

**MINUTES OF THE MEETING
OF THE
DEVELOPMENT REVIEW COMMITTEE
June 2, 2021**

A meeting of the Louisville Metro Development Review Committee was held on Wednesday June 2, 2021 at 1:00 p.m. via Cisco Webex Video Teleconferencing.

Committee Members present were:

Rich Carlson, Chair
Jeff Brown
Patti Clare
Pat Seitz

Committee Members absent were:

Jim Mims, Vice Chair

Staff Members present were:

Joe Reverman, Assistant Director, Planning and Design Services
Brian Davis, Planning and Design Manager
Julia Williams, AICP, Planning Supervisor
Joel Dock, Planner II
Molly Clark, Planner I
Zach Schwager, Planner I
Travis Fiechter, Legal Counsel

Other:

Tony Kelly, MSD

The following matters were considered:

DEVELOPMENT REVIEW COMMITTEE
June 2, 2021

APPROVAL OF MINUTES

MAY 19, 2021 DRC MEETING MINUTES

No minutes were available. No vote.

DEVELOPMENT REVIEW COMMITTEE

June 2, 2021

OLD BUSINESS

CASE NO. 20-MPLAT-0188

Request: Record Plat Amendment
Project Name: 1402 Hines Road
Location: 1402 Hines Road
Owner: Robin Wesley and Lillian Wesley
Applicant: Robin Wesley and Lillian Wesley
Representative: Garber Chilton Engineers and Surveyors
Jurisdiction: Louisville Metro
Council District: 19-Anthony Piagentini
Case Manager: Julia Williams, 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 DRC meeting. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

00:04:24 Julia Williams discussed the case summary, standard of review and staff analysis from the staff report.

Julia Williams said the note states: Any construction on the newly created lot will require sidewalks to be built and the road to be widened to 18 ft. It doesn't clarify the extent. Commissioner Brown said they would be required to widen anything less than 18 ft. from their driveway or access to the road that is at least 18 ft. wide. Ms. Williams suggested adding (at the end of note), from the northern property line to Hiawatha. Commissioner Brown agreed.

The applicant is not available.

Deliberation

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.

Record Plat Amendment to create 2 lots from 1

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

DEVELOPMENT REVIEW COMMITTEE

June 2, 2021

OLD BUSINESS

CASE NO. 20-MPLAT-0188

RESOLVED, that the Louisville Metro Development Review Committee does hereby **APPROVE** the Record Plat Amendment to create 2 lots from 1 **ON CONDITION** that the note is added to the plat regarding the sidewalk requirement in road widening as conditions of building permits. The note is as follows: Any construction on the newly created lot will require sidewalks to be built and the road to be widened to 18 ft. from the northern property line to Hiawatha.

The vote was as follows:

YES: Commissioners Brown, Clare, Seitz and Carlson

NOT PRESENT AND NOT VOTING: Commissioner Mims

DEVELOPMENT REVIEW COMMITTEE

June 2, 2021

OLD BUSINESS

CASE NO. 20-CAT2-0035

Case No: 20-CAT2-0035
Project Name: CVS Pharmacy
Location: 7845 & 7847 Preston Hwy
Owner(s): The Nance Realty Group
Applicant: David Norris & John Rhodes, Foresite Group
Jurisdiction: Louisville Metro
Council District: 24 – Madonna Flood
Case Manager: Molly Clark, Planner I

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

Agency Testimony:

00:10:31 Molly Clark discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Kevin Young, Land Design and Development, 503 Washburn Avenue, Louisville, Ky. 40222

Richard Smart, CVS Health, 811 West Aldean Avenue, Unit 6, Chicago, Il. 60657

Summary of testimony of those in favor:

Kevin Young gave a power point presentation. Access points were revised and there's quite a bit of interior landscaping area being provided as well as a tree (adjacent to the façade). Additional glazing and 3 types of building materials have been added as well.

Richard Smart discussed the colorization of the masonry materials. There is a smooth and rough texture.

Chair Carlson asked if there's another design CVS uses if all 4 sides of the building are prominent. Mr. Smart said yes and suggests giving some kind of accent feature on a portion of the wall – will work on adding some windows. Commissioner Seitz suggests moving the windows and overhang to the center.

Deliberation

Development Review Committee deliberation.

**DEVELOPMENT REVIEW COMMITTEE
June 2, 2021**

OLD BUSINESS

CASE NO. 20-CAT2-0035

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.

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

RESOLVED, that the Louisville Metro Development Review Committee does hereby **CONTINUE** this case to the June 16, 2021 DRC meeting.

The vote was as follows:

YES: Commissioners Brown, Clare, Seitz and Carlson
NOT PRESENT AND NOT VOTING: Commissioner Mims

DEVELOPMENT REVIEW COMMITTEE

June 2, 2021

OLD BUSINESS

CASE NO. 21-DDP-0007

Project Name: Newburg Gas Station
Location: 3905 Newburg Road
Owner(s): Seven Star Group, LLC.
Applicant: Mike Hill, LD&D
Jurisdiction: Louisville
Metro Council District: 2 – Barbara Shanklin
Case Manager: Molly Clark, Planner I

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

Agency Testimony:

00:43:09 Molly Clark discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Mike Hill, Land Design and Development, 503 Washburn Avenue, Louisville, Ky. 40222

Summary of testimony of those in favor:

Mike Hill gave a power point presentation. There are some design challenges to this case regarding setbacks, visibility of accessory structure, required windows, facades facing the streets and LG&E transmission line that dissects the property. These issues have been addressed in the revised plan.

Deliberation

Development Review Committee deliberation. Commissioner Brown said the sidewalk needs to be 5 ft., not 4ft. Julia Williams suggested it be approved on condition that the applicant change the development plan showing the 5 ft. sidewalk and a binding element regarding the landscaping – Landscaping shall be provided at a minimum as shown on the concept plan presented at the June 2, 2021 DRC meeting.

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.

DEVELOPMENT REVIEW COMMITTEE

June 2, 2021

OLD BUSINESS

CASE NO. 21-DDP-0007

Waiver from 5.6.1.B.1 and 5.6.C.1 to allow the primary building to not provide 60% variation in detail and to not provide 50% clear windows and doors for two façades

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

WHEREAS, the requested waiver will not adversely affect adjacent property owners because there is an accessory structure that will mostly prevent views of that façade from the public street; and

WHEREAS, Guideline 1, policy 4 of Plan 2040 mentions that new development should be compatible with scale and site design of nearby existing development. The proposed gas station is offering multiple clear windows and doors to the other facades and the accessory structure will mostly prevent views of the façade facing public streets. According to guideline 20, policy 2.1, Plan 2040 states that proposed uses, density and design are compatible with adjacent use and meets Form District guidelines. The proposal for the primary structure meets all the building design guidelines except of one façade that has an accessory structure that will visibly prevent views of the façade. The primary façades of the building are meeting the requirements; 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 subject site is a “corner lot” and has multiple road frontages. The proposed gas station is offering multiple clear windows and doors to the other facades and the accessory structure will mostly prevent views of the façade facing public streets; and

WHEREAS, the Louisville Metro Development Review Committee further finds the drive-thru for the proposed gas station is not going to be an area where customers can look into and view the different types of goods and services that is offered. The customers will be staying in their vehicles in order to access the drive-thru. The area where cars get in line for the drive through will be passing a façade with multiple large clear windows that afford into the business and customers will be able to view what products are offered as they wait in line. The proposed accessory structure will mostly prevent views of the façade facing public streets.

Waiver from 5.5.5 to allow an accessory storage structure to be visible from the public street

DEVELOPMENT REVIEW COMMITTEE

June 2, 2021

OLD BUSINESS

CASE NO. 21-DDP-0007

WHEREAS, the accessory structure is located on the corner and is not adjacent to private property; and

WHEREAS, Plan 2040 Goal 1, Policy 20 suggests mitigation for adverse visual intrusions when there are impacts to residential areas, roadway corridors, and public spaces. The accessory structure is visible from the roadway corridor and is at the corner of the development site. The applicant has not provided mitigation for the accessory structure's location; and

WHEREAS, the Louisville Metro Development Review Committee finds the extent of the waiver is not the minimum necessary to afford relief to the applicant as the accessory structure can be located to the Northwest of the proposed primary structure or it could be incorporated into the structure; and

WHEREAS, the Louisville Metro Development Review Committee further finds the applicant has not incorporated other design measures and the strict application of the provisions does not deprive the applicant reasonable use of the land because the accessory structure could be located to the Northwest of the proposed primary structure or it could be incorporated into the structure.

RESOLVED, that the Louisville Metro Development Review Committee does hereby **APPROVE** the Waiver from 5.6.1.B.1 and 5.6.C.1 to allow the primary building to not provide 60% variation in detail and to not provide 50% clear windows and doors for two façades and a Waiver from 5.5.5 to allow an accessory storage structure to be visible from the public street.

The vote was as follows:

YES: Commissioners Clare, Seitz and Carlson

NOT PRESENT AND NOT VOTING: Commissioner Mims

ABSTAINING: Commissioner Brown

Revised Detailed District Development Plan with replacement of existing binding elements

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

DEVELOPMENT REVIEW COMMITTEE

June 2, 2021

OLD BUSINESS

CASE NO. 21-DDP-0007

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. Future multifamily development proposed on the subject site will be required to meet Land Development Code requirements; 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 find 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.

RESOLVED, that the Louisville Metro Development Review Committee does hereby **APPROVE** the Detailed District Development Plan **SUBJECT** to the following Binding Elements and Condition of Approval:

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.

2. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.

DEVELOPMENT REVIEW COMMITTEE

June 2, 2021

OLD BUSINESS

CASE NO. 21-DDP-0007

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 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. The proposed accessory storage structure will need to be shown as screened. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.

d. A minor plat or legal instrument shall be recorded consolidating the property into one lot and recording of the easement for the proposed sidewalk. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services prior to obtaining a building permit.

5. If a certificate of occupancy (building permit) is not issued within one (two) year(s) 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.

6. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system.

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

8. The landscaping shall be provided, at a minimum, as shown on the concept plan presented at the June 2, 2021 DRC meeting.

DEVELOPMENT REVIEW COMMITTEE
June 2, 2021

OLD BUSINESS

CASE NO. 21-DDP-0007

Condition of Approval

1. The applicant shall provide a 5-foot sidewalk within the public rights-of-way as required by the Land Development Code.

The vote was as follows:

YES: Commissioners Clare, Seitz and Carlson

NOT PRESENT AND NOT VOTING: Commissioner Mims

ABSTAINING: Commissioner Brown

DEVELOPMENT REVIEW COMMITTEE

June 2, 2021

NEW BUSINESS

CASE NO. 21-CAT2-0005

Request: A Category 2B Development Plan with associated Waivers
Project Name: Prime Construction Equipment Rental
Location: 130 Outer Loop
Owner: RAH Ventures, INC
Applicant: RAH Ventures, INC
Representative: Ashley Bartley, QK4
Jurisdiction: Louisville Metro
Council District: 13 – Mark Fox
Case Manager: Molly Clark, Planner I

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

Agency Testimony:

01:14:48 Molly Clark discussed the case summary, standard of review and staff analysis from the staff report. Chair Carlson is concerned about moving the gates forward and possibly having emergency vehicles partially in the road.

The following spoke in favor of this request:

Ashley Bartley, QK4, 1046 East Chestnut Street, Louisville, Ky. 40204

Summary of testimony of those in favor:

Ashley Bartley gave a power point presentation. The gate was removed.

Deliberation

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 5.5.2.B.1.a (21-WAIVER-0051) to not provide vehicular connection to abutting developments

DEVELOPMENT REVIEW COMMITTEE
June 2, 2021

NEW BUSINESS

CASE NO. 21-CAT2-0005

WHEREAS, the waiver will not adversely affect adjacent property owners since this is an existing development and they are not changing anything in the front portion of the property. The construction equipment rental facility is also a secured facility with proposed gates at the entrances/exits onto Outer Loop; and

WHEREAS, according to Guideline 20, Policy 2.2, Plan 2040 encourages development of nonresidential and mixed uses in designated activity centers provided that a proposed use that requires a special location in or near a specific land use, transportation facility or when a use does not fit well into a compact center. The applicant does not want to provide vehicular connection to abutting developments because it is a secured facility. This site is also next door to a mini-storage use that is also a secured facility. Not providing vehicular connection to abutting developments is consistent with surrounding developments; and

WHEREAS, the Louisville Metro Development Review Committee finds the extent of the waiver of the regulation is the minimum necessary to afford relief because the front half of the development is existing conditions and the applicant is not proposing any changes. This site is also a secured facility as well as the site to the west which is a mini storage facility; and

WHEREAS, the Louisville Metro Development Review Committee further finds the strict application of the provisions of the regulation would deprive the applicant reasonable use of the land because requiring vehicular connection to abutting developments would not allow the site to remain secure; and

Waiver from table 10.2.4 (21-WAIVER-0050) to not provide the required property perimeter LBA planting and screening

WHEREAS, the waiver will not adversely affect adjacent property owners since the entire rear of the property is being taken up by an existing transmission easement. The 50 FT setback and 50 FT LBA are both within this transmission easement; and

WHEREAS, Guideline 78, Policy 1, Plan 2040 states that development should be located in area served by existing utilities. This area of Outer Loop already has multiple utilities in place including the rear transmission easement. With this big easement place servicing the community, the applicant cannot move this easement. The applicant has to work with this site constraint while expanding their existing construction rental business; and

DEVELOPMENT REVIEW COMMITTEE

June 2, 2021

NEW BUSINESS

CASE NO. 21-CAT2-0005

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 has limitations on the site due to the large transmission easement; and

WHEREAS, the Louisville Metro Development Review Committee further finds the easement deprives the applicant from reasonable use of the land since the easement covers the entire rear LBA. The applicant is unable to provide the required plantings and screening due to the existing transmission easement.

Waiver from table 10.2.6 (21-WAIVER-0050) to reduce the required VUA/LBA from 15 FT to 10 FT.

WHEREAS, the waiver will not adversely affect adjacent property owners since the current 10 FT buffer already exists and the applicant is not altering the front portion of the development; and

WHEREAS, Plan 2040 calls for protection of residential areas, roadway corridors and public spaces from visual intrusions and mitigation when appropriate, 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, that parking, loading and delivery areas located adjacent to residential areas should be designed to minimize noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered and ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. 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. The applicant has indicated that all buffer and screening requirements will be met that is required by Chapter 10 of the Land Development Code; 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 parking lot and current 10 FT VUA/LBA is already existing. The applicant is also able to provide all the required plantings and screening; and

DEVELOPMENT REVIEW COMMITTEE
June 2, 2021

NEW BUSINESS

CASE NO. 21-CAT2-0005

WHEREAS, the Louisville Metro Development Review Committee further finds the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land since the front portion of the property is all existing. The applicant would have to tear up the existing parking lot to provide the 15 FT VUA/LBA. The applicant is also providing all the required planting and screening in the existing VUA.

On a motion by Commissioner Brown, seconded by Commissioner Seitz, 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 following waivers: Waiver from section 5.5.2.B.1.a (21-WAIVER-0051) to not provide vehicular connection to abutting developments; Waiver from table 10.2.4 (21-WAIVER-0050) to not provide the required property perimeter LBA planting and screening; and a Waiver from table 10.2.6 (21-WAIVER-0050) to reduce the required VUA/LBA from 15 feet to 10 feet.

The vote was as follows:

YES: Commissioners Brown, Clare, Seitz and Carlson
NOT PRESENT AND NOT VOTING: Commissioner Mims

DEVELOPMENT REVIEW COMMITTEE
June 2, 2021

NEW BUSINESS

CASE NO. 21-AMEND-0005

Request: Amendment to Binding Elements
Project Name: Elite Drive Office
Location: 1800 Elite Drive
Owner: HJI Solutions
Applicant: Mike Hill, LD&D
Representative: Mike Hill, LD&D
Jurisdiction: Louisville Metro
Council District: 19 – Anthony Piagentini
Case Manager: Molly Clark, Planner I

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

Agency Testimony:

01:40:04 Molly Clark discussed the case summary, standard of review and staff analysis from the staff report.

Travis Fiechter said the last sentence of the binding element can read: unless approved by the Planning Commission or sub-committee.

Tony Kelly asked, "Couldn't this be a property service connection across the woodland area? It wouldn't necessarily be a LE that would need to be placed in an easement. Mike Hill said the existing sewers that they were going to connect to have some challenges (see video for detailed presentation).

The following spoke in favor of this request:

Mike Hill, Land Design and Development, 503 Washburn Avenue, Louisville, Ky. 40222
Derrick Wensler, Land Design and Development, 503 Washburn Avenue, Louisville, Ky. 40222

Summary of testimony of those in favor:

Mike Hill gave a power point presentation. Derrick Wensler will explain the changes about only needing a property service connection to pump to our building.

Derrick Wensler explained (see video for detailed presentation). Tony Kelly said the 10-foot private easement will be the best situation for everyone (see video for detailed presentation).

DEVELOPMENT REVIEW COMMITTEE

June 2, 2021

NEW BUSINESS

CASE NO. 21-AMEND-0005

Molly Clark said the width can be changed for the proposed binding element. Also, binding element 12g mentions, any modifications of the woodland protection area requires notifying adjoining property owners. Tony Kelly said the binding element will need to reflect that there will be a private easement (not public) (see video for detailed presentation).

Deliberation

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.

Amendment to Binding elements

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, 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 have approved the preliminary development plan. The amendment to binding elements in regards to the woodland protection area will not have any effect on vehicular and pedestrian transportation within or around the proposed development; and

WHEREAS, there are no open space requirements pertinent to the current proposal. Future multifamily development proposed on the subject site will be required to meet Land Development Code requirements; 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

DEVELOPMENT REVIEW COMMITTEE
June 2, 2021

NEW BUSINESS

CASE NO. 21-AMEND-0005

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.

RESOLVED, that the Louisville Metro Development Review Committee does hereby **APPROVE** the Amendment to Binding elements.

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.

2. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.

3. Construction fencing shall be erected when off-site tree canopy exists within 3' of the 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 or site disturbance permit requested):

- a. The development plan must receive full construction approval from Louisville Metro Public Works and the Metropolitan Sewer District.
- b. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
- c. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.

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

DEVELOPMENT REVIEW COMMITTEE

June 2, 2021

NEW BUSINESS

CASE NO. 21-AMEND-0005

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 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. The site shall be developed in accordance with the woodland protection areas delineated on the site plan, tree preservation plan and related notes. Any modification of the woodland protection area requires notification of adjoining property owners and LD&T action.

8. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the November 10, 2010 Development Review Committee meeting and May 19th, 2021 Development Review Committee Meeting.

9. No idling of trucks shall take place within 200 feet of the single-family residents. No overnight idling of trucks shall be permitted on-site.

10. At the time a building permit is requested, the applicant shall submit a certification statement to the permit issuing agency, from an engineer, or other qualified professional stating that the lighting of the proposed development is in compliance with Chapter 4 part 1.3 of the Land Development Code and shall be maintained thereafter. No building permits shall be issued unless such certification statement is submitted. Lighting shall be maintained on the property in accordance with Chapter 4, Part 1.3 of the Land Development Code.

11. Documentation was provided from the utility authority granting permission to plant small trees and shrubs within the easements, however, the applicant is restricted from planting large hardwood trees, changing the grades, or erecting permanent structures within the easements.

12. All plans setting out Tree Preservation Areas (TPAs), Tree Canopy Protection Areas (TCPAs) and/or Woodland Protection Areas (WPAs) must contain the following notes:

a. Tree Canopy Protection Areas (TCPA's) identified on this plan represent individual trees and/or portions of the site designed to meet the Tree Canopy requirements of

DEVELOPMENT REVIEW COMMITTEE

June 2, 2021

NEW BUSINESS

CASE NO. 21-AMEND-0005

Chapter 10 Part 1 of the Land Development Code and are to be permanently protected. All clearing, grading and fill activity in these areas must be in keeping with restrictions established at the time of plan approval. As trees within TCPAs are lost through natural causes, new trees shall be planted in order to maintain minimum tree canopy as specified on the approved development or preliminary subdivision plan.

b. Woodland Protection Areas (WPAs) identified on this plan represent portions of the site on which all existing vegetation shall be permanently preserved. All clearing, grading and fill activity in these areas must be in keeping with restrictions established at the time of plan approval. No further clearing, grading, construction or other land disturbing activity shall take place beyond pruning to improve the general health of the tree or to remove dead or declining trees that may pose a public health and safety threat. No further sewer and drainage easements shall be established unless approved by the Planning Commission or sub-committee.

c. Dimension lines have been used on this plan to establish the general location of TPA's, TCPAs, and WPAs and represent minimum distances. The final boundary for each TPA, TCPA, and/or WPA shall be established in the field by the applicant, developer, or property owner to include canopy area of all trees at or within the dimension line.

d. Tree protection fencing shall be erected around all TPAs, TCPA and/or WPAs prior to site disturbance to protect the existing tree stands and their root systems. The encin shall be located at least 3 feet beyond the edge of the tree canopy and shall remain in place until all construction is completed. When trees must be removed in a TPA, the fence shall be relocated to protect all remining trees within that TPA. When a tree mass contains both TCPAs and TPAs, fencing shall only be required at the outer most perimeter of that tree mass.

e. No parking, material storage, or construction activities are permitted within the TPAs, TCPAs or WPAs beyond that allowed for preliminary site investigation work.

f. Clearing necessary to provide access for survey work, rock soundings o other usual and customary site investigations shall be permitted prior to Site Disturbance Approval. Preliminary site investigations shall be carefully planned to minimize the amount of clearing required. Clearing should follow proposed roadway centerlines and should not result in a clear access way of more than twenty (20) feet in width. Cleared access ways beyond proposed roadways to assess individual lots shall not exceed twelve (12) feet in width or encroach into any proposed open space lots. No trees exceeding eight (8) inches in diameter measured at breast height (DBH) shall be removed without prior approval by DPDS.

g. The site shall be developed in accordance with the Woodland Protection Areas (WPAs) delineated on the site plan and related notes. Any modification of the Woodland Protection Areas requires notification of adjoining property owners and LD&T action.

h. The applicant shall provide deeds of restriction ensuring that WPAs will be permanently protected in a manner consistent with the binding elements/conditions of

DEVELOPMENT REVIEW COMMITTEE
June 2, 2021

NEW BUSINESS

CASE NO. 21-AMEND-0005

approval and/or the approved development plan. The form of such restrictions shall be approved by Planning Commission counsel.

The vote was as follows:

YES: Commissioners Brown, Clare, Seitz and Carlson
NOT PRESENT AND NOT VOTING: Commissioner Mims

DEVELOPMENT REVIEW COMMITTEE
June 2, 2021

NEW BUSINESS

CASE NO. 21-PARKWAIVER-0001

Request: A Category 2A Development Plan with a Parking Waiver and Landscape Waivers
Project Name: Taco Bell
Location: 5414 Bardstown Road
Owner: Trinity Acquisitions, LLC
Applicant: Trinity Acquisitions, LLC
Representative: Derek Triplett, LD&D
Jurisdiction: Louisville Metro
Council District: 22 – Robin Engel
Case Manager: Molly Clark, Planner I

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

Agency Testimony:

02:09:01 Molly Clark discussed the case summary, standard of review and staff analysis from the staff report. Commissioner Seitz asked how many parking spaces were proposed previously. Commissioner Clare said it appears the existing lot is 33+ parking spaces today. Molly Clark said it's a 48% decrease in impervious area with this proposed plan.

The following spoke in favor of this request:

Mike Hill, Land Design and Development, 503 Washburn Avenue, Louisville, Ky. 40222

Summary of testimony of those in favor:

Mike Hill gave a power point presentation. There are currently 36 parking spaces to be reduced to 22.

Mike Hill explained the 3 waivers (see video for detailed presentation).

Deliberation

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.

DEVELOPMENT REVIEW COMMITTEE

June 2, 2021

NEW BUSINESS

CASE NO. 21-PARKWAIVER-0001

1. A Waiver from section 5.5.2.B.1.a of the Land Development Code to not provide vehicular access to an adjacent commercial property (21-WAIVER-0025)

On a motion by Commissioner Brown, seconded by Commissioner Seitz, 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 applicant proposing minimal disturbance to the existing grading on this portion of the site. The grading creates a challenge to connect to the non-residential development to the East; and

WHEREAS, according to Policy 40, Guideline 9, Plan 2040 encourages that development that respects natural features of the site through sensitive site design, avoids substantial changes to the topography, and minimize property damage and environmental degradation resulting from disturbance of natural systems. The applicant is working around 1 ft to 5 ½ feet difference in grading. The non-residential site to the East has grading issues that make connection difficult; 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 site has challenging grading issues; and

WHEREAS, the Louisville Metro Development Review Committee further finds the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land because the site has constraints due to issues in grading that make connection difficult.

RESOLVED, that the Louisville Metro Development Review Committee does hereby **APPROVE** the Waiver from section 5.5.2.B.1.a of the Land Development Code to not provide vehicular access to an adjacent commercial property (21-WAIVER-0025).

The vote was as follows:

YES: Commissioners Brown, Clare, Seitz and Carlson

NOT PRESENT AND NOT VOTING: Commissioner Mims

DEVELOPMENT REVIEW COMMITTEE

June 2, 2021

NEW BUSINESS

CASE NO. 21-PARKWAIVER-0001

2. A Waiver from section 10.2.10 of the Land Development Code to allow a proposed sidewalk to encroach into the required 10-foot vehicular use area landscape buffer 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.

WHEREAS, the waiver will not adversely affect adjacent property owners since the applicant is providing all the required plantings. The VUA will still be properly screened; and

WHEREAS, Plan 2040 calls for protection of residential areas, roadway corridors and public spaces from visual intrusions and mitigation when appropriate, 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, that parking, loading and delivery areas located adjacent to residential areas should be designed to minimize noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered and ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. 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. The applicant has indicated that all buffer and screening requirements will be met that is required by Chapter 10 of the Land Development Code; 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 is redeveloping a site and decreasing the number of parking spaces. The applicant will also be providing all the required plantings and screening within the remaining landscape buffers; and

WHEREAS, the Louisville Metro Development Review Committee further finds the strict application of the provisions of the regulation would deprive the applicant of reasonable use of the land. The applicant is providing all the required plantings and screening in the remaining landscape buffers on the site.

DEVELOPMENT REVIEW COMMITTEE

June 2, 2021

NEW BUSINESS

CASE NO. 21-PARKWAIVER-0001

RESOLVED, that the Louisville Metro Development Review Committee does hereby **APPROVE** the Waiver from section 10.2.10 of the Land Development Code to allow a proposed sidewalk to encroach into the required 10-foot vehicular use area landscape buffer area **ON CONDITION** that the applicant work with Transportation on alignment for a safe ADA compliant connection between the public sidewalk and the building entrance.

The vote was as follows:

YES: Commissioners Brown, Clare, Seitz and Carlson

NOT PRESENT AND NOT VOTING: Commissioner Mims

3. A Parking Waiver from table 9.1.3B of the Land Development Code to allow proposed parking lot to exceed the maximum parking spaces from 9 spaces to 22 spaces (13 space increase)

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

WHEREAS, the parking waiver is in compliance with the Comprehensive plan since the current minimum and maximums that were recently changed have shown to not be consistent with what is actually needed for fast food restaurants. By providing 22 spaces, the applicant is providing enough spaces for employees and customers as well as making significant improvements to the site by decreasing impervious area and providing all the landscaping plantings and screening required; and

WHEREAS, the applicant conducted a parking study using existing fast food restaurants that were located on arterial or collector level roads. The need for parking matches what the parking study showed as the maximum number of parking spaces used during peak hours; and

WHEREAS, the Louisville Metro Development Review Committee finds the requirements found in Table 9.1.3B do not allow for the provision of parking needed to accommodate the parking spaces needs of the proposed use. A parking study was performed for similar facilities that demonstrated a higher parking need than allowed by the Land Development Code; and

WHEREAS, the Louisville Metro Development Review Committee further finds the requested increase is the minimum needed to do so because the parking study done on other fast food restaurants on arterial or collector level roads shows that at least 19

DEVELOPMENT REVIEW COMMITTEE

June 2, 2021

NEW BUSINESS

CASE NO. 21-PARKWAIVER-0001

spaces were used during peak hours during lunch. The applicant is proposing 22 spaces. The other restaurants in the study have 21-23 total spaces.

RESOLVED, that the Louisville Metro Development Review Committee does hereby **APPROVE** the Parking Waiver from table 9.1.3B of the Land Development Code to allow the proposed parking lot to exceed the maximum parking spaces from 9 spaces to 22 spaces (13 space increase).

The vote was as follows:

YES: Commissioners Brown, Clare, Seitz and Carlson

NOT PRESENT AND NOT VOTING: Commissioner Mims

DEVELOPMENT REVIEW COMMITTEE

June 2, 2021

NEW BUSINESS

CASE NO. 21-DDP-0026

Request: Revised Detailed District Development Plan to allow the construction of an inpatient rehabilitation hospital
Project Name: Kindred Louisville Rehabilitation Hospital
Location: 5000 Chamberlain Lane
Owner: KND Real Estate 33, LLC
Applicant: KND Real Estate 33, LLC.
Representative: Tanner Nichols, Frost Brown Todd, LLC
Jurisdiction: Louisville Metro
Council District: 16 – Scott Reed
Case Manager: Jon E. Crumbie, Planning and Design Coordinator
Presented By: Zach Schwager

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:

02:35:37 Zach Schwager discussed the case summary, standard of review and staff analysis from the staff report.

Zach Schwager stated Chris French received an email today regarding signage. He read it into the record (see video for detailed presentation). Tanner Nichols agrees to the request and said language can be added to binding element number 16.

Chair Carlson asked if binding element 11 and 14 need to be combined. Mr. Reverman suggests striking through binding element number 11. Tanner Nichols requests striking through binding element 3 as well. Mr. Reverman agrees.

The following spoke in favor of this request:

Tanner Nichols, 400 West Market Street, Louisville, Ky. 40202
Barbara Kelly, (Inaudible) Mint Spring Branch Road, Prospect, Ky. 40059
Adam Crunk, Crunk Engineering, 7112 Crossroads Boulevard, Brentwood, Tn. 37027
Alice Gunniston, 7849 Wolf Pen Branch Road, Prospect, Ky. 40059

Summary of testimony of those in favor:

Tanner Nichols gave a power point presentation explaining the differences between the prior approved plan and the current plan (see video for detailed presentation). Commissioner Brown discussed the sidewalks and proposed retaining wall along Chamberlain. None of the standard notes are on the plan.

DEVELOPMENT REVIEW COMMITTEE

June 2, 2021

NEW BUSINESS

CASE NO. 21-DDP-0026

Barbara Kelly said she is happy this project has been scaled down. What does binding element 11 (being stricken) refer to? Mr. Reverman explained.

Barbara Kelly is concerned about the sidewalks and how to save the trees. Maybe there can be additional trees at the top of the hill and understory. Mr. Nichols said there will be trees at the top of the embankment on the applicant's property.

Commissioner Brown asked if there will be a connection to the walking trail. Mr. Nichols said no. Adam Crunk said no there's no sidewalk on the current plan. There is a possibility to create one, but it will be tricky with the narrow driveway.

Alice Gunniston said she agrees with Barbara Kelly. She requests some bushes as well as trees.

Deliberation

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.

Revised Detailed District Development Plan

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, there are no significant natural or historic resources on the subject site; and

WHEREAS, provisions for safe and efficient vehicular and pedestrian transportation have been provided around and within the proposed development. Transportation Planning has approved the preliminary development plan; and

WHEREAS, there are no open space requirements applicable to this proposal; and

WHEREAS, the Metropolitan Sewer District has approved the preliminary development plan and will ensure the provisions of adequate drainage facilities on the subject site in

DEVELOPMENT REVIEW COMMITTEE

June 2, 2021

NEW BUSINESS

CASE NO. 21-DDP-0026

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. The required screening and buffering will be provided around the subject site; and

WHEREAS, the Louisville Metro Development Review Committee further finds the proposed development plan conforms to applicable guidelines and policies of the Comprehensive Plan and the Land Development Code.

RESOLVED, that the Louisville Metro Development Review Committee does hereby **APPROVE** the Revised Detailed District Development Plan **SUBJECT** to the following Binding Elements and **ON CONDITION** that the applicant provide an ADA compliant connection to the Old Brownsboro Crossing multi-use trail that abuts the site and add a note to the development plan that a licensed agreement would be required for any retaining wall structures within the public right-of-way:

1. Sidewalks shall be placed as determined by Metro Public Works. Sidewalk shall use Old Louisville Mix along Chamberlain Lane.
2. 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.
- ~~3. Signs shall be in accordance with Chapter 8.~~
4. No outdoor advertising signs, small freestanding signs, pennants, balloons or banners shall be permitted on the site.
5. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.

DEVELOPMENT REVIEW COMMITTEE

June 2, 2021

NEW BUSINESS

CASE NO. 21-DDP-0026

6. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit is requested: d. 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. e. 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. f. An access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be created granting the adjoining property owners to the south and recorded by the developer of this property. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.

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.

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. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the June 2, 2021 Development Review Committee meeting.

~~11. 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~~

DEVELOPMENT REVIEW COMMITTEE

June 2, 2021

NEW BUSINESS

CASE NO. 21-DDP-0026

~~compliance with Chapter 4 Part 1.3 of the Land Development Code and shall be maintained thereafter. No building permits shall be issued unless such certification statement is submitted. Lighting shall be maintained on the property in accordance with Chapter 4 Part 1.3 of the Land Development Code.~~

12.To the extent required by Metro Transportation Planning and Public Works, Developer shall re-stripe Chamberlain Lane to provide left-turn lanes at entrance and bike lanes per Louisville Metro Public Works and Assets requirements, standards and approved schematics. Pressure-washing shall be used to remove the existing stripes. If existing striping cannot be adequately removed by pressure-washing, pavement area of restriping is to be overlaid. Construction plans, bond and encroachment permit are required prior to Metro Public Works construction approval.

13.A Crossover Access Easement for secondary vehicular access will be granted by the owner of the subject property prior to construction plan approval, provided primary access is provided to the north property from Chamberlain Lane. Norton will construct the vehicular and sidewalk connections as shown on its approved detailed development plan and the adjacent property owner to the north will construct the remainder of the vehicular and sidewalk connections at such time as the property to the north is developed.

14.LIGHTING for the subject property, as shown on the development approved by the Development Review Committee on June 2, 2021, shall assure that parking lot lighting shall be "Dark Sky" compliant. Light poles/stanchions shall not exceed 27 feet in total height. The lamps shall be fully shielded with a 90-degree cut-off. All lighting shall otherwise comply with the Land Development Code.

15.LANDSCAPING the subject property, as shown on the development approved by the Development Review Committee on June 2, 2021, shall assure that native plant materials shall be utilized to replace vegetation removed, if any, along Chamberlain Lane in connection with the installation of sidewalks, parking and the entrance to the site. Wolf Pen Preservation Association shall be consulted to prepare the final landscape plan.

16.SIGNAGE for the subject property, as shown on the development approved by the Development Review Committee on June 2, 2021, shall be limited, in terms of freestanding signage, to a monument style sign 6' high by 60 sq. ft. in area at the Chamberlain Lane entrance which shall be externally illuminated, directed down and away from the residences across Chamberlain Lane. There will be no illuminated signage on the north façade.

DEVELOPMENT REVIEW COMMITTEE

June 2, 2021

NEW BUSINESS

CASE NO. 21-DDP-0026

17. Developer of the subject property, as shown on the development plan approved by the Development Review Committee on June 2, 2021, shall make such road improvements to Chamberlain, if any, as required by Metro Transportation Planning and Public Works requirements. Any required integral sidewalks along Chamberlain Lane shall use the Old Louisville Mix. To the extent required above, Developer shall be responsible for any required utility relocations, final surface overlay, signage and striping associated with required road improvements to Chamberlain Lane. Construction plans, bond and permit are required prior to construction approval by Metro Public Works. Developer shall not request a certificate of occupancy until road improvements are complete.

The vote was as follows:

YES: Commissioners Brown, Clare, Seitz and Carlson

NOT PRESENT AND NOT VOTING: Commissioner Mims

DEVELOPMENT REVIEW COMMITTEE

June 2, 2021

NEW BUSINESS

CASE NO. 21-CFR-0008

Request: Community Facility Review for a new 79,184 sq. ft. elementary Jefferson County Public School
Project Name: JCPS West Broadway Elementary School
Location: 755 Dixie Highway
Owner: Jefferson County School District
Applicant: Matt Gullo – Lockett & Farley
Representative: Matt Gullo – Lockett & Farley
Jurisdiction: Louisville Metro
Council District: 4 – Jecorey Arthur
Case Manager: Zach Schwager, Planner I

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

Agency Testimony:

03:12:23 Zach Schwager discussed the case summary, standard of review and staff analysis from the staff report. Commissioner Brown asked if staff has any recommendations for mitigation if the waiver and variance were applicable. Mr. Schwager said yes, they would be justified because of the grade change and shape of the lot.

The following spoke in favor of this request:

Curtis Petty, Lockett and Farley, 273 York Street, Louisville, Ky. 40202
Susan Biasioli, Director of Facility Planning JCPS, 3001 Crittenden Drive, Louisville, Ky. 40209

Summary of testimony of those in favor:

Curtis Petty gave an overview of the proposal. The elementary school connects with the YMCA.

Mr. Petty discussed some of the building and site features (see video for detailed presentation).

Susan Biasioli said she's here to answer questions.

Deliberation

DEVELOPMENT REVIEW COMMITTEE

June 2, 2021

NEW BUSINESS

CASE NO. 21-CFR-0008

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.

Community Facility Review for a new 79,184 sq. ft. Jefferson County Public School

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 Community Facility Review for a new 79,184 sq. ft. Jefferson County Public School as it conforms to the Comprehensive Plan and no changes or mitigation is necessary by the sub-committee of the Planning Commission.

The vote was as follows:

YES: Commissioners Brown, Clare, Seitz and Carlson

NOT PRESENT AND NOT VOTING: Commissioner Mims

DEVELOPMENT REVIEW COMMITTEE
June 2, 2021

NEW BUSINESS

CASE NO. 20-DDP-0043

Request:	Revised Detailed District Development Plan with revisions to binding elements
Project Name:	Assumption Greek Orthodox Church
Location:	930 Ormsby Ln
Owner:	Assumption Greek Orthodox Church
Applicant:	Assumption Greek Orthodox Church
Representative:	Jacobi, Toombs and Lanz
Jurisdiction:	Lyndon
Council District:	18 – Marilyn Parker
Case Manager:	Jay Lockett, AICP, Planner I
Presented By:	Julia Williams, 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 DRC meeting. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

04:13:06 Julia Williams discussed the case summary, standard of review and staff analysis from the staff report. Acting Chair Brown asked if there was a waiver for the LED sign (300 ft. of residents) as well as providing additional buffering. Does that impact this proposal? Ms. Williams said no.

The following spoke in favor of this request:

Nicole Koeninger, Jacobi, Tooms and Lanz, 2307 River Road, Suite 203, Louisville, Ky. 40206

Summary of testimony of those in favor:

Nicole Koeninger stated she has no presentation but is here to answer questions. The existing building is being removed, putting another in its place and in the future, potentially expand on the existing church.

Deliberation

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.

DEVELOPMENT REVIEW COMMITTEE

June 2, 2021

NEW BUSINESS

CASE NO. 20-DDP-0043

Revised Detailed District Development Plan with replacement of existing binding elements

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

WHEREAS, there do not appear to be any environmental constraints or historic resources 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 KYTC 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 except where variances have been requested; 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.

RESOLVED, that the Louisville Metro Development Review Committee does hereby **RECOMMEND** to the City of Lyndon, **APPROVAL** of 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

DEVELOPMENT REVIEW COMMITTEE

June 2, 2021

NEW BUSINESS

CASE NO. 20-DDP-0043

Planning Commission or the Planning Commission's designee and to the City of Lyndon for review and approval; any changes/additions/alterations not so referred shall not be valid.

2. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested:

a. The development plan must receive full construction approval from Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.

b. The appropriate variances shall be obtained from the Board of Zoning Adjustment to allow the development as shown on the approved district development plan.

c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.

d. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.

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. 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 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.

DEVELOPMENT REVIEW COMMITTEE
June 2, 2021

NEW BUSINESS

CASE NO. 20-DDP-0043

The vote was as follows:

YES: Commissioners Clare, Seitz and Brown

NOT PRESENT AND NOT VOTING: Commissioners Mims and Carlson

DEVELOPMENT REVIEW COMMITTEE

June 2, 2021

NEW BUSINESS

CASE NO. 21-DDP-0043

This case was taken out of order

Request: Revised Detailed District Development Plan & Amendment to Binding Elements
Project Name: 11701 Gateworth Way
Location: 11701 Gateworth Way
Owner: Bennett Realty, LLC
Applicant: Drake Real Estate Services – Jon Hauser
Representative: LD&D
Jurisdiction: City of Middletown
Council District: 20 – Stuart Benson
Case Manager: Joel Dock, 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:

03:26:23 Joel Dock discussed the case summary, standard of review and staff analysis from the staff report. Commissioner Seitz said the hours of operation 7 am to 10 pm seems late for a dealership. Chair Carlson said he is very concerned about lithium batteries (fire safety issues and sell of them). Mr. Dock said the use being described in binding element 2 is no different than the uses that are allowed to operate in similar functions. They don't usually store or manufacture them, just sell.

The following spoke in favor of this request:

Ann Richard, Land Design and Development, 503 Washburn Avenue, Louisville, Ky. 40222
Jon Hauser,

Summary of testimony of those in favor:

Ann Richard gave a power point presentation (see video for detailed presentation).

NOTE: Chair Carlson left

A motion by Commissioner Seitz, seconded by Commissioner Clare that Commissioner Brown be made Active Chair for the remainder of this meeting.

By general consensus the motion carried unanimously.

DEVELOPMENT REVIEW COMMITTEE
June 2, 2021

NEW BUSINESS

CASE NO. 21-DDP-0043

Jon Hauser said the hours of operation have been 7 am to 10 pm for 20 years. Batteries will not be stored or worked on in the facility. Batteries are ordered "as needed".

Regarding hours of operation, Commissioner Seitz stated, the applicant either needs to close earlier than 10 pm or the motorcycle needs to be taken out. Mr. Dock stated, the property is zoned C-2 and all C-2 uses are permitted, the committee may want to modify the hours of operation. Mr. Hauser does not agree. Mr. Dock suggests the following binding element: The hours of operation for an electric automobile dealership shall be any change in use of the property from an electric vehicle dealership shall have its hours of operation reviewed and approved by the Planning Commission or sub-committee thereof (amendment to binding element 18).

Deliberation

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.

Amendment to Binding Elements

On a motion by Commissioner Seitz, 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 **RECOMMEND** to the City of Middletown **APPROVAL** of the amendment to the binding elements as discussed.

The vote was as follows:

YES: Commissioners Clare, Seitz and Brown

NOT PRESENT AND NOT VOTING: Commissioners Mims and Carlson

Revised Detailed District Development Plan

DEVELOPMENT REVIEW COMMITTEE
June 2, 2021

NEW BUSINESS

CASE NO. 21-DDP-0043

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

WHEREAS, the conservation of natural resources on the property proposed for development, including: trees and other living vegetation, steep slopes, water courses, flood plains, soils, air quality, scenic views, and historic sites is provided as the development will provide all required landscape buffers, interior landscape areas, and tree planting. No adverse impacts to natural resources are apparent; and

WHEREAS, provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community will be provided. No improvements to the transportation network were required of the proposal; and

WHEREAS, open space was not required by the proposal and the minimum requirements for tree canopy will be met; and

WHEREAS, the Metropolitan Sewer District will ensure the provision of adequate drainage facilities on the subject site in order to prevent drainage problems from occurring on the subject site or within the community; 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 as a motorcycle dealership has been a tenant at this location for nearly 20 years, the site is served by a private roadway at the intersection of a major arterial roadway and Interstate-64, and the proposed use may decrease noise levels upon adjacent hotel guests; and

WHEREAS, the Louisville Metro Development Review Committee further finds the development plan and amendment to binding elements conform to applicable guidelines and policies of the Comprehensive Plan. The proposed amendments do not create conflict with permitted uses within the current zoning district.

RESOLVED, that the Louisville Metro Development Review Committee does hereby **RECOMMEND** to the City of Middletown **APPROVAL** of 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 and agreed upon binding elements unless amended pursuant to the Zoning District Regulations. Any changes, additions, or alterations of any binding element(s) shall be submitted to the Planning Commission and to the City of Middletown for review and approval; any changes/additions/alterations not so referred shall not be valid.

DEVELOPMENT REVIEW COMMITTEE
June 2, 2021

NEW BUSINESS

CASE NO. 21-DDP-0043

2. Use of the subject site shall be limited to car dealerships selling new and pre-owned automobiles and motorcycle dealerships and the maintenance and repair of new and pre-owned electric automobiles as permitted within the C-2 zoning district and the charging of electric automobiles, along with other uses permitted in the C-1 district including the retail sale and/or display of alternative energy products such as electric vehicle batteries or solar panels. There shall be no other use of the property unless prior approval is obtained from the Planning Commission and the City of Middletown. Notice of a request to amend this binding element shall be given in accordance with the Planning Commission's policies and procedures. The Planning Commission may require a public hearing on the request to amend this binding element.
3. The development shall not exceed 31,000 square feet of gross floor area for Lot one.
4. There shall be no direct vehicular access to Blankenbaker Parkway.
5. The only permitted freestanding signs shall be located as shown on the approved development plan/sign plan. No portion of the signs, including the leading edge of the sign frame, shall be closer than 5 feet to front property line. The sign adjacent to Blankenbaker Parkway shall not exceed 60 square feet in area per side and 23 feet in height. The sign adjacent to Gateworth Way shall not exceed 60 square feet in area per side and 6 feet in height. No sign shall have more than two sides. All such signs shall conform to City of Middletown ordinances.
6. No outdoor advertising signs (billboards), small free-standing signs (temporary), pennants, balloons, or banners shall be permitted on the site.
7. There shall be no outdoor storage on the site.
8. Outdoor lighting 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.
9. 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.
10. Before any permit (including but not limited to building, parking lot, change of use or alteration permit) is requested:

DEVELOPMENT REVIEW COMMITTEE
June 2, 2021

NEW BUSINESS

CASE NO. 21-DDP-0043

- a. The development plan must receive full construction approval from Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.
- b. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
- c. A minor plat or legal instrument shall be recorded consolidating the property into one lot. A copy of the recorded instrument shall be submitted to the Division of Planning and Development Services and to the City of Middletown; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.

11. If a building permit is not issued within 2-years 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 and the City of Middletown.

12. 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 r specifically waived by the Planning Commission and the City of Middletown.

13. There shall be no outdoor music (live, piped, amplified) or outdoor entertainment or outdoor audible beyond the property.

14. 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.

15. 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 commencement of any clearing, grading, or construction activities.

DEVELOPMENT REVIEW COMMITTEE
June 2, 2021

NEW BUSINESS

CASE NO. 21-DDP-0043

16. 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.

17. The dumpster shall not be emptied between the hours of 10 p.m. and 7 a.m. All areas containing commercial trash receptacles including dumpsters shall be individually enclosed and screened from public view.

18. Hours of operation for an electric automobile dealership shall be Monday through Sunday 7:00 AM to 10:00 PM. Any change in the use of the property from an electric automobile dealership shall require that the hours of operation be reviewed and approved by the Planning Commission or committee thereof.

19. All servicing of motorcycles and automobiles shall be done indoors. Noise shall be kept to a minimum and customers making excessive noise shall be advised of this binding element.

20. There shall be no road testing of motorcycles in residential areas.

21. The materials and design of proposed structure shall be substantially the same as depicted in the rendering as presented at the August 22, 2002 Planning Commission meeting.

22. The above binding elements may be amended as provided for in the Zoning District Regulations, upon approval of the City of Middletown.

The vote was as follows:

YES: Commissioners Clare, Seitz and Brown

NOT PRESENT AND NOT VOTING: Commissioners Mims and Carlson

DEVELOPMENT REVIEW COMMITTEE
June 2, 2021

ADJOURNMENT

The meeting adjourned at approximately 5:21 p.m.

DocuSigned by:

Chair

DocuSigned by:

Planning Director