

**MINUTES OF THE MEETING
OF THE
DEVELOPMENT REVIEW COMMITTEE
September 14, 2022**

A meeting of the Development Review Committee was held on, September 14, 2022 at 1:00 p.m. in the Old Jail Building, located at 514 W. Liberty Street, Louisville, Kentucky.

Committee Members present were:

Rich Carlson, Chair
Patti Clare, Vice Chair
Jeff Brown
Glenn Price
Suzanne Cheek

Staff Members present were:

Brian Davis, Planning Manager
Julia Williams, Planning Supervisor
Jay Lockett, Planner II
Molly Clark, Planner II
Sam Graber, Engineer I
Laura Ferguson, Legal Counsel
Pamela M. Brashear, Management Assistant

Others present:

Beth Stuber, Transportation Planning

The following matters were considered

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APPROVAL OF MINUTES

AUGUST 31, 2022 DRC MEETING MINUTES

On a motion by Commissioner Brown, seconded by Commissioner Price, the following resolution was adopted.

RESOLVED, that the Development Review Committee does hereby **APPROVE** the minutes of its meeting conducted on August 31, 2022.

The vote was as follows:

YES: Commissioners Brown, Cheek, Clare, Price and Carlson

DEVELOPMENT REVIEW COMMITTEE
September 14, 2022

NEW BUSINESS

CASE NO. 22-CAT3-0009

Request:	Category 3 Plan with a Waiver
Project Name:	Proposed Office Warehouse
Location:	3910 Produce Road
Owner:	Exeter 3910 Produce, LLC
Applicant:	Exeter 3910 Produce, LLC Station LLC
Representative:	Mindel Scott
Jurisdiction:	Louisville Metro
Council District:	10 – Pat Mulvihill
Case Manager:	Molly Clark, Planner II

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

Agency Testimony:

00:04:52 Molly Clark discussed the case summary, standard of review and staff analysis from the staff report (see recording for detailed presentation).

The following spoke in favor of this request:

Steve Scott, Mindel, Scott and Associates, 5151 Jefferson Boulevard, Louisville, Ky. 40219

Summary of testimony of those in favor:

00:08:11 Steve Scott explained the waiver request (see recording for detailed presentation).

Deliberation

00:11:10 Development Review Committee 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.

Waiver from section 5.9.2.A.1.b.1 to not provide a pedestrian connection from the ROW to the main entrance

DEVELOPMENT REVIEW COMMITTEE

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NEW BUSINESS

CASE NO. 22-CAT3-0009

On a motion by Commissioner Brown, seconded by Commissioner Clare, the following resolution based on the Standard of Review and Staff Analysis and testimony heard today was adopted.

WHEREAS, the waiver will not adversely affect adjacent property owners since the proposed warehouse is going to be located behind other existing warehouses who all share ownership of the main access easement. There is also not any room to add a sidewalk in an already developed access easement; and

WHEREAS, Community Form Goal 1, Policy 12 calls to ensure that parking, loading and delivery is adequate and convenient for motorists and does not negatively impact nearby residents or pedestrians. Community Form Goal 2, Policy 14 calls to encourage adjacent development sites to share entrance and parking facilities in order to reduce the number of curb cuts and the amount of surface parking. Mobility Goal 2, Policy 3 calls to provide adequate street stubs for future roadway connections in new development and redevelopment that support access and contribute to appropriate development of adjacent lands. Mobility Goal 2, Policy 6 calls to ensure that the internal circulation pattern for streets within a development be designed with an appropriate functional hierarchy of streets and appropriate linkages with existing and future development. The proposed warehouse is going to be located behind other existing warehouses who all share ownership of the main access easement. There is also not any room to add a sidewalk in an already developed access easement; and

WHEREAS, the Louisville Metro Development Review Committee finds the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since the applicant only owns a portion of the access easement. The proposed warehouse is going to be located behind other existing warehouses who all share ownership of the main access easement. There is also not any room to add a sidewalk in an already developed access easement; and

WHEREAS, the Louisville Metro Development Review Committee further finds the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant because the applicant only owns a small portion of the access easement. The easement and land within the easement are owned by two other warehouses that use this easement for access. There is also not any room to add a sidewalk in an already developed access easement.

RESOLVED, that the Louisville Metro Development Review Committee does hereby **APPROVE** the Waiver from section 5.9.2.A.1.b.1 to not provide a pedestrian connection from the right-of-way to the main entrance.

The vote was as follows:

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NEW BUSINESS

CASE NO. 22-CAT3-0009

YES: Commissioners Brown, Cheek, Clare, Price and Carlson

Category 3 plan with an amenity area

On a motion by Commissioner Brown, seconded by Commissioner Clare, the following resolution based on the Standard of Review and Staff Analysis and testimony heard today was adopted.

RESOLVED, that the Louisville Metro Development Review Committee does hereby **APPROVE** the Category 3 plan with an amenity area.

The vote was as follows:

YES: Commissioners Brown, Cheek, Clare, Price and Carlson

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NEW BUSINESS

CASE NO. 21-DDP-0084

Request:	Revised Detailed District Development Plan with Revisions to Binding Elements and Waivers
Project Name:	N English Office Warehouse
Location:	211 N English Station
Owner:	211 N English Station LLC
Applicant:	211 N English Station LLC
Representative:	Milestone Design Group
Jurisdiction:	Middletown
Council District:	19 – Anthony Piagentini
Case Manager:	Jay Lockett, AICP, Planner II

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

Agency Testimony:

00:12:50 Jay Lockett discussed the case summary, standard of review and staff analysis from the staff report (see recording for detailed presentation).

The following spoke in favor of this request:

Mark Madison, Milestone Design Group, 108 Davenport Lane, Suite 300, Louisville, Ky. 40223

Summary of testimony of those in favor:

00:17:53 Mark Madison gave a power point presentation discussing the following: Texas Gas pipeline; sidewalk connections; traffic; 2 adjacent buildings and proposal of sharing truck maneuvering, unloading and parking area (see recording for detailed presentation).

Deliberation

00:25:10 Development Review Committee 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.

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NEW BUSINESS

CASE NO. 21-DDP-0084

Waivers

1. Waiver of Middletown Land Development Code section 5.5.4.B.1 to reduce the required 50 Landscape Buffer area to 6 feet and to not provide the required berm and trees along the northern property line.

WHEREAS, the waiver will not affect adjacent property owners as the adjacent residentially zoned site is actually a utility site owned by Texas Gas Company and is unlikely to be developed for residential use in the future; and

WHEREAS, the waiver will allow for a compact development of additional industrial space within an established activity center. The adjacent residentially zoned site is a utility site and unlikely to be developed for residential use; and

WHEREAS, the Louisville Metro Development Review Committee finds the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant, as the development will provide buffering similar to what has been previously approved and developed on the subject site and adjacent site; and

WHEREAS, the Louisville Metro Development Review Committee further finds the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant, as the site to the north is not a residential development site and does not need exceptional screening and buffering from the proposed use.

2. Waiver of Middletown Land Development Code section 10.2.4.B to eliminate the PEC property perimeter buffers to the north, east and west of the site.

WHEREAS, the waiver will not affect adjacent property owners as the development will share circulation, parking and loading areas with the adjacent properties to the east and west; and

WHEREAS, the waiver will allow for infill and a compact development pattern within an established activity center. The site will share access with sites to the east and west. The site to the north is a utility site and unlikely to be developed for a residential use; and

WHEREAS, the Louisville Metro Development Review Committee finds the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant; and

WHEREAS, the Louisville Metro Development Review Committee further finds the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant, as it would make it impossible to fit the development on the site and create a unified circulation and loading among the adjacent industrial sites.

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NEW BUSINESS

CASE NO. 21-DDP-0084

3. Waiver of Middletown Land Development Code section 5.8.1.B to not provide sidewalks along a portion of Data Vault Dr

On a motion by Commissioner Brown, seconded by Commissioner Price, the following resolution based on the Standard of Review and Staff Analysis and testimony heard today was adopted.

WHEREAS, the waiver will not affect adjacent property owners as the applicant will provide a sidewalk along N English Station Rd as well as a connection to the existing sidewalk on the south side of Data Vault Dr.; and

WHEREAS, the Louisville Metro Development Review Committee finds the waiver will not violate the Comprehensive Plan, as the Data Vault Dr is a dead-end street that serves small-scale industrial uses and public utility sites with relatively small numbers of customers and employees. The applicant will construct a meaningful portion of sidewalk along N English Station Rd that will improve connectivity in the area; and

WHEREAS, the Louisville Metro Development Review Committee further finds the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant, as all required planting and screening will be provided on site.

RESOLVED, that the Louisville Metro Development Review Committee does hereby **RECOMMEND** that the city of Middletown **APPROVE** the following waivers: Waiver 1 of Middletown Land Development Code section 5.5.4.B.1 to reduce the required 50 Landscape Buffer area to 6 feet and to not provide the required berm and trees along the northern property line; Waiver 2 of Middletown Land Development Code section 10.2.4.B to eliminate the PEC property perimeter buffers to the north, east and west of the site; and Waiver 3 of Middletown Land Development Code section 5.8.1.B to not provide sidewalks along a portion of Data Vault Dr.

The vote was as follows:

YES: Commissioners Brown, Cheek, Clare, Price and Carlson

Revised Detailed District Development Plan with replacement of existing Binding Elements.

On a motion by Commissioner Brown, seconded by Commissioner Price, the following resolution based on the Standard of Review and Staff Analysis and testimony heard today was adopted.

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CASE NO. 21-DDP-0084

WHEREAS, 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, 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, there are no open space requirements pertinent to the current proposal; and

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

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

WHEREAS, the Louisville Metro Development Review Committee further finds the development plan conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code, except where relief is requested.

RESOLVED, that the Louisville Metro Development Review Committee does hereby **RECOMMEND** that the city of Middletown **APPROVE** the Revised Detailed District Development Plan, **SUBJECT** to the following 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 (and to 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.

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NEW BUSINESS

CASE NO. 21-DDP-0084

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. 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 prior to obtaining a building permit.
 - 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.
6. 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

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certification statement is submitted. Lighting shall be maintained on the property in accordance with Chapter 4 Part 1.3 of the land development code. Lighting shall be maintained on the property in accordance with Chapter 4 Part 1.3 of the land development code.

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. A signal contribution shall be paid in the amount of \$3,500 for the northern intersection of N English Station Rd and Aiken Rd prior to construction approval.

The vote was as follows:

YES: Commissioners Brown, Cheek, Clare, Price and Carlson

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NEW BUSINESS

CASE NO. 22-DDP-0077

Request:	Revised Detailed District Development Plan and Waiver
Project Name:	Chamberlain Crossings Parking Lot
Location:	2635 Chamberlain Ln
Owner:	IAN, LLC
Applicant:	Nicklies Development
Representative:	Heritage Engineering
Jurisdiction:	Louisville Metro
Council District:	19 – Anthony Piagentini
Case Manager:	Jay Lockett, AICP, Planner II

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

Agency Testimony:

00:28:19 Jay Lockett discussed the case summary, standard of review and staff analysis from the staff report (see recording for detailed presentation).

The following spoke in favor of this request:

John Campbell, Heritage Engineering 642 South 4th Street, Suite 100, Louisville, Ky. 40202

Summary of testimony of those in favor:

00:31:51 John Campbell gave a power point presentation discussing the following: development plan showing parking and connection; walkway connection; reason for waiver; and the previously approved plan.

Deliberation

00:35:17 Development Review Committee 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.

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NEW BUSINESS

CASE NO. 22-DDP-0077

Waiver of Land Development Code section 10.2.10 to allow the parking lot to encroach into the 10-foot Vehicle Use Area Landscape Buffer Area along Chamberlain Ln.

On a motion by Commissioner Brown, seconded by Commissioner Price, the following resolution based on the Standard of Review and Staff Analysis and testimony heard today was adopted.

WHEREAS, the waiver will not affect adjacent property owners as all required plantings and screening will still be provided; and

WHEREAS, the waiver will allow for a compact development within an established activity center. All required plantings will be provided on the subject site and any potential impacts of the development on the surrounding community will be mitigated appropriately; and

WHEREAS, the Louisville Metro Development Review Committee finds the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant, as all required planting and screening will be provided on site; and

WHEREAS, the Louisville Metro Development Review Committee further finds the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant, as it would necessitate significant grading along the rear of the site which is much steeper than the rest of the property.

RESOLVED, that the Louisville Metro Development Review Committee does hereby **APPROVE** the Waiver of Land Development Code section 10.2.10 to allow the parking lot to encroach into the 10-foot Vehicle Use Area Landscape Buffer Area along Chamberlain Ln.

The vote was as follows:

YES: Commissioners Brown, Cheek, Clare, Price and Carlson

Revised Detailed Development Plan and Binding Elements

On a motion by Commissioner Brown, seconded by Commissioner Price, the following resolution based on the Standard of Review and Staff Analysis and testimony heard today was adopted.

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NEW BUSINESS

CASE NO. 22-DDP-0077

WHEREAS, 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, 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, there are no open space requirements pertinent to the current proposal; and

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

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

WHEREAS, the Louisville Metro Development Review Committee further finds the development plan conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code, except where relief is requested.

RESOLVED, that the Louisville Metro Development Review Committee does hereby **APPROVE** the Revised Detailed District Development Plan, **SUBJECT** to the following 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. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.

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CASE NO. 22-DDP-0077

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 Louisville Metro Department of Inspections, Permits and Licenses, Louisville Metro Public Works and the Metropolitan Sewer District.

b. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Land Development Code, 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. An Individual Historic Resource Survey Form shall be completed for any historic resources on the subject site. The documentation must occur prior to the issuance of a demolition permit or ground disturbance at the site. The documentation shall be submitted to Urban Design/Historic Preservation Staff upon completion.

e. A geotechnical report shall be submitted to staff for incorporation into the record.

f. A reciprocal access and crossover easement agreement for "truck access" 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.

g. A legal instrument shall be recorded consolidating the property as shown on the approved development plan. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services.

h. 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.

6. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged

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CASE NO. 22-DDP-0077

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.

7. No idling of trucks shall take place within 200 feet of single-family residences. No overnight idling of trucks shall be permitted on-site.

8. No heavy-truck shall enter or exit the facility via Old La Grange Road. All heavy-truck access shall be limited to Chamberlain Crossing Drive. 9. The design of the façade and landscaping along Old La Grange Road, including a four-board fence shall be substantially the same as depicted in the renderings as presented at the 01/04/18 Planning Commission meeting and stamped "received 01/18/2018".

The vote was as follows:

YES: Commissioners Brown, Cheek, Clare, Price and Carlson

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ADJOURNMENT

The meeting adjourned at approximately 1:38 p.m.

Chair

Planning Director