

**MINUTES OF THE MEETING
OF THE
DEVELOPMENT REVIEW COMMITTEE
August 14, 2019**

A meeting of the Development Review Committee was held on, August 14, 2019 at 1:00 p.m. in the Old Jail Building, located at 514 W. Liberty Street, Louisville, Kentucky.

Committee Members present were:

David Tomes, Chair
Rich Carlson, Vice Chair
Jeff Brown – Left approximately 2:22 p.m.
Emma Smith

Staff Members present were:

Emily Liu, Planning and Design Director
Joe Reverman, Planning and Design Assistant Director
Brian Davis, Planning and Design Manager
Steve Hendrix, Planning and Design Coordinator
Dante St. Germain, Planner II
Lacey Gabbard, Planner I
Jay Lockett, Planner I
Molly Clark, Planning Technician
Paul Whitty, Legal Counsel
Beth Stuber, Transportation Supervisor
Pamela M. Brashear, Management Assistant

The following matters were considered:

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APPROVAL OF MINUTES

JULY 31, 2019 DRC MEETING MINUTES

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

RESOLVED, that the Development Review Committee does hereby **APPROVE** the minutes of its meeting conducted on July 31, 2019.

The vote was as follows:

YES: Commissioners Brown and Carlson

ABSTAINING: Commissioners Smith and Tomes

DEVELOPMENT REVIEW COMMITTEE
August 14, 2019

NEW BUSINESS

CASE NO. 19-WAIVER-0038

Project Name: A2Z Injury Sign
Location: 4123 Taylor Boulevard
Owner(s): Rayshunale Smith
Applicant: Bottom Sign Company
Jurisdiction: Louisville Metro
Council District: 21 – Nicole George
Case Manager: Brian Davis, AICP, Planning and Design Manager

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:

00:06:42 Mr. Davis discussed the case summary, standard of review and staff analysis from the staff report. Commissioner Carlson said the staff report has conflicting views of whether the plan meets the guidelines. Mr. Davis said it's not an existing sign so there's no hardship and not having a bigger sign does not affect the use. The applicant will explain why they need a larger sign.

The following spoke in favor of this request:

Rhonda Trimble, 4139 Hennings Way, New Albany, In. 47150

Summary of testimony of those in favor:

00:09:50 Ms. Trimble stated the sign looks more appropriate above the door. The building sits 60 ft. off Taylor Blvd. and the font needs to be larger for people to read. The area is a heavy commercial area so competition is high for the pole signs, which is no longer allowed. Commissioner Carlson asked, if the size of the font is the issue, why do you need an image changing sign? Ms. Trimble stated, as far as digital signs goes, this request is relatively small. Commissioner Brown asked if the digital panels come in specific sizes. Ms. Trimble explained that when one goes down in size, the quality of the picture decreases. Also, it automatically dims at night.

Deliberation

00:14:22 Development Review Committee deliberation.

DEVELOPMENT REVIEW COMMITTEE
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NEW BUSINESS

CASE NO. 19-WAIVER-0038

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 of Land Development Code Section 8.2.1.D.4.a to allow the changing image portion of sign to exceed 30 percent of the overall sign area

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

WHEREAS, the waiver will not adversely affect adjacent property owners since the proposed sign is located along an arterial level roadway in a commercially zoned corridor and will not be visible from nearby residentially zoned properties; and

WHEREAS, Community Form Goal 2, Policy 2.1 states that proposed uses, density and design are compatible with adjacent uses and meet Form District guidelines. The proposed sign is located on an existing commercial building located along an arterial level roadway in a commercially zoned corridor; 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 because they do not have the option to install a post-mounted sign or monument sign closer to the roadway; and

WHEREAS, the Louisville Metro Development Review Committee further finds the strict application of this requirement of the code would deprive the applicant use of the overall sign area and does not exceed what's allowed by the Land Development Code but they are increasing that portion that is the variable image.

RESOLVED, that the Louisville Metro Development Review Committee does hereby **APPROVE** the waiver of Land Development Code Section 8.2.1.D.4.a to allow the changing image portion of sign to exceed 30 percent of the overall sign area.

The vote was as follows:

YES: Commissioners Brown, Carlson, Smith and Tomes

DEVELOPMENT REVIEW COMMITTEE
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NEW BUSINESS

CASE NO. 19CELL1001

Project Name: Bardstown Road
Location: 3738 Bardstown Road
Owner: The First Alliance Church of the Christian and Missionary Alliance, Inc.
Applicant: Vertical Bridge Development, LLC,
T-Mobile
Representative: Briggs Law Office, PSC, Todd R. Briggs
Jurisdiction: Louisville Metro
Council District: 10 – Pat Mulvihill
Case Manager: Steve Hendrix, Planning and Design Coordinator

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:

00:16:24 Mr. Hendrix discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Todd Briggs, Briggs Law Office, 10200 Forest Green Boulevard, Louisville, Ky. 40223

Summary of testimony of those in favor:

00:20:31 Mr. Briggs gave some background information on the site. This site is the best choice for the tower. Mr. Whitty asked what other locations were looked at for the cell tower location. Mr. Briggs answered, they first looked at co-locating on other existing towers and an AT&T building across the street at 2-stories and it was not a sufficient height. Commissioner Carlson asked if the tower at Resthaven Cemetary would be suitable for their needs. Mr. Briggs said no, the coverage areas (shown in packet) were evaluated by T-Mobile and rejected. Commissioner Carlson asked why? Mr. Briggs stated because of the location, height or possibly the type of structure may not be suitable from a structural standpoint. Commissioner Carlson asked if the fire dept. was considered. Mr. Briggs said the Buechel Fire Dept. was outside the search area. The 5G indoor coverage works differently than the 3 or 4G. Commissioner Carlson asked if the requested height will be sufficient to accommodate the 4th carrier. Mr. Briggs said the infrastructure companies design the foundation and the tower to be extendable by 15 feet (if needed in the future). There's an opportunity to go higher if needed.

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NEW BUSINESS

CASE NO. 19CELL1001

The following spoke in opposition to this request:

Michael Marks, 2933 Bowman Avenue, Louisville, Ky. 40205

Summary of testimony of those in opposition:

00:27:09 Mr. Marks, attorney represents Transcend Credit Union, the neighboring lots. The main issue is the proposed tower being 30 ft. off the property line with no economic benefit. It will decrease the property value. The church will be receiving the economic benefit so why can't it be closer to the church? Who has T-Mobile pursued for alternate locations? There may be a better preferred location and the applicant should be required to provide a list.

Rebuttal

00:31:12 Mr. Briggs said the tower compound will have a 15 ft. landscape buffer along with the established vegetation. The search area center is the better location to provide better coverage and the area close to the church building is set for future expansion. Commissioner Brown asked what the radius is for the search area. Mr. Briggs said less than a ¼ mile. Commissioner Smith said she's not clear about the other options without losing search capabilities of the tower. Mr. Briggs said he's not sure how many ft. would satisfy the neighbor. The applicant wants to keep the tower away from Bardstown as well. Commissioner Carlson said it is a goal to use a highway right-of-way.

Deliberation

00:36:48 Commissioner Brown asked the applicant if they would voluntarily extend the 60 day time limit to explore other options to address concerns from the neighbors. Mr. Briggs said he wants some guidance of how far to move the tower.

00:44:17 Chair Tomes remarked, these types of cases are troubling when the party that benefits financially seems to locate it farthest away from their own property. It looks like there are other locations closer to the church that won't interfere with the soccer fields. Mr. Briggs agreed to extend the time limit to continue this case to the September 18, 2019 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.

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NEW BUSINESS

CASE NO. 19CELL1001

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

RESOLVED, that the Louisville Metro Development Review Committee does hereby **CONTINUE** this case to the September 18, 2019 DRC meeting to give the applicant an opportunity to consider alternate locations on the subject site.

The vote was as follows:

YES: Commissioners Brown, Carlson, Smith and Tomes

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NEW BUSINESS

CASE NO. 19-WAIVER-0032

Request: Waiver to allow a changing image panel to exceed 30% of the area of a sign in the Neighborhood form district
Project Name: Lyndon Christian Church Signage
Location: 8125 La Grange Road
Owner: Lyndon Christian Church
Applicant: Lyndon Christian Church
Representative: Jason Horn
Jurisdiction: Louisville Metro
Council District: 7 – Paula McCraney
Case Manager: Dante St. Germain, AICP, Planner II

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

Agency Testimony:

00:47:00 Ms. St. Germain discussed the case summary, standard of review and staff analysis from the staff report. Commissioner Brown said it looks like the sign will be overlapping or is in the right-of-way. Ms. St. Germain said it's on the private property (property line) and is allowed to be within the required setbacks for structures.

The following spoke in favor of this request:

Lester Lemaster, 1824 Berry Boulevard, Louisville, Ky. 40215
Jason Horn, 8606 Devonshire Drive, Louisville, Ky. 40258

Summary of testimony of those in favor:

00:49:00 Mr. Lemaster said he's here to answer questions. Commissioner Carlson asked if there are any signalized traffic intersections. Mr. Lemaster said no. Commissioner Brown asked if the sign will be on 24 hours/day. Mr. Lemaster said yes.

Deliberation

00:50:17 Development Review Committee deliberation.

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

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NEW BUSINESS

CASE NO. 19-WAIVER-0032

Waiver from Land Development Code section 8.2.1.D.4.a to allow a changing image panel to exceed 30% of the total area of a sign in the Neighborhood form district

On a motion by Commissioner Brown, seconded by Commissioner Carlson, 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 as the sign must comply with Land Development Code regulations for auto-dimming and rate of change; and

WHEREAS, the waiver will not violate specific guidelines of Plan 2040 as Plan 2040 as Community Form Goal 1, Policy 14 describes signs as encouraged to be compatible with the form district pattern and to contribute to the visual quality of their surroundings. Promote signs of a size and height adequate for effective communication and conducive to motor vehicle safety. Encourage signs that are integrated with or attached to structures wherever feasible; limit freestanding signs to monument style signs unless such design would unreasonably compromise sign effectiveness. Give careful attention to signs in historic districts, parkways, scenic corridors, design review districts and other areas of special concern. These guidelines are not violated because the proposed sign is similar to the previously existing sign with the exception of the changing image panel; 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 due to the size of the parcel and the classification of the abutting roadway; and

WHEREAS, the Louisville Metro Development Review Committee further finds the applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived because the proposed sign totals 40.56 square feet while a sign could be as much as 60 square feet in the Neighborhood form district along a collector-level road.

RESOLVED, that the Louisville Metro Development Review Committee does hereby **APPROVE** the waiver from Land Development Code section 8.2.1.D.4.a to allow a changing image panel to exceed 30% of the total area of a sign in the Neighborhood Form District.

The vote was as follows:

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NEW BUSINESS

CASE NO. 19-WAIVER-0032

YES: Commissioners Brown, Carlson, Smith and Tomes

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NEW BUSINESS

CASE NO. 19-WAIVER-0022 and 19-WAIVER-0023

Request: 19-WAIVER-0022 and 19-WAIVER-0023
Project Name: American Red Cross Parking Expansion
Location: 510 East Chestnut Street
Owner(s): American Red Cross
Applicant: Drew Hatcher, Luckett and Farley
Jurisdiction: Louisville Metro
Council District: 4 – Barbara Sexton Smith
Case Manager: Jay Luckett, AICP, 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:

00:51:45 Mr. Luckett discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Drew Hatcher, Luckett and Farley, 737 South 3rd Street, Louisville, Ky. 40223

Summary of testimony of those in favor:

00:54:16 Mr. Hatcher said he's here to answer questions.

The following spoke in opposition to this request:

LaTondra Sapp, P.O. Box 745, Fort Knox, Ky. 40201
Reverend James Robinson, Associate Minister of Green Street Baptist Church, 519 East Gray Street, Louisville, Ky. 40203

Summary of testimony of those in opposition:

00:54:56 Ms. Sapp, member of Green St. Baptist Church, said she rescinds her opposition. Mr. Hatcher has thoroughly explained the modifications to the property.

00:55:12 Rev. Robinson said he has a better understanding of the proposal (no longer in opposition) and if anything is different than what's presented, he understands there's 14 days to appeal.

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NEW BUSINESS

CASE NO. 19-WAIVER-0022 and 19-WAIVER-0023

Deliberation

00:55:55 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.

1. Waiver from 10.2.6 to allow the parking to encroach into the required 10 foot Landscape Buffer Area (LBA)

On a motion by Commissioner Carlson, seconded by Commissioner Smith, 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 a majority of the adjacent properties are existing parking lots as well as the applicant is improving the site by providing more than what is required for interior landscape areas with plantings within the whole parking lot (existing and proposed). The applicant is also proposing to provide street trees along S. Hancock Street and East chestnut Street; and

WHEREAS, this waiver will not violate specific guidelines of Plan 2040 as Plan 2040 Land Uses & Development Policy Goal 2 Economic Development policy 3 states that development should “Encourage design elements that address the urban heat island effect and energy efficiency, such as the planting and preservation of trees, cool roofs and green infrastructure, for new development. This development proposal is providing street trees around E Chestnut and S Hancock as well as trees in their interior landscape areas within the proposed and existing parking lot which is only providing more tree canopy for the area where trees are lacking; 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 all other required interior landscape areas and tree plantings will be provided and allowing the parking lot to be in the required 10 foot LBA cuts cost for the Red Cross who has limited funds as a non-profit organization; and

WHEREAS, the Louisville Metro Development Review Committee further finds the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant because bringing the entire site into compliance including the existing

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NEW BUSINESS

CASE NO. 19-WAIVER-0022 and 19-WAIVER-0023

parking lot is very costly for a non-profit organization such as the Red Cross. A large portion of the parking lot is existing and already located in the required 10 foot LBA.

RESOLVED, that the Louisville Metro Development Review Committee does hereby **APPROVE** the waiver from 10.2.6 to allow the parking to encroach into the required 10 foot Landscape Buffer Area (LBA).

The vote was as follows:

YES: Commissioners Brown, Carlson, Smith and Tomes

2. Waiver from table 10.2.7 to eliminate the required Vehicle Use Area (VUA) 3 foot perimeter screen

On a motion by Commissioner Carlson, seconded by Commissioner Smith, 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 a majority of the adjacent properties are existing parking lots as well as the applicant is improving the site by providing more than what is required for interior landscape areas with plantings within the whole parking lot (existing and proposed). The applicant is also proposing to provide street trees along S. Hancock Street and East Chestnut Street; and

WHEREAS, this waiver will not violate specific guidelines of Plan 2040 as Plan 2040 Land Use & Development goal 2 Mobility policy 7.4 states that development should "ensure that adequate measures will be taken to reduce glare, vibration, air pollution, odor, and visual intrusion." With the applicant providing street trees along multiple street frontages as well as plantings within the proposed and existing parking, the applicant will be making the site less visibly intrusive as well as helping with air pollution by still providing plantings in other ways other than through screening. Most of the parking lots in this area do not have plantings within or around their properties, what the applicant is providing is an improvement. This waiver will not violate specific guidelines of Plan 2040 as Plan 2040 Land Uses & Development Policy Goal 2 Economic Development policy 3 states that development should "Encourage design elements that address the urban heat island effect and energy efficiency, such as the planting and preservation of trees, cool roofs and green infrastructure, for new development. This development proposal is providing street trees around E Chestnut and S Hancock as well as trees in their interior landscape areas within the proposed and existing parking lot which is only providing more tree canopy for the area where trees are lacking; and

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CASE NO. 19-WAIVER-0022 and 19-WAIVER-0023

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 all other required interior landscape areas and tree plantings will be provided and allowing the parking lot to be in the required 10 foot LBA cuts cost for the Red Cross who has limited funds as a non-profit organization; and

WHEREAS, the Louisville Metro Development Review Committee further finds the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant because bringing the entire site into compliance including the existing parking lot is very costly for a non-profit organization such as the Red Cross. A large portion of the parking lot is existing and already located in the required 10 foot LBA.

RESOLVED, that the Louisville Metro Development Review Committee does hereby **APPROVE** the waiver from table 10.2.7 to eliminate the required Vehicle Use Area (VUA) 3 foot perimeter screen.

The vote was as follows:

YES: Commissioners Brown, Carlson, Smith and Tomes

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NEW BUSINESS

CASE NO. 19MINORPLAT1085

Project Name: Minor Subdivision Plat
Location: 1833 Magazine Street
Owner(s): Red Door Investments, LLC
Applicant: Charles Podgursky, C.R.P. Associates, Inc.
Jurisdiction: Louisville Metro
Council District: 4 – Barbara Sexton Smith
Case Manager: Jay Lockett, AICP 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:

00:59:41 Mr. Lockett discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Marcus, Clarksville, In.

Summary of testimony of those in favor:

01:02:00 Marcus stated the homes will be single family.

Deliberation

01:02:26 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.

Creation of 2 substandard lots through a minor subdivision plat in the Traditional Neighborhood Form District

On a motion by Commissioner Carlson, seconded by Commissioner Smith, the following resolution based on the plat being in order, proper notification of the minor subdivision plat was sent to affected parties in accordance with the Land Development

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NEW BUSINESS

CASE NO. 19MINORPLAT1085

Code section 7.1.91.B and the result in lots will be consistent with other lots in the area was adopted.

RESOLVED, that the Louisville Metro Development Review Committee does hereby **APPROVE** the creation of 2 substandard lots through a minor subdivision plat in the Traditional Neighborhood Form District.

The vote was as follows:

YES: Commissioners Brown, Carlson, Smith and Tomes

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NEW BUSINESS

CASE NO. 18DEVPLAN1076

Project Name: Springhurst Towne Center
Location: 4300 and 4400 Towne Center Drive
Owner(s): Springhurst, LLC.
Applicant: Springhurst, LLC.
Jurisdiction: Louisville Metro
Council District: 17 – Markus Winkler
Case Manager: Jay Lockett, AICP, 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:

01:04:03 Mr. Lockett discussed the case summary, standard of review and staff analysis from the staff report.

Commissioner Carlson stated the new restaurants will be taking up some parking spaces, will the applicant still meet the minimum parking requirement? Mr. Lockett said they will continue to be over the maximum.

Commissioner Brown said the plan shows a 4 ft. sidewalk along Springhurst, which is a primary collector. Doesn't it require a 5 ft. sidewalk? Mr. Lockett said yes, it will need to be corrected.

The following spoke in favor of this request:

Todd Lanning, Milestone Design Group, 1608 Russell Avenue, Louisville, Ky. 40213

Summary of testimony of those in favor:

01:10:10 Mr. Lanning stated he's here to answer questions. We matched the existing sidewalk at 4 ft. but if the code says 5 ft., it will be provided.

Deliberation

01:12:41 Development Review Committee deliberation.

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NEW BUSINESS

CASE NO. 18DEVPLAN1076

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 with removal of existing binding elements and adoption of proposed binding elements

On a motion by Commissioner Carlson, seconded by Commissioner Smith, 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 and the Kentucky Transportation Cabinet have approved the preliminary development plan; and

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

WHEREAS, the Metropolitan Sewer District will approve 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. The applicant will need to revise the site plan to satisfy MSD requirements prior to final approval; and

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

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

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NEW BUSINESS

CASE NO. 18DEVPLAN1076

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

Binding Elements (applicable to the area of this plan only. Other portions of the Springhurst Towne Center Development have binding elements per approved development plans.)

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
3. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
4. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit is requested:
 - a. The development plan must receive full construction approval from Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. A minor subdivision plat shall be recorded for each lot or group of lots, creating the lot lines and necessary easements as shown on the Development Plan or required as a condition of approval. A copy of the recorded instrument shall be submitted to the Division of Planning and Development Services for approval prior to issuance of a certificate of occupancy for construction within each lot or group of lots subject to the minor plat.
 - 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. An access and crossover easement

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NEW BUSINESS

CASE NO. 18DEVPLAN1076

agreement in a form acceptable to the Planning Commission legal counsel shall be secured from all adjoining property owners and recorded. A copy of the recorded instrument(s) shall be submitted to the Division of Planning and Development Services; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument. e. 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 office prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
6. There shall be no outdoor music (live, piped, radio or amplified), outdoor entertainment, or outdoor PA system permitted on any lot within the area governed by this Development Plan.
7. The property owner/developer shall provide copies of these binding elements to tenants, contractors and other parties engaged in development of this project, and shall inform them of the content of these binding elements. Further, the property owner/developer shall require contractors to similarly notify all of their sub-contractors whose duties relate to the binding elements. The property owner/developer shall ensure their compliance with the binding elements.
8. There shall be no direct vehicular access to Springhurst Boulevard, Private Roadway "A" or "B", except as indicated on the Development Plan. All other access locations shall be approved by the Department of Public Works.

The vote was as follows:

YES: Commissioners Brown, Carlson, Smith and Tomes

DEVELOPMENT REVIEW COMMITTEE
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NEW BUSINESS

CASE NO. 18DEVPLAN1077

Project Name: Springhurst Towne Center
Location: 4200 Towne Center Drive
Owner(s): Springhurst, LLC.
Applicant: Springhurst, LLC.
Jurisdiction: Louisville Metro
Council District: 17 – Markus Winkler
Case Manager: Jay Luckett, AICP, 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:

01:14:00 Mr. Luckett discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Todd Lanning, Milestone Design Group, 108 Daventry Lane, Louisville, Ky.
Chris Aames, 191 North Wagner Drive,

Summary of testimony of those in favor:

01:14:50 Mr. Lanning is here to answer questions. Commissioner Brown said he's concerned about the new orientation (maneuvering) of the parking on the main drive isle. The parking won't meet the Safe Circulation requirement in chapter 9. Could you provide parallel parking? Mr. Lanning said probably not. Mr. Aames said he sees the potential danger and will look at parallel or making it sidewalk. There will still be adequate parking even after eliminating 11 parking spaces.

Deliberation

01:19:21 Development Review Committee deliberation.

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

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NEW BUSINESS

CASE NO. 18DEVPLAN1077

Revised Detailed District Development plan with removal of existing binding elements and adoption of proposed binding elements

On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution based on the Standard of Review and Staff analysis 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 and the Kentucky Transportation Cabinet have approved the preliminary development plan; and

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

WHEREAS, the Metropolitan Sewer District will approve 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. The applicant will need to revise the site plan to satisfy MSD requirements prior to final approval; and

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

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

RESOLVED, that the Louisville Metro Development Review Committee does hereby **APPROVE** the Revised Detailed District Development Plan **ON CONDITION** that the development plan is updated to remove the 11 proposed parking spaces that are directly accessed from the main drive isle that runs along the front of the shopping center and **SUBJECT** to the following Binding Elements:

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CASE NO. 18DEVPLAN1077

Binding Elements are applicable to the area of this plan only. Other portions of the Springhurst Towne Center Development have binding elements per approved development plans.

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
3. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
4. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit is requested:
 - a. The development plan must receive full construction approval from Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. A minor subdivision plat shall be recorded for each lot or group of lots, creating the lot lines and necessary easements as shown on the Development Plan or required as a condition of approval. A copy of the recorded instrument shall be submitted to the Division of Planning and Development Services for approval prior to issuance of a certificate of occupancy for construction within each lot or group of lots subject to the minor plat.
 - 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. An access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be secured from all adjoining property owners and recorded. A copy of the recorded instrument(s) shall be submitted to the Division of Planning and Development Services; transmittal of approved

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plans to the office responsible for permit issuance will occur only after receipt of said instrument.

e. 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 office prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
6. There shall be no outdoor music (live, piped, radio or amplified), outdoor entertainment, or outdoor PA system permitted on any lot within the area governed by this Development Plan.
7. The property owner/developer shall provide copies of these binding elements to tenants, contractors and other parties engaged in development of this project, and shall inform them of the content of these binding elements. Further, the property owner/developer shall require contractors to similarly notify all of their sub-contractors whose duties relate to the binding elements. The property owner/developer shall ensure their compliance with the binding elements.
8. There shall be no direct vehicular access to Springhurst Boulevard, Private Roadway "A" or "B", except as indicated on the Development Plan. All other access locations shall be approved by the Department of Public Works.

The vote was as follows:

YES: Commissioners Brown, Carlson, Smith and Tomes

DEVELOPMENT REVIEW COMMITTEE
August 14, 2019

NEW BUSINESS

CASE NO. 19-DDP-0018

Project Name: WikiWoo
Location: 11101 Plantside Drive
Owner(s): WikiWoo, LLC.
Applicant: WikiWoo, LLC.
Jurisdiction: Jeffersontown
Council District: 11 – Kevin Kramer
Case Manager: **Jay Lockett, AICP, Planner I**

NOTE: Commissioner Brown left and did not vote on this case.

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:

01:21:27 Mr. Lockett stated the applicant requests to continue to a date uncertain to work out some issues.

Deliberation

01:21:55 Development Review Committee deliberation.

On a motion by Commissioner Carlson, seconded by Commissioner Smith, the following resolution was adopted.

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

The vote was as follows:

YES: Commissioners Carlson, Smith and Tomes
NOT PRESENT AND NOT VOTING: Commissioner Brown

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NEW BUSINESS

CASE NO. 19WAIVER1026

Project Name: Technicare Carpet Cleaning
Location: 2621 Blankenbaker Road
Owner(s): Shawn Sizemore
Applicant: Brian Thomas, Newhall Construction
Jurisdiction: Louisville and Jeffersontown
Council District: 20 – Stuart Benson
Case Manager: **Lacey Gabbard, AICP, 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:

01:23:00 Ms. Gabbard discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Shawn Sizemore, 2621 Blankenbaker Road, Louisville, Ky. 40223

Summary of testimony of those in favor:

01:26:57 Mr. Sizemore provided pictures to the commissioners and stated he was unaware he needed a permit from Jeffersontown. It's also a residence.

Mr. Sizemore said he's willing to move the screen, put in a fence and landscaping and move it closer to the road. Commissioner Carlson said the staff report shows that waivers 2 and 4 are not justified. Will you be making some changes so the waivers are not necessary? Mr. Sizemore said he will provide a screen and landscaping or fencing. Ms. Gabbard said the building is in the process of being built. Providing more than the fence will help mitigate. Ms. Liu added, there needs to be screening between the property line and the garage door.

Deliberation

01:34:58 Development Review Committee deliberation.

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NEW BUSINESS

CASE NO. 19WAIVER1026

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 Carlson, seconded by Commissioner Smith, the following resolution based on the testimony heard today was adopted.

1. Waiver of Land Development Code section 10.2 to encroach into the 15 foot LBA on the southern property line and still provide all the plantings

WHEREAS, the waiver will not adversely affect adjacent property owners since the residential structure located on the property to the south of the subject site is approximately 90 feet from the shared property line, and is also zoned PEC; and

WHEREAS, Land Use & Development Goal 1, Policy 10 calls for mitigation of the impacts caused when incompatible developments unavoidably occur adjacent to one another. Buffers should be used between uses that are substantially different in intensity or density. Buffers should be variable in design and may include landscaping, vegetative berms and/or walls and should 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. Land Use & Development Goal 1, Policy 9 ensures an appropriate transition between uses that are substantially different in scale and intensity or density of development. The transition may be achieved through methods such as landscaped buffer yards, vegetative berms, compatible building design and materials, height restrictions and setback requirements.

The applicant is requesting a waiver to allow the proposed contractors shop to encroach into the LBA on the southern property line, while still providing all the required plantings on all property lines. The site will be adequately screened from abutting properties; 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 proposes to provide all required plantings and only encroach into the LBA on the southern property line; 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 or would create an unnecessary hardship on the applicant since the applicant proposes to provide all required plantings.

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NEW BUSINESS

CASE NO. 19WAIVER1026

2. Waiver of Land Development Code sections 5.5.2 and 5.6.1 to allow the overhead doors and loading area to face the street

WHEREAS, Land Use & Development Goal 1, Policy 4 calls for the proposal to ensure new development and redevelopment are compatible with the scale and site design of nearby existing development and with the desired pattern of development within the Form District. Quality design and building materials should be promoted to enhance compatibility of development and redevelopment projects. Land Use & Development Goal 1, Policy 12 states to design parking, loading and delivery areas located adjacent to residential areas to minimize adverse impacts from noise, lights, and other potential impacts. Parking and circulation areas adjacent to the street shall be screened or buffered. Use landscaping, trees, walls, colonnades or other design features to fill gaps along the street and sidewalk created by surface parking lots. Encourage the placement of parking lots and garage doors behind or beside the building rather than facing the street.

The applicant is requesting a waiver to allow the overhead doors on the contractors shop to face Blankenbaker Road, rather than directing them to the interior of the site. The contractors shop could be relocated, or the doors moved to face the interior of the site with the doors facing north. Though there are commercial and industrial uses in the vicinity of the subject site, including the parcel to the north on the other side of Shining Water Drive, there are properties abutting the subject site to the east, south, and west which are residential uses; 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 because there will be an additional enhanced landscaping; and

WHEREAS, the Louisville Metro Development Review Committee further finds the applicant will be incorporating other design measures that exceed the minimums of the district to compensate for non-compliance of the requirements to be waived, a net beneficial effect.

3. Waiver of Land Development Code section 5.5.4 to not provide a 50-foot LBA and 6 foot berm along the side and rear property lines

WHEREAS, the waiver will not adversely affect adjacent property owners since the applicant is proposing to meet all planting requirements in the property perimeter LBA,

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with the exception of the area where the proposed contractors shed is encroaching into the southern property line; and

WHEREAS, Land Use & Development Goal 1, Policy 4 calls for the proposal to ensure new development and redevelopment are compatible with the scale and site design of nearby existing development and with the desired pattern of development within the Form District. Quality design and building materials should be promoted to enhance compatibility of development and redevelopment projects. Land Use & Development Goal 1, Policy 12 states to design parking, loading and delivery areas located adjacent to residential areas to minimize adverse impacts from noise, lights, and other potential impacts. Parking and circulation areas adjacent to the street shall be screened or buffered. Use landscaping, trees, walls, colonnades or other design features to fill gaps along the street and sidewalk created by surface parking lots. Encourage the placement of parking lots and garage doors behind or beside the building rather than facing the street.

This section of the Land Development Code for which the applicant is requesting this waiver appears to be intended to apply to large industrial sites, not smaller sites such as the subject site. The applicant is proposing to meet all planting requirements in the property perimeter LBA, which will provide adequate screening; 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 section of the Land Development Code for which the applicant is requesting this waiver appears to be intended to apply to large industrial sites. A 50 foot LBA on the side and rear property lines would inhibit the buildable area of this relatively small site. Berms are typically required for screening of more intense industrial uses, and would be onerous on the subject site; 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 or would create an unnecessary hardship on the applicant since the subject site is relatively small and the addition of a 50 foot buffer and berm would restrict the buildability of the parcel.

4. Waiver of Land Development Code section 5.5.2.B.2 to move the screening for the overhead doors and loading areas

WHEREAS, Land Use & Development Goal 1, Policy 4 calls for the proposal to ensure new development and redevelopment are compatible with the scale and site design of

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nearby existing development and with the desired pattern of development within the Form District. Quality design and building materials should be promoted to enhance compatibility of development and redevelopment projects. Land Use & Development Goal 1, Policy 12 states to design parking, loading and delivery areas located adjacent to residential areas to minimize adverse impacts from noise, lights, and other potential impacts. Parking and circulation areas adjacent to the street shall be screened or buffered. Use landscaping, trees, walls, colonnades or other design features to fill gaps along the street and sidewalk created by surface parking lots. Encourage the placement of parking lots and garage doors behind or beside the building rather than facing the street.

Though the applicant is proposing to provide screening for the overhead doors, the proposed location is in the existing gravel parking area interior to the site. A more appropriate location would be closer to Blankenbaker Road, in the proposed 5 foot LBA located on the west side of the parking area; 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 because there will be an additional enhanced landscaping; and

WHEREAS, the Louisville Metro Development Review Committee further finds the applicant will be incorporating other design measures that exceed the minimums of the district to compensate for non-compliance of the requirements to be waived, a net beneficial effect.

RESOLVED, that the Louisville Metro Development Review Committee does hereby **RECOMMEND** that the City of Jeffersontown **APPROVE** the following waivers: a waiver of Land Development Code section 10.2 to encroach into the 15 foot LBA on the southern property line and still provide all the plantings, a waiver of Land Development Code sections 5.5.2 and 5.6.1 to allow the overhead doors and loading area to face the street, a waiver of Land Development Code section 5.5.4 to not provide a 50-foot LBA and 6 foot berm along the side and rear property lines and a waiver of Land Development Code section 5.5.2.B.2 to move the screening for the overhead doors and loading areas **ON CONDITION** that the applicant work with Metro PDS staff on the enhanced landscaping and they satisfy recommendations by PDS staff.

The vote was as follows:

YES: Commissioners Carlson, Smith and Tomes

NOT PRESENT AND NOT VOTING: Commissioner Brown

DEVELOPMENT REVIEW COMMITTEE
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NEW BUSINESS

CASE NO. 19MOD1002

Project Name: O'Reillys Auto Parts
Location: 4156 Taylor Boulevard
Owner(s): E&S Developers, LLC
Applicant: E&S Developers, LLC
Jurisdiction: Louisville Metro
Council District: 15 – Kevin Triplett
Case Manager: Lacey Gabbard, AICP, 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:

01:41:00 Ms. Gabbard discussed the case summary, standard of review and staff analysis from the staff report. Commissioner Carlson remarked, this building has been built, but not to design specifications. Ms. Lacey said yes, the applicant has been working with staff. Commissioner Carlson asked if there's a target date for the changes/additions to be completed. Ms. Liu said there needs to be a set date.

Ms. Liu gave some background information – front of building faces parking lot; façade has nothing on it; resident complaint; knowingly violated binding elements (windows shown on plan); store is built; trying to mitigate by modifying binding elements; and the building is metal and can't attach anything to it.

The following spoke in favor of this request:

Justin Estes, E and S Developers, 1738 Dr. F.E. Wright Drive, Jackson, Tennessee
Johnny Thompson, 104 Tanasee Trail, Windover, Tennessee
Paul Sanderford, 192 Talbott Drive, Bowling Green, Ky. 42103
David Garber, 2249 Commerce Parkway, LaGrange, Ky. 40031

Summary of testimony of those in favor:

01:50:06 Chair Tomes asked why the building was not built according to the plans. Mr. Estes stated he bought the development 'after the fact' and never saw a rendering from 2016. "We went and got the building permit, stamped/approved plans and built that building. We were approved by the city of Louisville. We were inspected from day 1 and 5 days before we were finished, we get the news that we didn't build the right building." Staff is working to help mitigate the building that has been built. Chair Tomes asked why windows can't be cut into the side of the building. Mr. Thompson said

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everything on the right is a storage room and it's an all metal building. Our only choice is to decorate it. Chair Tomes said there is glass that you can't see through.

02:01:11 Mr. Sanderford, part owner, said he bought this project from another person. He said he has never seen the (shown by staff) approved plans. Ms. Liu said PDS staff has been coordinating with the architect trying to rectify the situation as there are other options. Chair Tomes reminded the owners/developers that binding elements run with the property.

Deliberation

02:23:36 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.

Removal of Binding Element 10

On a motion by Commissioner Carlson, seconded by Commissioner Smith, the following resolution was adopted.

RESOLVED, that the Louisville Metro Development Review Committee does hereby **CONTINUE** this case to the August 28, 2019 DRC meeting for the applicant to provide additional information.

The vote was as follows:

YES: Commissioners Carlson, Smith and Tomes
NOT PRESENT AND NOT VOTING: Commissioner Brown

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NEW BUSINESS

CASE NO. 19DEVPLAN1098

Project Name: Popeye's
Location: 2618 West Broadway
Owner(s): Sandra J. Metts
Applicant: Sandra J. Metts
Jurisdiction: Louisville Metro
Council District: 6 – David James
Case Manager: Lacey Gabbard, AICP, 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:

02:25:21 Ms. Gabbard discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Glenn Price, Frost, Brown and Todd, 400 West Market Street, Louisville, Ky. 40202
Ann Richard, Land Design and Development, 503 Washburn Avenue #101, Louisville, Ky. 40222

Summary of testimony of those in favor:

02:27:49 Mr. Price gave a power point presentation. Popeye's is concerned that when the police want to conduct safety checks for business, the visibility is impeded by the large trees. Type A trees are not allowed by power lines.

Mr. Price said Councilman David James doesn't mind if they're removed as long as they're replaced on site or in the immediate vicinity with similar trees. Also, a letter was received from the commander of the 1st Division of the Louisville Metro Police Dept. – removal of the 4 trees is acceptable. A binding element was proposed by Jeff Brown and Beth Stuber and the applicant agrees to it. Commissioner Smith asked what plantings will take the place of the 4 trees to be removed. Ms. Richard said the request is to remove the 4 maple trees from the Broadway right-of-way and replace those with 4 large trees on the proposed site property. Five smaller trees will then be planted as well, making it a total of 9 trees.

Deliberation

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02:35:36 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 of Land Development Code section 5.5.1.A.3.a to allow the existing parking to remain in front of the proposed building

On a motion by Commissioner Carlson, seconded by Commissioner Smith, 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 subject site is located in a commercial area, internal to a shopping center; and

WHEREAS, Land Use & Development Goal 2, Policy 14 encourages adjacent development sites to share entrance and parking facilities in order to reduce the number of curb cuts and the amount of surface parking. Land Use & Development Goal 2, Policy 15 states that parking in activity centers should reflect the area's associated Form District standards to balance safety, traffic, transit, pedestrian, environmental and aesthetic considerations. Land Use & Development Goal 1, Policy 4 states that the proposal ensures new development and redevelopment are compatible with the scale and design of nearby existing development and with the desired pattern of development within the Form District. Quality design and building materials should be promoted to enhance compatibility of development and redevelopment projects. The Town Center form district does not permit parking between the façade of the building and the right-of-way. However, there are several instances of this occurring within the vicinity of the subject site. This includes the other parking areas internal to the shopping center where the subject site is located, such as the abutting Kroger parking lot and the McDonalds parking lot on the other side of Kroger. On the north side of W Broadway, other examples include a parcel occupied by Taco Bell (2801 W Broadway), and shopping center (2721 W Broadway) where the parking areas are located between the building(s) and street. Additionally, the parking area on the subject site is existing. The applicant is proposing to preserve just the section of parking spaces on the subject site that are between the building and the street. The remainder of the lot is proposed to be reconfigured to accommodate the new Popeye's restaurant; and

WHEREAS, the Louisville Metro Development Review Committee finds the extent of waiver of the regulation is the minimum necessary to afford relief to the applicant since there are several other instances in the vicinity of the subject site of parking lots existing

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between the building and the street, and the spaces for which the applicant is requesting the waiver are existing; 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 or would create an unnecessary hardship on the applicant because there are several other instances in the vicinity of the subject of parking lots existing between the building and the street, and the spaces for which the applicant is requesting the waiver are existing. Additionally, the applicant's proposal is to redesign the parking on the remainder of the site.

RESOLVED, that the Louisville Metro Development Review Committee does hereby **APPROVE** a waiver of Land Development Code section 5.5.1.A.3.a to allow the existing parking to remain in front of the proposed building.

The vote was as follows:

YES: Commissioners Carlson, Smith and Tomes

NOT PRESENT AND NOT VOTING: Commissioner Brown

Revised Detailed District Development Plan with Binding Element Amendment

On a motion by Commissioner Carlson, seconded by Commissioner Smith, 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 are provided on the subject site; and

WHEREAS, provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community has been provided, and Metro Public Works has provided preliminary plan approval; 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

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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 Plan 2040 and to requirements of 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:

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 for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. Prior to development (includes clearing and grading) of each site or phase of this project, the applicant, developer, or property owner shall obtain approval of a detailed district development plan in accordance with Chapter 11, Part 6. Each plan shall be in adequate detail and subject to additional binding elements.
3. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
4. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
5. Before any permit (including but not limited to building, parking lot, change of use, site disturbance is requested:
 - a. The development plan must receive full construction approval from Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.

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

c. Final elevations/renderings shall be submitted for review and approval by Planning Commission staff. A copy of the approved rendering shall be available in the case file on record in the offices of the Louisville Metro Planning Commission.

6. 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.

7. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.

8. 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.

9. Upon development or redevelopment of adjacent properties, a unified access and circulation system shall be developed to eliminate preexisting curb cuts and provide for vehicular movement through adjacent sites as determined appropriate by the Department of Public Works.

The vote was as follows:

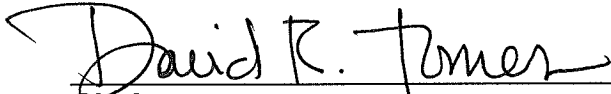
YES: Commissioners Carlson, Smith and Tomes

NOT PRESENT AND NOT VOTING: Commissioner Brown

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ADJOURNMENT

The meeting adjourned at approximately 3:42 p.m.



Chair



Planning Director