

**MINUTES OF THE MEETING  
OF THE  
LAND DEVELOPMENT AND TRANSPORTATION COMMITTEE**

**October 8, 2015**

A meeting of the Land Development and Transportation Committee was held on Thursday, October 8, 2015, at 1:00 PM in the Old Jail Building, located at 514 West Liberty Street, Louisville, Kentucky.

**Committee Members present were:**

Vince Jarboe, Chair  
Donnie Blake  
Jeff Brown  
Clifford Turner

**Committee Members absent were:**

Marilyn Lewis

**Staff Members present were:**

John Carroll, Legal Counsel  
Joe Reverman, AICP, Planning Manager  
Brian Davis, Planning & Design Supervisor  
Christopher Brown, Planner II  
Chris Cestaro, Management Assistant (minutes)

The following matters were considered:

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**Approval of Minutes**

**Approval of the September 24, 2105 LD&T Committee Meeting Minutes**

On a motion by Commissioner Blake, seconded by Commissioner Brown, the following resolution was adopted:

**RESOLVED**, the Land Development and Transportation Committee does hereby **APPROVE** the minutes of its meeting conducted Thursday, September 24, 2015.

**The vote was as follows:**

**YES: Commissioners Blake, Turner, Brown, and Jarboe.**

**NO: No one.**

**NOT PRESENT: Commissioner Lewis.**

**ABSTAINING: No one.**

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**New Cases**

**Case No. 15EXTENSION1003**

**Request:** Extension of expiration date for Case No. 11662

**Project Name:** Watterhurst Retail Center

**Location:** 5911 S. Watterson Trail

**Owner:** Hurstbourne Watterson Trail, LLC

**Applicant:** Bardenwerper, Talbott & Roberts PLLC

**Representative:** Bardenwerper, Talbott & Roberts PLLC

**Jurisdiction:** Louisville Metro

**Council District:** 22 – Robin Engel

**Case Manager:** **Brian Davis, AICP, Planning Supervisor**

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

**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.**

**Agency Testimony:**

00:03:18 Brian Davis presented the case and showed a Power Point presentation (see recording and application materials for detailed presentation.) The applicant will not have construction plans finalized before this plan expires; therefore an extension is being requested. Mr. Davis showed a plan to the Commissioners during their discussion.

**The following spoke in favor of the request:**

No one spoke.

**The following spoke in opposition to the request:**

No one spoke.

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**Case No. 15EXTENSION1003**

**The following spoke neither for nor against the request:**

No one spoke.

On a motion by Commissioner Blake, seconded by Commission Brown, the following resolution was adopted:

**RESOLVED**, the Louisville Metro Land Development and Transportation Committee does hereby **APPROVE** the requested extension of the expiration date of the revised plan for Case No. 11662 to **October 22, 2017.**

**The vote was as follows:**

**YES: Commissioners Blake, Turner, Brown, and Jarboe.**

**NO: No one.**

**NOT PRESENT: Commissioner Lewis.**

**ABSTAINING: No one.**

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**New Cases**

**CASE NO. 15STREETS1007**

**Request:** Street Closure of Emery Road from Reidling Drive to its southeast terminus at Oaklawn subdivision.

**Project Name:** Emery Road street closure  
**Location:** 2900 Reidling Drive  
**Owner:** Louisville Metro  
**Applicant:** Kathy Matheny, Cardinal Surveying  
**Representative:** Kathy Matheny, Cardinal Surveying  
**Jurisdiction:** Louisville Metro  
**Council District:** 9 – Bill Hollander

**Case Manager:** **David B. Wagner, Planner II (Presented by Brian Davis, AICP)**

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

**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.**

**Agency Testimony:**

00:07:04 Brian Davis presented the case (see recording and staff report for detailed presentation.)

**The following spoke in favor of the request:**

Kathy Matheny, Cardinal Surveying, 9009 Preston Hwy, Louisville, KY 40219

Scott Stanton, 436 University Avenue, Louisville, KY 40206

**Summary of testimony of those in favor:**

00:09:26 Kathy Matheny explained the situation on the property. This is a neighborhood that was built in 1931. She said signatures have been received for all four adjoining property owners approving of the requested action.

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00:10:59 Commissioner Brown suggested that all of the unimproved ROW be formally closed, rather than doing it a portion at a time.

00:13:07 Scott Stanton described what is in this greenspace and who maintains it.

00:13:34 Ms. Matheny discussed and Commissioner Brown discussed how to handle this closure. She said her clients have been working on this closure for about 3 years and just want to get the process finished.

**The following spoke in opposition to the request:**

No one spoke.

**The following spoke neither for nor against:**

No one spoke.

**00:20:09 The Committee by general consensus scheduled this case to be heard at the November 19, 2015 Planning Commission public hearing.**

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**New Cases**

**CASE NO. 15STREETS1011**

**Request:** Street name change of Fairmount Road (from Broad Run Road to its western terminus at Floyds Fork Creek) to Broad Run Parkway and Vista Valley Lane

**Project Name:** The Parklands of Floyds Fork

**Location:** 11701 – 12106 Fairmount Road and 2200 Broad Run Road

**Owner:** Louisville Metro

**Applicant:** 21<sup>st</sup> Century Parks

**Representative:** 21<sup>st</sup> Century Parks

**Jurisdiction:** Louisville Metro

**Council District:** 20 – Stuart Benson  
22 – Robin Engel

**Case Manager:** **David B. Wagner, Planner II (Presented by Brian Davis, AICP)**

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

**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.**

**Agency Testimony:**

00:20:25 Brian Davis presented the case (see recording and staff report for detailed presentation.)

**The following spoke in favor of the request:**

Kevin Beck, 1416 Castlewood Avenue, Louisville, KY

**Summary of testimony of those in favor:**

00:24:43 Kevin Beck, project manager for 21st Century Parks, said he was available to answer questions. He said that, except for one neighboring home,

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the other affected houses were owned by Future Fund or 21<sup>st</sup> Century Parks. He explained why the Fire Department was in favor of the name change. He discussed putting a lock on a gate on the Valley Vista portion.

**The following spoke in opposition to the request:**

No one spoke.

**The following spoke neither for nor against:**

No one spoke.

**00:26:27     The Committee by general consensus scheduled this case to be heard on the Consent Agenda of the October 15, 2015 Planning Commission public hearing (night hearing.)**



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**CASE NO. 15STREETS1012**

**Request:** Street name change of Stout Road (from Broad Run Road northward to 8200 Stout Road) to Turkey Run Parkway

**Project Name:** The Parklands of Floyds Fork

**Location:** 8200 – 8706 Stout Road and 9131 and 9215 Broad Run Road

**Owner:** Louisville Metro

**Applicant:** 21<sup>st</sup> Century Parks

**Representative:** 21<sup>st</sup> Century Parks

**Jurisdiction:** Louisville Metro

**Council District:** 20 – Stuart Benson

**Case Manager:** **David B. Wagner, Planner II (Presented by Brian Davis, AICP)**

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

**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.**

**Agency Testimony:**

00:27:36 Brian Davis presented the case (see recording and staff report for detailed presentation.)

**The following spoke in favor of the request:**

No one spoke.

**The following spoke in opposition to the request:**

No one spoke.

**The following spoke neither for nor against:**

No one spoke.

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**CASE NO. 15STREETS1012**

**00:30:12 The Committee by general consensus scheduled this case to be heard on the Consent Agenda of the October 15, 2015 Planning Commission public hearing (night hearing.)**

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**CASE NO. 15DEVPLAN1055**

**Request:** Revised Detailed District Development Plan with Land Development Code Waivers and Binding Element Amendments

**Project Name:** Liquor Palace  
**Location:** 4002 Preston Highway  
**Owner:** Kentucky Property Investments LLC  
**Applicant:** Kentucky Property Investments LLC  
**Representative:** Garber-Chilton Engineers and Land Surveyors Inc.

**Jurisdiction:** Louisville Metro  
**Council District:** 21 – Dan Johnson

**Case Manager:** **Christopher Brown, 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 LD&T meeting. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5<sup>th</sup> Street.)

**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.**

**Agency Testimony:**

00:31:02 Christopher Brown presented the case and showed the development plan (see recording and staff report for detailed presentation.)

**The following spoke in favor of the request:**

David Garber, Garber-Chilton Engineers, 2249 Commerce Parkway, LaGrange, KY 40031

**Summary of testimony of those in favor:**

00:34:18 David Garber, the applicant's representative, gave a brief history of the site and what is currently being proposed.

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00:35:50 Commissioner Brown asked about a pedestrian connection to the Aldi store. Mr. Garber discussed the proposed connection, and also one to the State Farm property (a driveway.) This has been put on the development plan.

**The following spoke in opposition to the request:**

No one spoke.

**The following spoke neither for nor against:**

No one spoke.

00:37:41 On a motion by Commissioner Brown, seconded by Commissioner Turner, the following resolution was adopted:

**RDDDP and Amendment to Binding Elements**

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

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

**WHEREAS**, the Committee further finds that there are no open space requirements with the current proposal. Future multi-family developments proposed on the subject site will be required to meet Land Development Code requirements; and

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

**WHEREAS**, the Committee further finds that the overall 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

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adjacent properties and roadways. Buildings and parking lots will meet all required setbacks; and

**Waivers**

**WHEREAS**, the Committee further finds that the waiver will not adversely affect adjacent property owners since the required screening and planting materials will be provided on the site; and

**WHEREAS**, the Committee further finds that the waiver requests will not violate specific Guidelines of Cornerstone 2020. Guideline 3, policy 9 of Cornerstone 2020 calls for the protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigate when appropriate. Guideline 3, policies 21 and 22 calls for appropriate transitions between uses that are substantially different in scale and intensity or density, and to mitigate 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 the 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 air borne and water borne pollutants. The required screening and planting materials will be provided to meet the intent of the buffering policies and regulations; therefore, the waiver will not violate specific guidelines of Cornerstone 2020; 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 screening planting materials will be provided within the reduced buffer areas to be provided along the property perimeters; and

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**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 reducing the parking below the minimum required and eliminating the areas needed for proper vehicular circulation on the site; and

**WHEREAS**, the Commission further finds that, based on the evidence and testimony presented, the applicant's justification and the staff report that all of the applicable Guidelines of Cornerstone 2020 and the Comprehensive Plan are being met; now, therefore be it

**RESOLVED**, the Louisville Metro Land Development and Transportation Committee does hereby **APPROVE** the following Waivers:

- Waiver #1: Waiver from Chapter 10.2.4 of the Land Development Code to allow pavement to encroach into the required 35' landscape buffer area along the southern property perimeter
- Waiver #2: Waiver from Chapter 10.2.4 of the Land Development Code to allow pavement and dumpster to encroach into the required 35' landscape buffer area along the western property perimeter

and does hereby **APPROVE** the requested Revised Detailed District Development Plan, and **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. The development shall not exceed 2,818 square feet of gross floor area.
3. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested:
  - a. The development plan must receive full construction approval from Louisville Metro Department of Develop Louisville Construction

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- Permits and Transportation Planning Review and the Metropolitan Sewer District.
- b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
  - c. The appropriate variances shall be obtained from the Board of Zoning Adjustment to allow the development as shown on the approved district development plan.
  - d. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
  - e. A legal instrument shall be recorded consolidating the property into one lot. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of the approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
4. 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.
  5. 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 Blake, Turner, Brown, and Jarboe.**

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**NO: No one.**

**NOT PRESENT: Commissioner Lewis.**

**ABSTAINING: No one.**



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**New Cases**

**CASE NO. 15ZONE1041**

**Request:** Change in zoning from C-1 to C-2; Land Development Code Waiver and Detailed District Development Plan

**Project Name:** Tire Discounters

**Location:** 13319 Shelbyville Road

**Owner:** Middletown Investment Partners LLC

**Applicant:** Middletown Investment Partners LLC

**Representative:** Bardenwerper, Talbott & Roberts PLLC

**Jurisdiction:** City of Middletown

**Council District:** 19 – Julie Denton

**Case Manager:** Christopher Brown, 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 LD&T meeting. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5<sup>th</sup> Street.)

**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.**

**Agency Testimony:**

00:38:21 Christopher Brown presented the case (see recording and staff report for detailed presentation.)

00:42:15 In response to questions from Commissioner Blake, Mr. Brown explained that the City of Middletown has its own sign ordinance, and its own version of the Land Development Code. It is separate from Louisville Metro's.

**The following spoke in favor of the request:**

William Bardenwerper, Bardenwerper Talbott & Roberts PLLC, 1000 North Hurstbourne Parkway 2<sup>nd</sup> Floor, Louisville, KY 40223

Jon Henney / Amin Omidy, Gresham Smith & Partners, 101 South 5<sup>th</sup> Street Suite 1400, Louisville, KY 40202

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**CASE NO. 15ZONE1041**

**Summary of testimony of those in favor:**

00:44:50 Before presenting the applicant's case, William Bardenwerper, the applicant's representative, and the Commissioners discussed the differences in Louisville Metro's Code and the City of Middletown's Code, and how best to handle the differences.

00:48:26 Mr. Bardenwerper presented the applicant's case and showed a Power Point presentation.

00:51:57 Commissioner Brown and Mr. Bardenwerper discussed the crosswalk/pedestrian connection. Jon Henney, an applicant's representative, further discussed the crosswalk and its location on the plan.

**The following spoke in opposition to the request:**

No one spoke.

**The following spoke neither for nor against:**

Glenn Price, 400 West Market Street, Louisville, KY 40202

Richard Gladden, 13201 Data Vault Drive, Louisville, KY 40223

**Summary of testimony of those neither for nor against the proposal:**

00:53:09 Glenn Price, representing the owner of the Data Vault property, handed out renderings of proposed US 60 and North English Station Road improvements. He spoke about possible connection between Middletown Commons, across Water Company property, up to the next property which includes Data Vault (see recording for verbatim presentation.) He discussed the Certificate of Occupancy and an unbuilt road, and stated that a road-building binding element has not yet been carried out/met (Condition #15). He said that this could affect the Certificates of Occupancy for the entire center.

00:59:36 In response to a question from Commissioner Jarboe, Mr. Price explained why this information is coming before the LD&T Committee. He said it is the developer of the Middletown Commons site, and its predecessor, who are responsible for building this road. The road is supposed to be built on Louisville

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Water Company property (easement). Mr. Price and the Commissioners discussed this at length.

01:04:08 Mr. Bardenwerper explained the history of the proposal, and how this is related to road improvements (specifically, those along Shelbyville Road and English Station.) Commissioner Blake pointed out that this refers to “all off-site road improvements”; Mr. Bardenwerper said that this is not shown as an off-site road improvement on the current approved development plan.

01:11:53 Jon Henney said that what is constructed today in terms of road improvements is what is shown on the approved development plan and approved construction documents. He said that GBT built what was approved at both the development plan stage and the construction plan stage. He gave further explanation of the issue.

01:14:40 Mr. Price said the binding elements run with the land, and applicants are responsible for following those binding elements. He said GBT agreed to these binding elements and should build the road. Mr. Bardenwerper and the Commissioners further discussed the issue and whose obligation it is to build this.

**01:21:35 The Committee by general consensus scheduled this case to be heard on the Consent Agenda of the October 29, 2015 Planning Commission public hearing.**

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**The meeting adjourned at approximately 2:23 p.m.**

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***Chairman***

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***Division Director***