

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO DEVELOPMENT REVIEW COMMITTEE MEETING
December 2, 2020**

A meeting of the Louisville Metro Development Review Committee was held on Wednesday, December 2, 2020 at 1:00 p.m. via Cisco Webex Video Conferencing. On the recommendation of the Louisville Metro Department of Health and Wellness regarding congregate events and social distancing, the Development Review Committee meeting set for today was held online.

Commissioners present:

Richard Carlson, Chair
Jim Mims, Vice Char
Jeff Brown
Pat Seitz *arrived approx. 1:08 p.m.*
Te'Andre Sistrunk

Commissioners absent:

None.

Staff members present:

Emily Liu, Director, Planning & Design Services
Joe Reverman, Assistant Director, Planning & Design Services
Brian Davis, Planning & Design Manager
Joe Haberman, Planning & Design Manger
Jay Lockett, Planner I
Travis Fiechter, Legal Counsel
Beth Stuber, Transportation
Rachel Dooley, Management Assistant (minutes)

The following matters were considered

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APPROVAL OF MINUTES

Minutes of the December 2, 2020 Development Review Committee meeting

00:04:45 On a motion by Commissioner Brown, seconded by Commissioner Sistrunk, the following resolution was adopted:

RESOLVED, that the Louisville Metro Development Review Committee does hereby **APPROVE** the minutes of its meeting conducted on December 2, 2020.

The vote was as follows:

YES: Commissioners Brown, Sistrunk, Mims, and Carlson.

NO: No one.

ABSENT: Commissioner Seitz.

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NEW BUSINESS

CASE NUMBER 20-MPLAT-0073

Request: **THIS CASE NEEDS TO BE DEFERRED INDEFINATELY**
Waiver to not have a shared driveway to a collector level road

Project Name: Kelty Minor Plat
Location: 10850/10900 Brentlinger Lane
Owner: Ronald and Shannon Kelty
Applicant: Ronald and Shannon Kelty
Representative: Cardinal Surveying
Jurisdiction: Louisville Metro
Council District: 22- Robin Engel

Case Manager: Julia Williams, AICP, Planning Supervisor

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

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

Agency Testimony:

00:05:41 Brian Davis stated the minor plat had been amended and the applicant will no longer need this waiver. This Waiver request have been withdrawn.

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NEW BUSINESS

CASE NUMBER 20-CAT3-0011

Request:	Category 3 Development Plan
Project Name:	The Audubon
Location:	1409 Lytle St
Owner:	4 Blokes, LLC.
Applicant:	4 Blokes, LLC.
Jurisdiction:	Louisville Metro
Council District:	5– Donna Purvis

Case Manager: **Jay Lockett, AICP, Planner I**

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

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

Agency Testimony:

00:06:31 Jay Lockett presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.) Mr. Lockett detailed the proposed development plan, aerial photos, elevations, and staff findings. Jay noted the comments regarding sidewalks alterations and repairs and the updated plan that reflects the changes to address sidewalk construction and improvements.

00:09:00 Commissioner Brown stated he has not reviewed the updated development plan. Jay Lockett replied there was discussions regarding a license agreement requirement to allow the loading dock in the right of way and pedestrian access. Mr. Lockett stated the applicant’s representative, Mark Madison, is present to give details regarding the updated development plan.

00:10:30 Joe Reverman clarified this is a Category 3 plan for Portland, but it does not meet the Category 3 threshold for this form district. Joe Reverman noted they would like the comments for striping on Lytle Street to be removed (see recording for detailed presentation.)

00:11:51 Commissioner Brown asked if the applicant are proposing changes within the public right of way as part of the development plan. Joe Reverman replied the applicant will be making changes to the loading dock area and possibly proposing to add a canopy.

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NEW BUSINESS

CASE NUMBER 20-CAT3-0011

00:12:35 Commissioner Brown asked with this review this site will have to meet parking requirements. Jay Lockett replied per this case they do not have minimum parking requirements due to the new Nonconforming parking regulations. Commissioner Brown and Jay Lockett discussed the new Land Development Code changes during the review of this case (see recording for detailed presentation.)

00:15:11 Commissioner Carlson asked what the Commission is determining compliance for this case. Jay Lockett replied the applicant needs to come into compliance for this site is for the nonresidential site design standards.

00:16:24 Commissioner Mims noted Portland enacted an ordinance that required a Category 3 review for changes in multi family homes. Joe Reverman detailed Portland's Category 3 review process for new residential dwelling units (see recording for detailed presentation.)

00:18:52 Commissioner Carlson, Joe Reverman, and Emily Liu discussed discretionary code reviews for similar cases like this in the future (see recording for detailed presentation.)

00:20:17 Jay Lockett detailed the old proposed development plan regarding sidewalk installation, the elimination of note #14, and the addition of #16 (see recording for detailed presentation.) Joe Reverman suggested that the sidewalk not be shown on Lytle Street and that if the proposal from the applicant to provide sidewalks can be worked during the Construction Review. Mr. Reverman suggested approving this case on condition that the sidewalk be taken off of the plan and that General Note #15 be removed.

00:23:52 Commissioner Sistrunk asked if this case could be continued to review the changes in the proposed development plan. Joe Reverman replied in cases when changes are made to the plan that would be relatively minor the commission can consider the case approved on condition that the changes to the plan be made before stamped approved.

00:25:36 Commissioner Mims asked if Portland have given comments regarding this case. Jay Lockett replied they gave a letter of approval prior to the meeting.

The following spoke in favor of this request:

Mark Madison, Milestone Design Group, 108 Daventry Lane, Louisville, KY 40223

Summary of testimony of those in support of the proposal:

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00:26:34 Mark Madison, representing the applicant, stated they are willing to eliminate some of the additional General Notes and changes to the plan.

The following spoke in opposition:
No one spoke.

The following spoke in neither for nor against:
No one spoke.

Commissioner Deliberation

00:27:55 Commissioner Deliberation (see recording for detailed presentation.)

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.

00:29:04 On a motion by Commissioner Brown, seconded by Commissioner Sistrunk, the following resolution, based on the Standard of Review and Staff Analysis, and evidence and testimony heard today, was adopted:

RESOLVED, the Louisville Metro Development Review Committee does hereby **APPROVE** the requested Category 3 Development Plan **ON THE CONDITION** that the plan is updated to remove the references to the off site parking agreement and the proposed improvements in the public right of way are removed from the development plan.

The vote was as follows:

YES: Commissioners Brown, Sistrunk, Mims, and Carlson.

NO: none.

Abstain: Commissioner Seitz

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NEW BUSINESS

CASE NUMBER 20-DDP-0048

Request:	Revised Detailed District Development Plan with a Waiver
Project Name:	Matly Digital Solutions
Location:	3432 Preston Hwy
Owner:	George Matly
Applicant:	George Matly
Jurisdiction:	Louisville Metro
Council District:	21 – Nicole George

Case Manager: **Jay Lockett, AICP, Planner I**

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

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

Agency Testimony:

00:30:23 Jay Lockett presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.) Mr. Lockett detailed the proposed development plan, aerial photos, elevations, and staff findings. He noted the landscape buffer as shown in the previous development plan will be adjacent to a residential area. Jay stated there are comments from Jefferson County Public Schools (JCPS) concerning the impact of security of their site.

00:33:49 Commissioner Brown asked if the 5 foot landscape buffer area per the previous development plan would be required under the current codes. Jay Lockett replied this site does not trigger the landscape buffer requirements with this proposal. The applicant would need to update the landscape plan for that buffer area. Commissioner Brown asked what will staff recommendation be for the Variance related to this case at the Board of Zoning Adjustment (BOZA) meeting. Jay Lockett replied the staff recommends approval for the Variance. Mr. Lockett noted the site adjacent is not being used as residential and zoned properly the site would no requirement for a buffer or setback.

00:35:23 Commissioner Brown asked if JCPS concerns have been resolved. Jay Lockett replied he believes this project would not negatively impact the security of the adjacent property. Jay stated the applicant can give details regarding comments from JCPS.

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00:37:07 Commissioner Brown asked if the applicant is providing plantings along the 5 foot landscape buffer area. Jay Luckett replied they will be providing plantings as required, without a new review under the new code the applicant would need to update the landscape plan for that area.

00:37:37 Commissioner Carlson asked if staff could suggest that the Committee approves this plan on condition that BOZA approves the Variance. Jay Luckett replied this condition is included in the proposed binding elements.

The following spoke in favor of this request:

Karl Lentz, 4010 Dupoint Circle, Suite 478, Louisville, Kentucky, 40207

George Matly, 3432 Preston Highway, Louisville, Kentucky, 40213

Summary of testimony of those in support of the proposal:

00:38:40 Karl Lentz, representing the applicant, presented a Power Point slide show (see recording for detailed presentation.) Mr. Lentz stated the applicant is present today for questions. Karl stated the applicant is constructing the new building for their security and it is positioned away from adjacent JCPS security fence. There will be new security cameras and additional lighting installed for this development. Mr. Lentz detailed the landscape buffer area plan and development plan (see recording for detailed presentation.)

00:45:29 Commissioner Mims asked if the applicant will be putting signs on the new building. Karl Lentz replied the building will not have a sign and will have exterior materials similar to the existing business.

00:45:46 Commissioner Brown asked if the existing dumpster will be accessible. Karl Lentz replied with the addition of new landscape islands there will be enough room to access the dumpster.

00:46:15 Commissioner Carlson asked if the applicant has contacted JCPS. Karl Lentz replied he spoke with Susan Biasioli, Director of Facilities of JCPS, and expressed they will be adding lighting and security cameras. Mr. Lentz noted that Susan did not approve of the building close to the fence line due to safety but agreed with the applicant's improved security.

00:48:28 Commissioner Carlson asked if there will be a representative from JCPS today. Jay Luckett replied JCPS submitted a letter stating their concerns for this development.

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00:49:35 George Matly, applicant, stated the JCPS security issues have been brought to their attention prior to this development. He stated there are plans to block off the area between the building and the fence to help mitigate people from jumping the fence line.

The following spoke in opposition:
No one spoke.

The following spoke in neither for nor against:
No one spoke.

Commissioner Deliberation

00:51:26 Commissioner Deliberation (see recording for detailed presentation.)

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 10.2 to allow the proposed building to encroach into the 5 foot LBA at the rear property line

00:52:54 On a motion by Commissioner Brown, seconded by Commissioner Sistrunk, the following resolution, based on the Standard of Review and Staff Analysis, and evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Development Review Committee finds the waiver will not adversely affect adjacent property owners since the adjacent residentially zoned property is not used residentially and is unlikely to be redeveloped for residential use in the future; and

WHEREAS, the Committee further finds the Comprehensive Plan requires buffering between incompatible uses. The adjacent residentially zoned property is used as a commercial or light industrial use by Jefferson County Public Schools and is unlikely to be redeveloped for residential use. If the adjacent property was more properly zoned for its actual intensity of use, no buffer or setback would be required; and

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WHEREAS, the Committee further finds the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since encroachment is minimized; and

WHEREAS, the Committee further finds the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land, as the adjacent property is not used residentially and a buffer would not be required if it were zoned for commercial use; now, therefore be it:

RESOLVED, the Louisville Metro Development Review Committee does hereby **APPROVE** the requested Waiver of Land Development Code section 10.2 to allow the proposed building to encroach into the 5 foot LBA at the rear property line.

The vote was as follows:

YES: Commissioners Brown, Sistrunk, Seitz, Mims, and Carlson.

NO: none.

Detailed District Development Plan

00:53:35 On a motion by Commissioner Brown, seconded by Commissioner Sistrunk, the following resolution, based on the Standard of Review and Staff Analysis, and evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Development Review Committee finds 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 not applicable to this proposal due to the limited area of new structure or impervious surface; and

WHEREAS, the Committee further finds Provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community has been provided. Public Works and KYTC have provided preliminary approvals; and

WHEREAS, the Committee further finds there are no open space requirements with this proposal; and

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

WHEREAS, the Committee further finds the overall site design and land uses are compatible with the existing and future development of the area. The proposed addition is an accessory use to an existing commercial site. The adjacent residentially zoned property is used as a commercial or light industrial use by Jefferson County Public Schools as a maintenance and storage facility; and

WHEREAS, the Committee further finds the development plan conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code; now, therefore be it:

RESOLVED, the Louisville Metro Development Review Committee does hereby **APPROVE** the requested Revised Detailed District Development Plan with Binding Element Amendments **SUBJECT TO** the following binding elements:

1. The development shall be in accordance with the approved district development plan, land use and agreed upon binding elements unless amended pursuant to the Zoning District Regulations. No further development shall occur without prior to approval from the Planning Commission.
2. Before a building or alteration permit and/or a certificate of occupancy 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 Department of Transportation, Bureau of Highways.
 - c) The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10. Such plan shall be implemented prior to requesting a certificate of occupancy and maintained thereafter.
 - d) The appropriate variance shall be obtained from the Board of Zoning Adjustment to allow the development as shown on the approved district development plan.

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3. No outdoor advertising signs (billboards), small freestanding (temporary) signs, pennants or banners shall be permitted on the site.
4. The permitted uses within the development shall be those uses allowed in the C-1 Commercial District plus the following permitted use:

Restaurant with outdoor seating where entertainment is excluded and no alcoholic beverages are served or consumed, which is adequately screened and buffered from adjacent residential development.

Binding Element No. 5 may not be changed, amended or removed by the Planning Commission without a public hearing in accordance with the notice requirements set forth in KRS 100.212.

5. In the event that the City of Louisville Board of Aldermen enact an ordinance amending the permitted uses within the C-1 Commercial District to allow the operation of restaurants, where food and drink may be served or consumed, outside as well as inside a building, the applicant agrees that the application for rezoning may be considered to have been amended to request to rezone the development to C-1 Commercial District.
6. The only permitted freestanding sign shall be located as shown on the approved district development plan. The sign shall not exceed 75 square feet in area and 20 feet in height.
7. 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.

The vote was as follows:

YES: Commissioners Brown, Sistrunk, Seitz, Mims, and Carlson.

NO: none.

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NEW BUSINESS

CASE NUMBER 20-DDP-0062

Request: Variance to permit the encroachment of a building into a setback
Project Name: Rabbit Hole Distillery
Location: 711 E Jefferson Street
Owner: Rabbit Hole Spirits LLC
Applicant: Rabbit Hole Spirits LLC
Jurisdiction: Louisville Metro
Council District: 4 – Barbara Sexton Smith

Case Manager: Julia Williams, AICP, Planning Supervisor

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

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

Agency Testimony:

00:54:47 Jay Luckett presenting the case on behalf of Julia Williams showed a Power Point presentation (see staff report and recording for detailed presentation.) Mr. Luckett detailed the applicant's development plan, aerial photos, case summary, and staff findings. He stated the Variance related to this case will be heard at the Board of Zoning Adjustment meeting.

00:57:22 Commissioner Mims asked if the master plan for the alley way is moving forward. Commissioner Brown replied the East Market Streetscape Plan while state funded because it was over budget the alleys were removed from the project. Commissioner Mims asked if there are concerns related to parking. Commissioner Brown replied there were concern for the proposed loading dock dimensions, but it was approved. '

00:59:33 Commissioner Brown asked if there was onsite parking. Jay Luckett and Joe Reverman discussed the amount of parking required of employees for the facility (see recording for detailed presentation.)

The following spoke in favor of this request:

Curtis Petty, 737 South 3rd Street, Louisville, Kentucky, 40202

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CASE NUMBER 20-DDP-0062

Christopher Quirk, 737 South 3rd Street, Louisville, Kentucky, 40202

Summary of testimony of those in support of the proposal:

01:02:15 Curtis Petty, representing the applicant, stated the building addition will not impact the existing parking, and it will be an addition to house equipment. Mr. Petty noted that Christopher Quirk is present to answer questions.

01:03:01 Christopher Quick stated they are planning to improve their side of Nanny Goat Strut Alley with landscape plantings.

The following spoke in opposition:

No one spoke.

The following spoke in neither for nor against:

No one spoke.

Commissioner Deliberation

01:07:05 Commissioner Deliberation (see recording for detailed presentation.)

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.

Detailed District Development Plan

01:08:24 On a motion by Commissioner Brown, seconded by Commissioner Sistrunk, the following resolution, based on the Standard of Review and Staff Analysis, and evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Development Review Committee finds there are no existing natural resources on the site; and

WHEREAS, the Committee further finds no additional vehicular or pedestrian facilities are proposed. The applicant will be utilizing existing curb cuts on Jefferson Street and Nanny Goat Strut Alley. There is an existing sidewalk along the property frontage; and

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WHEREAS, the Committee further finds there are no open space requirements; and

WHEREAS, the Committee further finds the applicant is working with MSD to handle stormwater runoff from the site; and

WHEREAS, the Committee further finds the development is in character with the vision for the NULU area. The site has been designed to spark interest and draw people into the site. The proposed architecture of the new building is in keeping with the eclectic style of the NULU area while still respecting the Traditional Neighborhood Form District; and

WHEREAS, the Committee further finds with the exception of the requested variance the proposed development plan is in keeping with the Land Development Code and complies with the goals and objectives of the Comprehensive Plan; now, therefore be it:

RESOLVED, the Louisville Metro Development Review Committee does hereby **APPROVE** the requested Detailed District Development Plan with amendments to binding elements **ON CONDITION** the Variance shall be obtained from the Board of Zoning Adjustment to allow the development as shown on the approved district development plan

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Development Code, Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Development Code and Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. ~~The development shall not exceed 32,000 square feet of gross floor area on the area to be rezoned.~~
3. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site

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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 Louisville Metro Department of Construction Review, Transportation Planning Review and the Metropolitan Sewer District.
 - b. Encroachment permits must be obtained from the Louisville Metro Public Works.
 - c. The appropriate Variance shall be obtained from the Board of Zoning Adjustment to allow the development as shown on the approved district development plan.
5. If a certificate of occupancy is not issued within two years of the date of approval of the plan or rezoning, whichever is later, the property shall not be used in any manner unless a revised district development plan is approved or an extension is granted by the Planning Commission.
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 or permitted on the site).
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. A legal instrument providing for the long-term use of the (off-site parking spaces or joint-use parking spaces), as shown on the approved general

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district development plan and in accordance with (Section 9.1.5 Off-Site Parking or Section 9.1.6 Joint Use Parking), shall be submitted and approved by the Planning Commission legal counsel and recorded in the County Clerk's office. 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.

10. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the April 21, 2016 Planning Commission meeting **and the December 2, 2020 Development Review Committee meeting.**
11. No idling of trucks shall take place within 200 feet of residences. No overnight idling of trucks shall be permitted on-site.
12. A legal instrument providing for the long-term use of the off-site parking spaces and joint-use parking spaces, as shown on the approved district development plan, discussed in the parking study submitted for review at the April 21, 2016 Planning Commission public hearing, and in accordance with Section 9.1.5 Off-Site Parking and Section 9.1.6 Joint Use Parking, shall be submitted and approved by the Planning Commission legal counsel and recorded in the County Clerk's office. 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.
13. No trucks shall be permitted to encroach into the public right-of-way.
14. No truck maneuvering to *back into* the loading dock shall occur between the hours of 7:00 a.m. and 9:00 a.m. or 4:00 p.m. and 6:00 p.

The vote was as follows:

YES: Commissioners Brown, Sistrunk, Seitz, Mims, and Carlson.

NO: none.

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ADJOURNMENT

The meeting adjourned at approximately 2:12 p.m.

DocuSigned by:

Jim Mims

Chairman

DocuSigned by:

[Signature]

Division Director