spoke in favor of this request:

Kathy Linares and Kent Gootee, Mindel Scott & Associates, 5151 Jefferson Boulevard, Louisville, KY 40219

Summary of testimony of those in favor:

00:49:10 Kathy Linares, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.)

00:55:31 Commissioner Brown and Ms. Linares discussed Waiver #2.

00:58:07 Kent Gootee, an applicant's representative, further discussed the tree plantings.

The following spoke in opposition to this request:

No one spoke.

Deliberation:

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00:59:10 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.

- **Waiver #1 - Waiver of Land Development Code section 10.2.3 to not provide the 20' LBA required adjacent to an R-4 and M-2 zoned property along the eastern and northern borders (a church)**
- **Waiver #3 - Waiver of Land Development Code section 10.2.3 to reduce the required 35' LBA adjacent to an R-4 zoned property along the eastern border to 15' (a single family structure)**

00:59:58 On a motion by Commissioner Brown, seconded by Commissioner Robinson, the following resolution, based on the applicant's justification statement 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 there are already several plantings to be preserved along the eastern perimeter of the site bordering the R-4 zone, and there are not currently any structures within close proximity to this perimeter on the neighboring church property. The M-2 zoned property to the north is also part of the church and is currently being used as a parking lot and open space; and

WHEREAS, the Committee further finds that Plan 2040 calls for protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigation when appropriate. Plan 2040 calls for appropriate transitions between uses that are substantially different in scale and intensity or density, and mitigation of the impact caused when incompatible developments occur adjacent to one another through the use of landscaped buffer yards, vegetative berms and setback requirements to address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances. Plan 2040 states that parking, loading and delivery areas located adjacent to residential areas should be designed to minimize impacts from noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered. Plan 2040 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. Plan 2040 calls for

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screening and buffering to mitigate adjacent incompatible uses. The intent of landscape buffer areas is to create suitable transitions where varying forms of development adjoin, to minimize the negative impacts resulting from adjoining incompatible land uses, to decrease storm water runoff volumes and velocities associated with impervious surfaces, and to filter airborne and waterborne pollutants. This site is a salon adjacent to a residentially zoned property that is being used as a church and an M-2 zoned property which is being used as a church parking lot, so the uses are not substantially different and will most likely not create nuisances for either property; 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 landscaping is already in place and the adjacent property is being used as a church; 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 there is already landscape screening in place and the neighboring property is being used as a church, which is not an incompatible use; and

(Waiver #3) WHEREAS, the waiver will not adversely affect adjacent property owners since the landscaping on this site is already in place and will be preserved per the applicant. Additionally, there is an 8 foot wooden fence along the border between the subject site and the neighboring residentially zoned property which provides screening; and

WHEREAS, the Committee further finds that Plan 2040 calls for protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigation when appropriate. Plan 2040 calls for appropriate transitions between uses that are substantially different in scale and intensity or density, and mitigation of the impact caused when incompatible developments occur adjacent to one another through the use of landscaped buffer yards, vegetative berms and setback requirements to address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances. Plan 2040 states that parking, loading and delivery areas located adjacent to residential areas should be designed to minimize impacts from noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered. Plan 2040 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. Plan 2040 calls for screening and buffering to mitigate adjacent incompatible uses. The intent of landscape buffer areas is to create suitable transitions where varying forms of development adjoin, to minimize the negative impacts resulting from adjoining incompatible land uses, to decrease storm water runoff volumes and velocities associated with impervious

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surfaces, and to filter airborne and waterborne pollutants. This site is a salon adjacent to an R-4 zoned property that is being used as a single family home. The area of the site where the LBA would be located already has several plantings which will be preserved, and there is an 8 foot wooden fence in place which provides screening; 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 applicant is preserving the existing trees and 8 foot wooden fence which both provide screening; 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 or create an unnecessary hardship on the applicant since the 35 foot LBA would encroach into the subject site's existing parking lot; now, therefore be it

RESOLVED, the Louisville Metro Development Review Committee does hereby **APPROVE** the requested **Waiver** of Land Development Code section 10.2.3 to not provide the 20' LBA required adjacent to an R-4 and M-2 zoned property along the eastern and northern borders, **AND** the requested **Waiver** of Land Development Code section 10.2.3 to reduce the required 35' LBA adjacent to an R-4 zoned property along the eastern border to 15'.

The vote was as follows:

YES: Commissioners Robinson, Brown, and Carlson.

ABSENT: Commissioners Smith and Tomes.

Waiver #2 - Waiver of Land Development Code section 10.2.3 to not provide the 15' LBA required adjacent to an M-2 zoned property along the southern border

01:01:04 On a motion by Commissioner Brown, seconded by Commissioner Robinson, the following resolution, based on the testimony heard today, was adopted:

WHEREAS, the Louisville Metro Development Review Committee finds that this waiver will not violate the specific Guidelines in Plan 2040 as additional plantings have been provided of a smaller type tree; and that the extent of the waiver is the minimum necessary to afford relief to the applicant because the higher intense use (M-2 zoned property to the south) would not require as much screening as a less-intense use; and that the applicant has made other provisions by planting the additional trees along that border to mitigate the impact of this waiver; now therefore be it

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RESOLVED, the Louisville Metro Development Review Committee does hereby **APPROVE** the requested Waiver of Land Development Code section 10.2.3 to not provide the 15' LBA required adjacent to an M-2 zoned property along the southern border.

The vote was as follows:

YES: Commissioners Robinson, Brown, and Carlson.

ABSENT: Commissioners Smith and Tomes.

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01:02:21 On a motion by Commissioner Brown, seconded by Commissioner Robinson, the following resolution was adopted:

RESOLVED, that the Louisville Metro Development Review Committee does hereby **APPROVE** the minutes for Case No. 18DEVPLAN1213 heard earlier today.

The vote was as follows:

YES: Commissioners Brown, Robinson, and Carlson.

ABSENT: Commissioners Smith and Tomes.

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ADJOURNMENT

The meeting adjourned at approximately 2:05 p.m.

Chairman

Division Director