

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

**March 10, 2022**

A meeting of the Land Development and Transportation Committee was held at 1:00 p.m. on Thursday, March 10, 2022 via Webex Teleconferencing.

**Committee Members present were:**

Te'Andre Sistrunk, Chair  
Jim Mims, Vice Chair  
Rich Carlson  
Ruth Daniels  
Jeff Brown

**Committee Members absent were:**

None.

**Staff Members present were:**

Joseph Reverman, Assistant Director, Planning & Design Services  
Brian Davis, Planning Manager  
Julia Williams, Planning Supervisor  
Molly Clark, Planner I  
Joel Dock, Planning Coordinator  
Joe Haberman, Planning Manager  
Laura Ferguson, Legal Counsel  
Chris Cestaro, Management Assistant (minutes)

**Others Present:**

Beth Stuber, Transportation Planning  
Tony Kelly, MSD

The following matters were considered:

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**Approval of Minutes**

**Approval of the minutes of the February 24, 2022 Land Development and Transportation Committee meeting.**

00:04:34 On a motion by Commissioner Carlson, seconded by Commissioner Mims, the following resolution was adopted:

**RESOLVED**, the Louisville Metro Land Development and Transportation Committee does hereby **APPROVE** the minutes of its meeting conducted on February 24, 2022.

**The vote was as follows:**

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

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**NEW BUSINESS**

**Case No. 21-ZONE-0102**

Request:	<b>Cont'd from the February 24, 2022 LD&amp;T Meeting</b> - Change in zoning from R-4 to R-7 with a landscape waiver
Project Name:	Freys Hill Multi-Family
Location:	3323 & 3325 Freys Hill Road
Owner:	Deerfield Co. Inc.
Applicant:	LDG Multi-family LLC
Representative:	Cliff Ashburner - Dinsmore and Shohl PLLC. & Sabak Wilson and Lingo
Jurisdiction:	Louisville Metro
Council District:	17- Markus Winkler
<b>Case Manager:</b>	<b>Julia Williams, AICP, Planning Supervisor</b>

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

**Agency Testimony:**

00:05:19 Julia Williams presented the case and gave an update on the proposal since the last meeting (see recording for detailed Power Point presentation.)

00:11:56 In response to a question from Commissioner Carlson, Ms. Williams said the applicant has proposed a binding element limiting the certificates of occupancy until the second access point is fully secured (see recording for detailed discussion.) Does that mean “constructed” or “secured”? Ms. Williams said the applicant is in the process of securing the purchase of that property.

00:13:21 In response to questions from Commissioners Carlson and Brown, Ms. Williams used the site plan and discussed the pavement/access road where the future second access would be (see recording.)

00:18:06 Commissioner Carlson and Ms. Williams discussed the grade change at the future second access point.

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00:19:24 Referring to a gravel driveway on the site plan, Commissioner Mims asked where the gravel drive goes to. The driveway runs on the south side of River City Storage to the northeast side of the property. There are negotiations to allow this community to tie into this access. Presumably, when this is done, that would allow for the number of units to exceed 200, based on the Land Development Code. He asked if the construction of this new access drive will be compatible with the fire district requirements, and if the future second access be where that gravel driveway is now? Ms. Williams said yes, and that the applicant will talk more about the acquisition of that.

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

Cliff Ashburner, Dinsmore & Shohl, 101 S 5th St #2500, Louisville, KY 40202

Kelli Jones, Sabak Wilson & Lingo, 608 S 3rd St, Louisville, KY 40202

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

00:21:44 Kelli Jones, the applicant's representative, used the site plan to answer questions about the proposed future access (see recording for detailed discussion.)

00:25:35 Cliff Ashburner, the applicant's representative, presented the applicant's case more fully and showed a Power Point presentation (See recording for detailed presentation.) He noted that, as part of this development, the applicant will be widening Freys Hill Road to three lanes in front of the development, and then tapering it back before it gets to Wemberly Hill Boulevard.

00:28:30 Mr. Ashburner read into the record a proposed binding element, to read as follows:

The applicant shall not be entitled to a certificate of occupancy for buildings that will contain more than 192 dwelling units and a clubhouse until it provides the Division of Planning and Design Services an agreement to provide a second means of vehicular access to the subject property.

00:30:21 Ms. Jones showed slides illustrating the proposed screening, buffering, and the grading between this development and Wemberly Hills.

00:33:46 In response to a question from Commissioner Daniels, Mr. Ashburner said there was no definite date by which the applicant would receive

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approval for the proposed second entrance but thought that the proposed binding element is an appropriate solution to the issue. Ms. Jones added that full access there would benefit a future commercial access on the adjacent property.

00:36:20 In response to a question from Commissioner Carlson, Ms. Jones discussed emergency vehicle access through the gated entrance.

00:37:58 In response to a question from Commissioner Mims, Mr. Ashburner said there do not appear to be any remaining issues to be worked out from the traffic impact study at Westport and Freys Hill.

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

Leon Duke, 10417 Wemberley Hill Boulevard, Louisville, KY 40241

Mary Boyce, 10410 Wemberley Hill Boulevard, Louisville, KY 40241

Stephen Sedita, 2609 Evergreen Wynde, Louisville, KY 40223

**Summary of testimony of those in opposition:**

00:40:43 Leon Duke said he owns the property adjacent to the site. He said he is concerned about existing traffic congestion at Freys Hill and Westport Road. He questioned whether there is enough parking being provided (1.2 spaces per apartment); also, he asked if the environmental study had been done and made public. He objected to the dumpster location because it located directly against the Wemberley Hill fence. He said he would prefer if the buildings were two stories instead of three.

00:44:04 Mary Boyce said the proposed three lanes may help traffic, although she said this is a high-traffic area with little room to move. She said she is concerned that the 192-apartment limit could go to a much higher number once the second access goes in. She said she agreed with Mr. Duke's statement.

00:45:36 Stephen Sedita asked if the traffic impact study had taken the pandemic traffic patterns into account. He said he is concerned that the baseline traffic data does not reflect an accurate count of what traffic was like prior to 2020.

**Rebuttal:**

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00:47:25 Mr. Ashburner presented rebuttal (see recording for detailed presentation.)

00:51:30 Commissioner Brown asked if the traffic study had been adjusted for changes in traffic counts due to the pandemic. Ms. Jones said the applicant would provide a more complete answer to that at the public hearing. Commissioner Mims said traffic counts have been less during the pandemic. When were the counts made for existing conditions? Mr. Ashburner said the counts were made last fall.

**Deliberation**

00:53:39 Commissioners' deliberation.

**An audio/visual recording of the Land Development and Transportation 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.**

The Committee by general consensus scheduled this case to be heard at the **April 21, 2022 Planning Commission public hearing.**

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**NEW BUSINESS**

**Case No. 21-ZONE-0164**

Request:	Change in zoning from C-2 to M-2
Project Name:	Drum Trucking
Location:	8315 Nash Road
Owner:	Drum Trucking LLC
Applicant:	Drum Trucking LLC
Representative:	Bardenwerper Talbott and Roberts PLLC; Mindel Scott and Assoc.
Jurisdiction:	Louisville Metro
Council District:	13-Mark Fox
<b>Case Manager:</b>	<b>Julia Williams, AICP, Planning Supervisor</b>

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

**Agency Testimony:**

00:55:16 Julia Williams presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.) She discussed an e-mail and a phone call she had received before today's meeting from an adjacent property owner which expressed concerns about: trucks have to drive in the middle of the road; flooding; no bathrooms for the truck drivers; people walk down the road because there is no consistent network of sidewalks.

01:00:34 In response to questions from Commissioner Mims, Ms. Williams said the road will only be paved up to the gate. The parking area will be gravel.

01:01:31 Commissioner Carlson asked if Nash Road was constructed with sufficient strength and capacity to handle this type of truck traffic. Ms. Williams said either the applicant or Transportation Planning could better respond to that. Commissioner Brown noted that there had been a recent rezoning to the south that prohibited Nash Road access to trucks.

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

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Nick Pregliasco, Bardenwerper Talbott & Roberts PLLC, 1000 North Hurstbourne Parkway, Louisville, KY 40223

Kathy Linares, Mindel Scott & Associates, 5151 Jefferson Blvd, Louisville, KY 40219

Salihbeg Ferhatbegovic, 8912 Town Ridge Road, Louisville, KY

**Summary of testimony of those in support:**

01:04:15 Nick Pregliasco, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.) He said there is a note on the plan requiring that the gravel area must have a binding agent applied to stabilize the surface and prevent dust. He said there are no restrooms provided; however, the site is intended for drivers to pick up or drop off a trailer and no one will be on the site for any amount of time. Mr. Pregliasco also noted a binding element that the applicant will agree to, which reads as follows:

No trucks or trailers that are required by US Department of Transportation regulations to display a hazardous materials placard shall be parked on the site.

01:13:31 Kathy Linares, an applicant's representative, said the width of the road varies between 18-20 feet, but that she was not familiar with the weight bearing capacity of Nash Road. Mr. Pregliasco said that sidewalks would be added along this frontage. Ms. Linares noted that there are truck storage facilities both to the north and the south of this site, at least one of which has an entrance/access on Nash Road.

01:16:15 In response to questions from Commissioners Mims and Sistrunk, Salihbeg Ferhatbegovic, the business owner, said that both empty and full trailers would be stored there overnight. Commissioners Mims and Carlson discussed the gated access and whether it would be accessible to firefighting equipment. Commissioner Carlson mentioned the need to be close to a fire hydrant. Mr. Pregliasco said the applicant is willing to work with the Fire Department to see if they have any comments or concerns.

01:23:18 In response to a question from Commissioner Carlson, Ms. Linares said the binding agent put down to minimize dust must be refreshed periodically but she did not know the timeframe on that. Mr. Pregliasco said the applicant is willing to add a binding element stating that they would "comply with best practices" regarding this.



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01:25:08 Commissioner Carlson asked for more definitive information regarding the weight-bearing capacity of Nash Road before this case is moved to a public hearing. Commissioner Brown advised that this information should be determined before any rezoning takes place. Commissioner Sistrunk agreed. See recording for detailed discussion.

01:30:51 There was discussion between the Commissioners, Ms. Linares, and Mr. Pregliasco regarding the road issue, impact mitigation, and the proposed M-2 rezoning and permitted uses. See recording for detailed discussion.

01:43:55 Ms. Linares said she could try to get a core sample of the roadway done possibly within the next two weeks.

**The following spoke in opposition:**

Ty Stranger (sp), representing his father Milton, 8400 Nash Road, Louisville, KY 40214

**Summary of testimony of those in opposition:**

01:36:33 Ty Stranger (sp) said 18-20 feet width of road is not sufficient to allow two tractor trailers to pass. He said he took issue with Mr. Pregliasco's statement that this would be strictly a drop lot, and expressed concern about a lack of resting area or sanitary facilities for truckers. He referred to a picture of the intersection of Outer Loop and Nash Road that he says shows road deterioration; he said there is further deterioration along Nash Road where trucks pull into the first business on the left. He said the commercial and industrial uses in this area are almost all on National Turnpike, not on Nash Road. He said sidewalks are not consistent; the existing sidewalks are on the left side of the road, while the applicant is proposing to install sidewalks on the right side of the road. He explained the hazards for pedestrians on Nash Road and noted that children catch their school bus at the corner of Nash and Outer Loop. He said the proposed binding agent gets tracked off the lot and onto the road, and is very slippery. He said this area has a "severe" drainage problem.

**Rebuttal**

01:46:33 Mr. Pregliasco said comments will be addressed when this case comes back to LD&T.

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01:47:16 In response to a question from Commissioner Carlson, Tony Kelly, from MSD, discussed a previous case on Nash Road and steps MSD had taken to alleviate drainage concerns (installing upsized pipes, etc.) See recording for detailed discussion.

**Deliberation:**

01:50:32 Commissioners' deliberation.

**An audio/visual recording of the Land Development and Transportation 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.**

01:51:42 On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution was adopted:

**RESOLVED**, the Louisville Metro Land Development and Transportation Committee does hereby continue this case to the **April 14, 2022 Land Development and Transportation Committee meeting**.

**The vote was as follows:**

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

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**NEW BUSINESS**

**Case No. 21-ZONE-0068**

Request: **Cont'd from the February 24, 2022 LD&T meeting** - Change in zoning from R-6 to C-1, commercial with conditional use permit for outdoor alcohol sales and revised development plan

Project Name: Ciao's Restaurant  
Location: 1203 Payne Street  
Owner: Alfred Pizzonia, Jr. & Angelica Webster  
Applicant: Craig Priddy  
Representative: Cliff Ashburner - Dinsmore & Shohl, LLP  
Jurisdiction: Louisville Metro  
Council District: 4 - Jecorey Arthur  
**Case Manager: Joel Dock, AICP, Planning Coordinator**

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

**Agency Testimony:**

01:52:44 Joel Dock presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.)

01:58:34 In response to a question from Commissioner Mims, Mr. Dock said the applicant has worked out the fire-resistant construction between the two buildings and can address that further if needed (see recording for detailed explanation.)

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

Cliff Ashburner, Dinsmore & Shohl, 101 S 5th St #2500, Louisville, KY 40202

Lindsey Stoughton, LMS Design, 816 Franklin Street, Louisville, KY 40206

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

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**Case No. 21-ZONE-0068**

02:00:22 Cliff Ashburner, the applicant's representative, presented the applicant's case and showed a Power Point presentation. See recording for detailed presentation.

02:04:38 Lindsey Stoughton, an applicant's representative, said the architect of record will be One World Architecture (she is a plan designer.) She said there will be "significant" modifications needed to the structure to bring it up to Code. See recording for detailed presentation.

02:06:46 Mr. Ashburner concluded the presentation.

02:08:14 In response to a question from Commissioner Daniels, Mr. Ashburner confirmed that the residence shown on the plan is attached to the restaurant. It is owned by the restaurant owner. Mr. Dock pointed out two access to the house – one on the side and one in the front.

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

No one spoke.

**Rebuttal:**

02:12:31 Mr. Ashburner had no rebuttal.

**Deliberation:**

02:12:53 Commissioners' deliberation.

**An audio/visual recording of the Land Development and Transportation 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.**

The Committee by general consensus scheduled this case to be heard at the **April 7, 2022** Planning Commission public hearing.

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**NEW BUSINESS**

**Case No. 21-DDP-0089**

Request:	Revised Detailed District Development Plan for a proposed grocery store with a gas station and outlots
Project Name:	Southpointe Commons
Location:	7405 Bardstown Road
Owner:	Southpointe Partners, LLC
Applicant:	Jon Baker - Wyatt, Tarrant, & Combs John Cambell - Heritage Engineering, LLC
Representative:	Jon Baker - Wyatt, Tarrant, & Combs John Cambell - Heritage Engineering, LLC
Jurisdiction:	Louisville Metro
Council District:	22 - Robin Engel
<b>Case Manager:</b>	<b>Molly Clark, Planner I</b>

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

**Agency Testimony:**

02:13:38 Molly Clark presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.)

02:19:41 Ms. Clark reviewed proposed changes to binding elements (see recording.)

02:21:28 In response to a question from Commissioner Mims, Ms. Clark briefly discussed the relationship of the binding elements to the private road. She and Commissioner Mims discussed the residences off of the private road (several of those residences have been purchased by the applicant.)

02:23:44 In response to questions from Commissioner Brown, Ms. Clark discussed Transportation-related binding elements, particularly binding element #25 (see recording.) One of the applicant's representatives said they could address Commissioner Brown's question.

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**NEW BUSINESS**

**Case No. 21-DDP-0089**

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

Jon Baker, Wyatt Tarrant & Combs, 400 West Market Street Suite 200,  
Louisville, KY 40202

Andrew Reich, Jeff Stein, and Frank Csapo, Hy-Vee Inc., 5820 Westown  
Parkway, West Des Moines, IA 50266

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

02:26:48 Jon Baker, the applicant's representative, introduced the applicant's case (see recording for detailed presentation.)

02:30:40 Andrew Reich, an applicant's representative, presented the case on behalf of Hy-Vee, Inc. and showed a Power Point presentation (see recording for detailed presentation.)

02:35:49 Jeff Stein, a Hy-Vee representative, discussed the site plan, traffic flow, and landscaping (see recording.)

02:40:50 Mr. Reich concluded the presentation.

02:43:52 Commissioner Mims asked about traffic and possible traffic improvements. Mr. Baker said there has been an updated traffic/trip generation study submitted. He noted that Phase I will be less square footage than what was originally approved. Joe Reverman, Assistant Director of Planning & Design Services, said that developments along this area along Bardstown Road that have taken place since the original approval have taken trip generation numbers from this development into account.

02:46:21 Ms. Clark addressed prior questions from Commissioner Brown regarding binding elements 31, 32, and proposed binding element #25 (see recording for detailed discussion.)

02:47:56 Frank Csapo used the originally-approved plan to discuss access points, particularly binding element #25 regarding Access Road A (see recording for detailed presentation.)

02:53:26 In response to a question from Commissioner Brown, Mr. Reich said hours of operation are typically from 6:00 a.m. to midnight. There are some overnight employees (cleaning, stocking, etc.) The gas/convenience store hours are typically the same.

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02:53:54 In response to a question from Commissioner Carlson, Mr. Csapo said that a driver on Brentlinger would be able to get to Hy-Vee without having to go on to Bardstown Road. See recording for detailed discussion.

02:55:54 In response to question from Commissioner Carlson, Mr. Stein said there is rock on the site which will need to be removed. He said the applicant has already talked to grading contractors and geotechnical engineers. Blasting will likely be required. Commissioner Carlson asked if a pre-blast survey will be offered to residents within 500 feet. Mr. Stein said yes, and would agree to a binding element to that effect.

02:57:38 In response to questions from Commissioner Brown and Ms. Clark, Mr. Stein said the “outdoor storage” is an accessory to the main store and will be for seasonal gardening and displays. Parking calculations for the outdoor storage area was discussed. See recording for detailed discussion.

03:00:28 Ms. Clark read the parking regulation into the record. Mr. Stein said the applicant will comply with the regulation and show that on the plan. Mr. Csapo said, and Ms. Clark agreed, that the applicant was well over the minimum parking requirement.

03:01:51 In response to a conversation between Ms. Clark and Commissioner Brown regarding binding element #25, Commissioner Brown asked that the binding element be modified to read as follows:

25. The Developer shall provide, ~~at locations to be determined by Developer~~, two curb cuts (one west of and one east of Access Road “A”) onto the south side of SouthPointe Boulevard (Private Portion) for a proposed future development on an assemblage of all the adjoining tracts, subject to an infrastructure and maintenance cost sharing agreement acceptable to Developer. Notwithstanding anything herein to the contrary, access from adjacent properties shall not be required to be provided to SouthPointe Boulevard until such time as there are no restrictions on the issuance of certificates of occupancy for any portion of the SouthPointe Commons development.

**The following spoke neither for nor against the request (“Other”):**  
Megan Bundy, 10019 Wingfield Road, Louisville, KY

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

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03:03:34 Megan Bundy said her family bought their current house in May and did not know anything about this project. She was concerned about construction traffic and how that would affect the school buses.

**Rebuttal:**

03:06:16 Mr. Csapo discussed how construction traffic is being planned for the store. He noted that there is a binding element specifically prohibiting construction traffic on Wingfield Road – that traffic will be routed to either Leader’s Lane or Southpointe Boulevard out to Bardstown Road.

**Deliberation:**

03:08:01 Commissioners’ deliberation.

03:09:46 In response to questions from Commissioner Carlson and Mr. Reverman, Ms. Clark and Mr. Stein discussed how many parking spaces the proposed outdoor storage area covers; and minimum and maximum parking spaces (see recording.) Mr. Reverman requested that the parking calculations be updated on the plan.

03:14:39 Laura Ferguson, Assistant County Attorney, read the blasting-related binding element into the record, as follows:

All property owners within 500 feet of a proposed blasting location shall be notified 30 days before any blasting operations occur, and be offered pre-blast surveys. Any homeowners who opt to have a pre-blast survey conducted shall be provided copies of all materials resulting from that survey including any photos and/or videos. Any blast survey shall be done in a manner consistent with Kentucky blasting regulations.

**An audio/visual recording of the Land Development and Transportation 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.**

03:15:44 On a motion by Commissioner Carlson, seconded by Commissioner Brown, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:



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**NEW BUSINESS**

**Case No. 21-DDP-0089**

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

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

**WHEREAS**, the Committee further finds that there are no open space requirements pertinent to the current proposal. Future multi-family development proposed on the subject site will be required to meet Land Development Code requirements. The development is meeting all the requirements for focal points with amenities; and

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

**WHEREAS**, the Committee further finds that 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 Land Development and Transportation Committee does hereby **APPROVE** the requested Revised Detailed District Development Plan with Amendment to Binding Elements, **ON CONDITION** that the parking calculations be updated; and that the plan be adopted with the binding elements as shown in the staff report, with the addition of the blasting binding element as read into the record by staff (binding element #31), and with the revision to current binding element #25 as discussed in today's meeting, and **SUBJECT** to the following binding elements:

**Binding Elements Case 11640**

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1. The development shall be in accordance with the approved general 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. 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 review and binding elements. Additional review shall include but not be limited to **setbacks, landscape and screening requirements, parking calculation, pedestrian connections, focal point, signage, and building design.**
3. The development shall be in accordance with the approved Preliminary Subdivision Plan. No further subdivision of the land into a greater number of lots than originally approved shall occur without approval of the Planning Commission.
4. Use of the subject site shall be limited to retail, restaurants, bank and movie theater and other uses permitted in the C-2 district. There shall be no other use of the property unless prior approval is obtained from the Planning Commission or the LD&T Committee. Notice of a request to amend this binding element shall be given in accordance with the Planning Commission's policies and procedures. The Planning Commission/LD&T Committee may require a public hearing on the request to amend this binding element.
5. There shall be no direct vehicular access from parking lot to Wingfield Rd until an additional connection to Brentlinger Lane is provided and Wingfield Road *pavement* improvements are made.
6. Signs shall be in accordance with Chapter 8 of the Land Development Code.
7. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.

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8. 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.
9. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, or alteration permit) is requested:
  - a. The development plan must receive full construction approval from Louisville Construction Permitting, Louisville Metro Public Works and the Metropolitan Sewer District.
  - b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways, but only if any of the developer's improvements encroach into the state right-of-way.
  - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
  - d. A **road closure approval** for a portion of Wingfield Rd, Case # 11641, shall be approved **prior to recording a record plat**.
  - 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.
  - f. The façade elevations shall be in accordance with applicable form district standards and shall be approved by PDS staff or DRC Committee prior to construction permit approval.
10. 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 otherwise provided in these binding elements or specifically waived by the Planning Commission.
11. There shall be no outdoor music (live, piped, radio or amplified) or outdoor PA system **audible beyond the boundary of the development site**.

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12. 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.
13. The materials of proposed structures shall be substantially the same as depicted in the Pattern Book as presented at the March 10, 2022 LD&T meeting.
14. No overnight idling of trucks shall be permitted on-site.
15. At the time a building permit is requested, the applicant shall submit a certification statement to the permit issuing agency, from an engineer, or other qualified professional stating that the lighting plan of the proposed development is in compliance with Chapter 4 Part 1.3 of the land development code and shall be maintained thereafter. No building permits shall be issued unless such certification statement is submitted. Lighting shall be maintained on the property in accordance with Chapter 4 Part 1.3 of the land development code.
16. All street name signs shall be installed prior to requesting a certificate of occupancy for any structure. The address number shall be displayed on a structure prior to requesting a certificate of occupancy for that structure.
17. Hours of operation shall be discussed and determined at the detailed plan review and approval.
18. The Developer shall provide an enhanced landscape buffer on the subject property adjacent to the boundaries of the two historic resources (the Wingfield House (JF 147) at 9815 Wingfield Rd. and the L. Bates House (JF 148) at 10005 Wingfield Rd.), which shall contain two times the landscape plantings required by the LDC. The landscaping abutting these two properties shall be installed prior to requesting a certificate of occupancy for buildings F, G, H, I, or J.

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**Transportation Binding Elements**

19. Prior to the construction plan's approval, the alignment and cross section of the proposed streets/connections to the south shown on the plan will be further reviewed and shall be revised if required per Transportation and Land Use Study recommendations and/or Metro Public Works. Any revisions will be reviewed and discussed with the developer prior to finalizing the Study recommendations and will maintain the full function and use of the proposed development.
20. Developer shall be responsible for any required utility relocations, final surface overlay, signage, striping and traffic control devices (if warranted), associated with required road improvements by the developer. Construction plans, bond, and KTC permit (only if developer improvements encroach into the state right-of-way) are required by Metro Public Works prior to construction approval and issuance of MPW encroachment permit. Developer shall not request a certificate of occupancy until road improvements are complete.
21. All street signs shall be installed by the Developer and shall conform to the *Manual on Uniform Traffic Control Devices* (MUTCD) requirements. Street signs shall be installed prior to occupancy of the first building in the development and shall be in place at the time of any required bond release. The address number shall be displayed on a structure prior to requesting a certificate of occupancy for that structure.
22. An encroachment permit and bond may be required by Metro Public Works for roadway repairs on Wingfield Road due to damages caused by construction traffic activities.
23. Phase 1 of the development shall consist of buildings A, B, C, D, and E as shown on the development plan presented at the May 20, 2010 Planning Commission Public Hearing ("Development Plan"). Construction approvals for Phase 1, excluding approvals for the relocation of the Teachers Association Building, identified as a 2,500 square foot office building on Tract 2 of the Development Plan (including but not limited to demolition, construction and occupancy), shall not be granted until such time as Kentucky Transportation Cabinet improvements as shown on the Development Plan have been let for construction and bonds have been secured for improvements which have been identified as being the responsibility of the applicant. Prior to requesting a Certificate of Occupancy for Phase 1, all roadway improvements as shown on the

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Development Plan and included in the Traffic Impact Study shall be constructed including the required traffic signal, which must be installed and operational.

Phase 2 of the development shall consist of buildings F, G, H, I and J as shown on the Development Plan, and a detailed plan for any portion of Phase 2 shall not be approved until a permanent second access point is provided to connect the development to Brentlinger Lane.

24. At such time as Access Road "A" is constructed to the south property line of the Bates Elementary School property, and until a full secondary connection to Brentlinger Lane is constructed, Developer shall provide a gravel emergency access route through the rear of Cedar Creek Baptist Church or over other existing paved surfaces. Such route shall be located as exhibited on the map presented at the May 20, 2010 public hearing. The final location of this emergency access route shall be subject to the approval of the Fern Creek Fire Protection District (FCFPD), Louisville Metro Police Department, Louisville Metro EMS, and Cedar Creek Baptist Church. No building permit shall be requested until the final location of the emergency access route has been approved by all parties mentioned in this binding element.

The access route shall have an overhead clearance of all obstructions of at least 13 feet, 6 inches, shall be a hard-surface road, a minimum of 12 feet in width with 3 foot earthen shoulders, be capable of supporting a 30-ton fire apparatus, and shall be properly maintained, as determined by FCFPD. If any portion of the access route utilizes a green surface such as grass pavers or grasscrete, the route shall be appropriately marked as required by FCFPD. The emergency access shall include a gate in accordance with Louisville Metro's adopted gate standard and its location shall be determined at a future date. Furthermore, additional fire lane markings may be required for existing for emergency gates.

25. The Developer shall provide two curb cuts (one west of and one east of Access Road "A") onto the south side of SouthPointe Boulevard (Private Portion) for a proposed future development on an assemblage of all the adjoining tracts, subject to an infrastructure and maintenance cost sharing agreement acceptable to Developer. Notwithstanding anything herein to the contrary, access from adjacent properties shall not be required to be provided to SouthPointe Boulevard until such time as there are no restrictions on the issuance of certificates of occupancy for any portion of the SouthPointe Commons development.

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26. Final design of roadway layout and typical road cross-sections for both, Southpointe Blvd and access road, will be determined at construction and/or detailed development plan stage, as appropriate, by Metro Public Works and coordination with Metro Bicycle/Pedestrian Coordinator. Final design of any on road bike facilities or multiuse path shall be approved by Metro Bicycle/Pedestrian Coordinator.
27. Prior to using Wingfield Rd for school traffic circulation, Wingfield Road section shall be resurfaced from SouthPointe Blvd through its intersection with Access Road "A". Developer shall install a 1 and ½" paving overlay per Metro Public Works requirements.
28. The Developer shall not route construction traffic along Wingfield Road at any portion east of Southpointe Blvd., except as may be required to construct improvements to Bates Elementary School, KRTA building, improvements to Wingfield Road and Access Road "A" from SouthPointe Commons to the south property line of Bates Elementary School.
29. Final design of Access Road "A" may be revised if required per Transportation and Land Use Study recommendations, provided that (1) any revisions of Access Road "A" will be reviewed and discussed with the SouthPointe Commons owner prior to finalizing the Study recommendations and will maintain the full function and use of the proposed development (2) Developer shall not be required to provide more than thirty-four (34) feet of pavement width for Access Road "A."
30. The applicant will work with staff on providing twice as many trees and screening than what is required in the 35' LBA adjacent to the Steven D. Webb property.
31. All property owners within 500 feet of a proposed blasting location shall be notified 30 days before any blasting operations occur, and be offered pre-blast surveys. Any homeowners who opt to have a pre-blast survey conducted shall be provided copies of all materials resulting from that survey including any photos and/or videos. Any blast survey shall be done in a manner consistent with Kentucky blasting regulations.

**The vote was as follows:**

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

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**The meeting adjourned at approximately 4:18 p.m.**

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***Chairman***

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***Division Director***