

**MINUTES OF THE MEETING  
OF THE  
LOUISVILLE METRO DEVELOPMENT REVIEW COMMITTEE MEETING  
April 3, 2019**

A meeting of the Louisville Metro Development Review Committee was held on April 3, 2019 at 1:00 p.m. at the Old Jail Building, located at 514 W. Liberty Street, Louisville, KY 40202.

**Commissioners present:**

Rich Carlson, Vice Chair (acting chair)  
Jeff Brown  
Vince Jarboe

**Commissioners absent:**

Emma Smith  
Donald Robinson  
David Tomes, Chair

**Staff members present:**

Emily Liu, Director, Planning & Design Services  
Brian Davis, Planning Manager  
Dante St. Germain, Planner II  
Lacey Gabbard, Planner I  
Zach Schwager, Planner I  
Jay Lockett, Planner I  
Molly Clark, Associate Planner  
John Carroll, Legal Counsel  
Beth Stuber, Transportation  
Rachel Dooley, Management Assistant

The following matters were considered

**DEVELOPMENT REVIEW COMMITTEE MINUTES**  
**April 3, 2019**

**APPROVAL OF MINUTES**

**March 20, 2019 DRC Meeting Minutes**

00:03:44      On a motion by Commissioner Carlson, seconded by Commissioner Brown, the following resolution was adopted:

**RESOLVED**, that the Louisville Metro Development Review Committee does hereby **APPROVE** the minutes of its meeting conducted on March 20, 2019.

**The vote was as follows:**

**YES:**            Commissioners Brown, and Carlson

**ABSTAIN:**    Commissioner Jarboe.

**ABSENT:**     Commissioners Smith, Robinson, and Tomes.

## DEVELOPMENT REVIEW COMMITTEE MINUTES

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### NEW BUSINESS

#### CASE NUMBER 18DEVPLAN1133

Request: Category 3 Development Plan for a 21-unit multi-family development  
Project Name: College Drive Apartments  
Location: 3502 College Drive  
Owner/Applicant: MRC Development Group, LLC  
Representative: Derek Triplett – Land Design & Development Inc.  
Jurisdiction: City of Jeffersontown  
Council District: 20 – Stuart Benson

Case Manager: Zach Schwager, 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:**

00:03:40 Zach Schwager presented the case and showed the requested development plan (see staff report and recording for detailed presentation.)

#### **The following spoke in favor of this request:**

Derek Triplett, 503 Washburn Ave, Louisville, Kentucky, 40222

Daniel O'Gara, 101 S. Fifth Street, Suite 2500, Louisville, Kentucky, 40202

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

00:04:46 Derek Triplett, the developer's representative, presented the applicant's case via Power Point presentation. He detailed the use of site, the proposed screening of development, and tree requirements. Mr. Triplett explained the collection of rain runoff into a proposed above ground rain basin. The entrance of the site will be located on College Drive. He stated their legal representative, Daniel O'Gara, is available for questions.

00:09:44 Daniel O'Gara stated he has reviewed the staff report and is in agreement with the proposed site.

#### **The following spoke neither for nor against this request:**

Stephen Heiniger, 3508 Maple Road, Jeffersontown, Kentucky, 40299

## **DEVELOPMENT REVIEW COMMITTEE MINUTES**

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### **NEW BUSINESS**

#### **CASE NUMBER 18DEVPLAN1133**

Clay England, 3512 Maple Road, Jeffersontown, Kentucky, 40299

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

00:10:25 Stephen Heiniger stated he would like to see stronger landscape barriers on the development.

00:13:25 Clay England stated he would prefer the original proposed two-story buildings be developed rather than the three-story building which was presented. Mr. England noted he would like to see more landscaping on this site as well.

#### **Rebuttal:**

00:15:17 Derek Triplett stated without the owner of the development being present at this meeting he is not at liberty to agree to additional landscaping, but he will be able to speak more about it to the Jeffersontown Council. Mr. Triplet noted this development is to be three-stories, which is allowed by the Land Development Code.

#### **The following spoke in opposition to this request:**

No one spoke.

#### **Deliberation:**

00:16:20 Commissioners' deliberation.

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

00:17:14 On a motion by Commissioner Brown, seconded by Commissioner Jarboe, the following resolution, based on the Standard of Review and Staff Analysis, and evidence and testimony heard today, was adopted:

#### **The vote was as follows:**

**YES: Commissioners Brown, Carlson, and Jarboe.**

**ABSENT: Commissioners Smith, Robinson, and Tomes.**

## DEVELOPMENT REVIEW COMMITTEE MINUTES

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### NEW BUSINESS

#### CASE NUMBER 19WAIVER1016

Request: A Waiver to allow a changing image sign within 300 feet of residential properties  
Project Name: Saint Martha Church Signage  
Location: 2825 Klondike Lane  
Owner/Applicant: Roman Catholic Bishop of Louisville  
Representative: St. Martha Catholic Church  
Jurisdiction: Louisville Metro  
Council District: 26 – Brent Ackerson

Case Manager: Dante St. Germain, AICP, Planner II

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:**

00:18:27 Dante St. Germain presented the case (see staff report and recording for detailed presentation.)

#### **The following spoke in favor of this request:**

Lorna Cloud, St. Martha Church, 2825 Klondike Lane, Louisville, Kentucky, 40205

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

00:20:29 Lorna Cloud, representing St. Martha Church, is present for questions regarding the sign.

00:21:00 Commissioner Carlson inquired about the hours of operation of the sign. Ms. Cloud responded the sign does have a timer and dimmer after a certain time. They came to the resolution that the sign will be operational from 8 a.m. through 10 p.m.

00:22:21 John Carroll, legal counsel, asked for the location of the sign. Dante St. Germain responded this sign is on the premises.

#### **The following spoke in opposition to this request:**

No one spoke.

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### NEW BUSINESS

#### CASE NUMBER 19WAIVER1016

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

#### Deliberation:

00:22:27 Commissioners' deliberation.

**Waiver of the Land Development Code section 8.2.1.D.6 to allow a changing image sign to be closer than 300 feet to residentially zoned properties which are being used residentially**

00:22:29 On a motion by Commissioner Brown, seconded by Commissioner Jarboe, the following resolution, based on the Standard of Review and Staff Analysis and testimony heard today, was adopted:

**WHEREAS**, the Louisville Metro Development Review Committee finds 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. The nearest residential structure is approximately 140 feet from the sign's location, and the changing image panel is relatively small; and

**WHEREAS**, the Louisville Metro Development Review Committee further finds the waiver will not violate specific guidelines of Cornerstone 2020 as Cornerstone 2020 Guideline 3 Policy 28 describes signs as compatible with the form district pattern and contributing 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 monument style and similar to the previously existing sign with the exception of the changing image panel; and

**WHEREAS**, the Louisville Metro Development Review Committee further finds the extent of the waiver of the regulation is the minimum necessary to afford relief to the

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#### **CASE NUMBER 19WAIVER1016**

applicant as there is no other reasonable location on the site where the sign could otherwise be placed; 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 changing image panel could be up to 18 square feet if the applicant proposed a sign at the maximum allowed area, and the actual panel is only 6.75 square feet in area, therefore be it

**RESOLVED**, the Louisville Metro Development Review Committee does hereby **APPROVE** the requested waiver from Land Development Code section 8.2.1.D.6 to allow a changing image sign to be closer than 300 feet to residentially zoned properties which are being used residentially.

**The vote was as follows:**

**YES: Commissioners Brown, Jarboe, and Carlson.**

**ABSENT: Commissioners Smith, Robinson, and Tomes.**

## DEVELOPMENT REVIEW COMMITTEE MINUTES

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### NEW BUSINESS

#### CASE NUMBER 19WAIVER1010

Request: A Waiver for pedestrian connectivity and sidewalks  
Project Name: Ford Louisville Assembly Plant (LAP)  
Location: 2000 Fern Valley road  
Owner/Applicant: Michael Mcsweeny – Ford Motor Company  
Representative: Brooks Benton – Lockett and Farley  
Jurisdiction: Louisville Metro  
Council District: 13 – Mark Fox

Case Manager: Molly Clark – Associate Planner  
Presented By: Jay Lockett – Planner 1, AICP

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:**

00:23:55 Jay Lockett presented the case (see staff report and recording for detailed presentation.)

#### **The following spoke in favor of this request:**

Drew Hatcher, 737 South Third Street, Louisville, Kentucky, 40223

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

00:25:18 Dre Hatcher, representing the applicant, is present to answer questions regarding this case.

#### **The following spoke in opposition to this request:**

No one spoke

#### **Deliberation:**

0:25:43 Commissioners' deliberation.

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

## DEVELOPMENT REVIEW COMMITTEE MINUTES

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### NEW BUSINESS

#### CASE NUMBER 19WAIVER1010

- Waiver #1-Waiver of the Land Development Code section 5.8.1.B to not provide sidewalks in the Fern Valley Road and Grade Lane right-of-way.
- Waiver #2 - Waiver of the Land Development Code section 5.9.2.A.1.b.i to not provide pedestrian access from Fern Valley Road or Grade Lane.

00:26:15 On a motion by Commissioner Brown, seconded by Commissioner Jarboe, the following resolution, based on the Standard of Review and Staff Analysis and testimony heard today, was adopted:

**(Waiver #1) WHEREAS**, the Louisville Metro Development Review Committee finds the waiver will not adversely affect adjacent property owners as there are no sidewalks along Fern Valley Road or Grade Lane. There are also no residential or commercial uses nearby likely to generate significant pedestrian traffic. The surrounding developments such as UPS and the airport do not have sidewalk systems along the adjacent right of ways; and

**WHEREAS**, the Louisville Metro Development Review Committee further finds the waiver will not violate the guidelines of the Comprehensive Plan. Mobility Goal 3 Policy 5 states that we should evaluate developments for their impact on the transportation network (including the street, pedestrian, transit, freight movement and bike facilities and services) and air quality. Mobility Goal 3, Policy 5 states that we should ensure that those who propose new development bear or share in rough proportionality the costs of transportation facilities and services made necessary by development. Mobility Goal 3, Policy 10 states that we should ensure that necessary improvements occur in accordance with long-range transportation plans and level of mobility criteria for all modes of travel. The proposal is most likely not going to generate any pedestrian traffic, as the site is used exclusively for the production of Ford vehicles and a majority of the site is fenced off with barbed wire and gates. The addition is adding a small amount of square footage to an existing facility for the plant. The site is located in a heavy industrial area, with many secure industrial sites that generate minimal pedestrian traffic. There is no existing pedestrian network in the area to connect to; and

**WHEREAS**, the Louisville Metro Development Review Committee further finds the extent of the waiver is the minimum necessary to afford relief to the applicant since the installation of sidewalks would equal to over a half mile of sidewalks to meet this requirement in an area with no sidewalks; and

**(Waiver #2) WHEREAS**, the Louisville Metro Development Review Committee further finds the waiver will not adversely affect adjacent property owners, as most sites in this area are industrial uses with fenced perimeters for security. There are also no sidewalks

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to provide pedestrian access to. All surrounding developments such as UPS and the airport do not have sidewalks along the right of ways; and

**WHEREAS**, the Louisville Metro Development Review Committee further finds the waiver will not violate the guidelines of the Comprehensive Plan. Mobility Goal 3, Policy 5 states that we should evaluate developments for their impact on the transportation network (including the streets, pedestrian, transit, freight movement and bike facilities and services) and air quality. Mobility Goal 3, Policy 5 states that we should ensure that those who propose new developments bear or share in rough proportionality the costs of transportation facilities and services made necessary by development. Mobility Goal 3, Policy 10 states that we should ensure that necessary improvements occur in accordance with long-range transportation plans and level of mobility criteria for all modes of travel. The proposal is unlikely to generate any pedestrian traffic since it is surrounded by UPS and the airport which both do not have sidewalk systems to connect to. The site is used exclusively to manufacture vehicles and is located on a property that the majority is fenced off with barbed wire fencing and gates which would make the creation of a pedestrian connection difficult; and

**WHEREAS**, the Louisville Metro Development Review Committee further finds the extent of the waiver is the minimum necessary to afford relief to the applicant because there are no sidewalk networks in the surrounding areas to have a pedestrian connection to connect to; 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, as the proposed use has exceptional security needs that necessitate a fenced perimeter and will not generate any pedestrian traffic. A majority of the property is fenced off with barbed wire and gates, therefore be it

**RESOLVED**, the Louisville Metro Development Review Committee does hereby **APPROVE** the requested waiver of the Land Development Code section 5.8.1.B to not provide sidewalks in the Fern Valley Road and Grade Lane right-of-way; and to **APPROVE** the requested waiver of the Land Development Code section 5.9.2.A.1.b.i to not provide pedestrian access from Fern Valley Road or Grade Lane.

**The vote was as follows:**

**YES: Commissioners Brown, Jarboe, and Carlson.**

**ABSENT: Commissioners Smith, Robinson, and Tomes.**

## DEVELOPMENT REVIEW COMMITTEE MINUTES

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### NEW BUSINESS

#### CASE NUMBER 19WAIVER1011

Request: A Waiver to allow parking in front of a structure in Traditional Neighborhood form  
Project Name: 3808 Kahlert Ave Waiver  
Location: 3808 Kahlert Ave  
Owner/Applicant: Rosa Ortiz  
Representative: Rosa Ortiz  
Jurisdiction: Louisville Metro  
Council District: 15 – Kevin Triplett

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:**

00:27:18 Jay Lockett presented the case (see staff report and recording for detailed presentation.)

00:28:56 Commissioner Brown inquired if there were any on street parking restrictions for this block. Mr. Lockett responded there are no restrictions; however, the width of the pavement is 16 feet and there is nothing posted to prevent street parking.

00:29:24 Commissioner Jarboe and Mr. Lockett discussed the area of the public realms for the use of parking, parking availability of the surrounding homes, and the street along this development (see recording for detailed presentation.)

#### **The following spoke in favor of this request:**

No one spoke

#### **The following spoke in opposition to this request:**

No one spoke.

#### **Deliberation:**

00:32:50 Commissioners' deliberation.

## **DEVELOPMENT REVIEW COMMITTEE MINUTES**

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### **NEW BUSINESS**

#### **CASE NUMBER 19WAIVER1011**

00:33:12 Commissioners Brown and Jarboe discussed the Traditional Neighborhood form district and the setbacks and right-of-ways allowed in for this neighborhood (see recording for detailed presentation.)

00:34:26 Commissioner Carlson stated he would agree with parking on the street if it was wider than 16 feet and would like to know what the fire department says about this waiver.

00:35:14 Commissioner Brown and Mr. Luckett discussed the site plan measured from the property line or from edge of the pavement (see recording for detailed presentation.)

#### **Commissioner deliberation:**

00:36:17 Commissioners Carlson, Brown, and Jarboe discussed to continue this case to the next Development Review Committee meeting to have time to acquire more information about the site (see recording for detailed presentation.)

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

**RESOLVED**, the Louisville Metro Development Review Committee does hereby **CONTINUE** to the **April 17, 2019** Development Review Committee meeting.

**The vote was as follows:**

**YES: Commissioners Brown, Jarboe, and Carlson.**

**ABSENT: Commissioners Smith, Robinson, and Tomes.**

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### NEW BUSINESS

#### CASE NUMBER 19DEVPLAN1024

Request: A Revised District Development Plan for a restaurant with a Waiver for an addition to encroach into a Parkway Buffer  
Project Name: Malone's Restaurant  
Location: 4001 Summit Plaza Dr  
Owner/Applicant: CPT Louisville I, LLC.  
Representative: Wyatt, Tarrant & Comps, LLP  
Jurisdiction: Louisville Metro  
Council District: 16 – Scott Reed

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:**

00:37:55 Jay Lockett presented the case (see staff report and recording for detailed presentation.)

00:40:00 Commissioner Jarboe asked where the parkway buffer is located and how this development would encroach on the 30-foot parkway buffer. Jay Lockett replied this proposed development would encroach about 13-feet into the buffer due to the access road built to Drury Inn & Suites after the Parkway buffer was implemented.

00:41:05 In response to a question from Commissioner Brown, Mr. Lockett stated the building addition will be the same height as the existing structure.

#### **The following spoke in favor of this request:**

John Baker, Wyatt Tarrant and Combs, 500 West Jefferson Street, Louisville, Kentucky, 40202

Derek Triplett, 503 Klashburn Avenue, Louisville, Kentucky, 40222

Michael Tabor, 1307 Leighton Circle, Louisville, Kentucky, 40222

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

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### **NEW BUSINESS**

#### **CASE NUMBER 19DEVPLAN1024**

00:42:05 John Baker, representing the applicant, presented Power Point slideshow (see recording for detailed presentation.) Mr. Baker noted the Drury Inn & Suites, an adjacent business, is in support for this proposed building addition. He stated Derek Triplett and Michael Tabor are present for questions at today's meeting.

00:51:16 In response from a question from Commissioner Brown if they are reusing the structure or building a new façade and not raise the building, Mr. Baker replied this development will reuse the building along with adding this new addition.

00:51:31 Commissioner Jarboe and Mr. Baker discussed the location and use of the addition to the building. Mr. Baker explained this addition would be closer to parking for customers and follow the existing model of the restaurant (see recording for detailed presentation.)

00:52:26 Dereck Triplett stated there would need to be a different waiver requested if the addition is to be placed along the backside of the building facing Drury Inn & Suites

#### **The following spoke in opposition to this request:**

Barbara Kelly, 6009 Mint Spring Branch Road, Prospect, Kentucky, 40059

Alice Gunnison, 7849 Wolf Pen Branch Road, Prospect, Kentucky, 40059

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

00:54:20 Barbara Kelly gave a detailed history of the site and the parkway designation. Ms. Kelly stated she would like to see the restaurant in the shopping center but objects to the waiver of building an extension into the landscape buffer. She spoke of how this would adversely affect adjacent property owners due to the increased visibility at night due to the proposed two-story glass front for the restaurant. Ms. Kelly gave suggestions for alternative restaurant facades and building changes to prevent the encroachment of the parkway buffer.

01:03:51 Alice Gunnison agrees with Barbara Kelly's statements. She is concerned with the size of signage, and the two-story addition having a glass wall.

01:05:16 Commissioner Jarboe asked Ms. Kelly if the access road to Drury Inn & Suites changes the circumstance of the parkway buffer. She replied the access road did, but it was the lack of proper landscaping proposed being the main concern and what this implies for the expectations of future developments.

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### NEW BUSINESS

#### CASE NUMBER 19DEVPLAN1024

01:07:07 Ms. Gunnison agreed the exception of this development could allow future developments to take advantage of this exemption.

01:07:39 Commissioner Carlson asked if the Drury Inn & Suites access road was built before or after the designation of the parkway buffer. Ms. Kelly replied the road was made after the designation.

#### **Rebuttal:**

01:09:16 John Baker answering a question from Commissioner Carlson spoke about the alternatives for landscaping on this site. He stated Michael Tabor is available to answer more questions and explain the use of the development.

01:11:13 Michael Tabor explained the importance of having restaurants within this shopping center and thinks that Malones would be a perfect fit for this area. He stated due to the lease clause, no change areas, they are not permitted to change the front; however, this allows them to be able to build the addition to the foot print of this facility.

01:13:46 In response to a question from Commissioner Jarboe, Mr. Tabor explained no change areas are placed in this shopping center to restrict change of a certain area for development.

01:14:39 Commissioner Carlson, Commissioner Brown, and Mr. Tabor discussed the landscaping for the development (see recording for detailed presentation.)

#### **Deliberation:**

01:16:25 Commissioner Brown, Jarboe, and Carlson commented on the foot print of the building and what could be changed to prevent encroachment of the parkway buffer. They discussed the access road to Drury Inn, the parkway buffer, and the use of a multiplier for landscaping (see recording for detailed presentation.)

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

**Waiver of Land Development Code section 10.3.5 to allow a proposed building addition to encroach into the 30 foot parkway buffer area.**

## DEVELOPMENT REVIEW COMMITTEE MINUTES

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### NEW BUSINESS

#### CASE NUMBER 19DEVPLAN1024

01:24:00 On a motion by Commissioner Brown, seconded by Commissioner Jarboe, the following resolution, based on the Standard of Review and Staff Analysis and testimony heard today, was adopted:

**WHEREAS**, the Louisville Metro Development Review Committee finds the waiver will not adversely affect adjacent property owners. The request is in an area that abuts the access road for the Drury Inn along Brownsboro Rd. The right-of-way is approximately 260 feet wide in this location as it includes the approach ramps for the Gene Snyder Freeway, the Drury Inn access and Brownsboro Rd; and

**WHEREAS**, the Louisville Metro Development Review Committee further finds the Community Form goal 1, policy 16 states that we should consider impacts on human health, quality of life and the environment including prevailing meteorological conditions and the potential to transport noxious odors, particulates and emissions when reviewing new developments and redevelopments. Special attention should be paid to air and water quality when residences, schools, parks or vulnerable populations will be impacted. Mitigate impacts to areas that are disproportionally affected. Community Form goal 2, policy 9 states that we should encourage new developments and rehabilitation of buildings that provide commercial, office and/or residential uses. The proposed waiver to encroach into the existing Landscape Buffer area will not violate the Comprehensive Plan in that it will facilitate the redevelopment of an existing commercial building within an existing center. The applicant will provide additional plantings and landscaping to mitigate the impact of the encroachment into the buffer area; and

**WHEREAS**, the Louisville Metro Development Review Committee further finds the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant; and

**WHEREAS**, the Louisville Metro Development Review Committee further finds the applicant has incorporated design measures that exceed the minimums of the form district, as they will install additional landscaping in the area of the encroachment that exceeds the required plantings of the buffer area., therefore be it

**RESOLVED**, that the Louisville Metro Development Review Committee does hereby **APPROVE** the requested waiver of Land Development Code section 10.3.5 to allow a proposed building addition to encroach into the 30 foot parkway buffer area **ON THE CODITION** that a 3x multiplier is applied to the Parkway Buffer landscaping requirement between the east side of the parking lot to the east property line at the subject site based on the staff report and testimony heard today:

**The vote was as follows:**

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CASE NUMBER 19DEVPLAN1024

**YES: Commissioners Brown, Jarboe, and Carlson.**

**ABSENT: Commissioners Smith, Robinson, and Tones.**

### **Revised Development Plan with Binding Element Amendments**

01:24:00 On a motion by Commissioner Brown, seconded by Commissioner Jarboe, the following resolution, based on the Standard Review and Staff Analysis, and testimony heard today, was adopted:

**RESOLVED**, the Louisville Metro Development Review Committee does hereby **APPROVE** the requested Revised Development shown on pages 8 and 9 of the staff report, **SUBJECT** to the following binding elements:

### **Existing Binding Elements with Proposed Changes**

1. The development shall be in accordance with the approved district development plan and agreed upon binding elements unless amended pursuant to the zoning District Regulations. Any changes/additions/ alterations of any binding element(s) shall be submitted to the Planning Commission for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. The development shall not exceed 367,500 square feet of total gross floor area. (312,500 square feet of retail and 55,000 69,400 square feet of restaurant.)
3. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
4. Outdoor lighting shall be directed down and away from surrounding residential properties. Lighting fixtures shall have a 90-degree cutoff and height of the light standard shall be set so that no light source is visible offsite.
5. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
6. Before any permit (including but not limited to building, parking lot, change of use or alteration permit) is requested:

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### NEW BUSINESS

#### CASE NUMBER 19DEVPLAN1024

- a. The development plan must receive full construction approval from the Jefferson county Department of Public Works and Transportation (400 Fiscal Court Building) Develop Louisville and the Metropolitan Sewer District (700 West Liberty).
  - 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 Article 12 Chapter 10 and in conformance with the Parkway Policy prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
  - d. A major subdivision plat creating the lots and roadways as shown on the approved district development plan shall be recorded prior to issuance of any building permits.
7. If a building permit is not issued within one year 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.
8. 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.
9. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. Their 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 assigns, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
10. If work is required within the easements causing removal or damage of landscape materials, the property owner shall be responsible for replacement of materials according to the approved landscape plan.

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#### CASE NUMBER 19DEVPLAN1024

11. Restaurants with drive-thru's or drive-in shall not be permitted. Any proposal to change this binding element shall require a public hearing.

**All binding elements from the approved General Development Plan are applicable to this site, in addition to the following:**

1. The development shall be in accordance with the approved district development plan and agreed upon binding elements unless amended pursuant to the zoning District Regulations. Any changes/additions/ alterations of any binding element(s) shall be submitted to the Planning Commission for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. The development shall not exceed 367,500 square feet of total gross floor area. (312,500 square feet of retail and 69,400 square feet of restaurant.)
3. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
4. Outdoor lighting shall be directed down and away from surrounding residential properties. Lighting fixtures shall have a 90-degree cutoff and height of the light standard shall be set so that no light source is visible offsite.
5. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
6. Before any permit (including but not limited to building, parking lot, change of use or alteration permit) is requested:
  - a. The development plan must receive full construction approval from the Develop Louisville 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 and in conformance with the Parkway Policy prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.

## DEVELOPMENT REVIEW COMMITTEE MINUTES

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### NEW BUSINESS

#### CASE NUMBER 19DEVPLAN1024

- d. A major subdivision plat creating the lots and roadways as shown on the approved district development plan shall be recorded prior to issuance of any building permits.
7. If a building permit is not issued within one year 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.
8. 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.
9. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. Their 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 assigns, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
10. If work is required within the easements causing removal or damage of landscape materials, the property owner shall be responsible for replacement of materials according to the approved landscape plan.
11. Restaurants with drive-thru's or drive-in shall not be permitted. Any proposal to change this binding element shall require a public hearing.

#### **Existing Binding Elements with Proposed Changes**

1. The development shall be in accordance with the approved district development plan and agreed upon binding elements unless amended pursuant to the zoning District Regulations. Any changes/additions/ alterations of any binding element(s) shall be submitted to the Planning Commission for review and approval; any changes/additions/alterations not so referred shall not be valid.

## DEVELOPMENT REVIEW COMMITTEE MINUTES

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#### CASE NUMBER 19DEVPLAN1024

2. The development shall not exceed 367,500 square feet of total gross floor area. (312,500 square feet of retail and ~~55,000~~ **69,400** square feet of restaurant.)
3. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
4. Outdoor lighting shall be directed down and away from surrounding residential properties. Lighting fixtures shall have a 90-degree cutoff and height of the light standard shall be set so that no light source is visible off- site.
5. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
6. Before any permit (including but not limited to building, parking lot, change of use or alteration permit) is requested:
  - a. The development plan must receive full construction approval from the ~~Jefferson county Department of Public Works and Transportation (400 Fiscal Court Building)~~ **Develop Louisville** and the Metropolitan Sewer District ~~(700 West Liberty)~~.
  - 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 ~~Article 12~~ **Chapter 10** and in conformance with the Parkway Policy prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
  - d. A major subdivision plat creating the lots and roadways as shown on the approved district development plan shall be recorded prior to issuance of any building permits.
7. If a building permit is not issued within one year of the date of approval of the plan or rezoning, whichever is later, the property shall not be used in any

## **DEVELOPMENT REVIEW COMMITTEE MINUTES**

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### **NEW BUSINESS**

#### **CASE NUMBER 19DEVPLAN1024**

manner unless a revised district development plan is approved or an extension is granted by the Planning Commission.

8. 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.
9. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. Their 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 assigns, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
10. If work is required within the easements causing removal or damage of landscape materials, the property owner shall be responsible for replacement of materials according to the approved landscape plan.
11. Restaurants with drive-thru's or drive-in shall not be permitted. Any proposal to change this binding element shall require a public hearing.

**The vote was as follows:**

**YES: Commissioners Brown, Carlson, and Jarboe.**

**ABSENT: Commissioners Smith, Robinson, and Tomes**

## DEVELOPMENT REVIEW COMMITTEE MINUTES

April 3, 2019

### NEW BUSINESS

#### CASE NUMBER 19DEVPLAN1053

Request: A Waiver to allow parking in front of a structure in Downtown form  
Project Name: Louisville Truck and Auto Sales  
Location: 535 E Broadway  
Owner/Applicant: Nabil Shalash  
Representative: Mark Kader  
Jurisdiction: Louisville Metro  
Council District: 4 – Barbara Sexton Smith

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:**

01:25:32 Jay Lockett presented the case (see staff report and recording for detailed presentation.)

01:26:29 In response to a question from Commissioner Carlson, Mr. Lockett showed via areal view photo of the site of the requested parking area location. (see recording for detailed presentation.)

01:27:16 Commissioner Brown inquired about the dimensions of the right of way of the building along the Broadway frontage. Mr. Lockett replied it is about 20 to 23 feet.

#### **The following spoke in favor of this request:**

No one Spoke.

#### **The following spoke in opposition to this request:**

No one spoke.

#### **Deliberation:**

01:27:57 Commissioner Brown would like to see more justification for this waiver in addition to enhanced landscaping and more accessibility for this property. Commissioner Jarboe agreed, he understands the use for this waiver, but he would like to have justification. Commissioner Carlson noted the applicant has the option to appeal the decision made today.

## DEVELOPMENT REVIEW COMMITTEE MINUTES

April 3, 2019

### NEW BUSINESS

#### CASE NUMBER 19DEVPLAN1053

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

#### **Waiver of Land Development Code section 5.5.1.A.3.a to allow parking in front of a non-residential structure in the Downtown form district.**

01:30:01 On a motion by Commissioner Brown, seconded by Commissioner Jarboe, the following resolution, based on the Standard of Review and Staff Analysis and testimony heard today, was adopted:

**WHEREAS**, the Louisville Metro Development Review Committee finds the waiver will adversely affect adjacent property owners. The area of the site in question was previously a landscaped area, and was converted to impervious surface without review and approval by MSD or KYTC. It is unknown how this change affected storm water drainage for the site. It is also unknown how vehicles are placed in the area in question without encroaching onto the sidewalk in a way that could create an unsafe situation for pedestrians; and

**WHEREAS**, the Louisville Metro Development Review Committee further finds the Community Form goal 1, policy 12 states that we should ensure that parking, loading and delivery is adequate and convenient for motorists and does not negatively impact nearby residents or pedestrians. 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 use of alleys for access to parking lots is encouraged, especially in Downtown Louisville, Urban Center Neighborhoods, Traditional Neighborhoods and Traditional Marketplace Corridors. Community Form goal 1, policy 13 states that we should work to integrate parking garage facilities into their surroundings and provide an active inviting street-level appearance. The subject site is non-conforming to the design standards of the Downtown Form district. Allowing new parking in front of the structure is a clear violation of the intent of Downtown form district guidelines; and

**WHEREAS**, the Louisville Metro Development Review Committee further finds the extent of the waiver is not the minimum necessary to afford relief to the applicant. The site could still operate as an automobile sales facility without granting the waiver to allow parking in this area; and

## **DEVELOPMENT REVIEW COMMITTEE MINUTES**

**April 3, 2019**

### **NEW BUSINESS**

#### **CASE NUMBER 19DEVPLAN1053**

**WHEREAS**, the Louisville Metro Development Review Committee further finds the strict application of the regulation would not deprive the applicant of the reasonable use of the land, as there are a number of commercial uses including automobile sales that would be feasible on the property without granting this waiver, therefore be it

**RESOLVED**, the Louisville Metro Development Review Committee does hereby **DENY** the requested **Waiver** of Land Development Code section 5.5.1.A.3.a to allow parking in front of a non-residential structure in the Downtown form district.

**The vote was as follows:**

**YES: Commissioners Brown, Jarboe, and Carlson.**

**ABSENT: Commissioners Smith, Robinson, and Tomes.**

**DEVELOPMENT REVIEW COMMITTEE MINUTES**  
**April 3, 2019**

**NEW BUSINESS**

**CASE NUMBER 18WAIVER1055**

|                   |                                         |
|-------------------|-----------------------------------------|
| Request:          | Parking waiver and façade design waiver |
| Project Name:     | Hughes and Coleman                      |
| Location:         | 3620 Dixie Hwy                          |
| Owner/Applicant:  | Lee Coleman, ML Destiny Plaza LLC       |
| Representative:   | Lee Coleman, ML Destiny Plaza LLC       |
| Jurisdiction:     | Louisville Metro                        |
| Council District: | 4 – Barbara Sexton Smith                |

Case Manager: Lacey Gabbard, 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:**

01:31:25 Lacey Gabbard presented the case (see staff report and recording for detailed presentation.) Ms. Gabbard noted the Dixie Highway Corridor plan.

01:33:26 In response to a question from legal counsel John Carroll, Ms. Gabbard stated this case can be approved or denied at today's meeting.

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

Brian Shirley, 1136 South Park Drive, Bowling Green, Kentucky, 42014

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

01:36:06 Brian Shirley detailed the history and the area of the site. He stated the applicant preformed an internal parking study and determined the site needed a minimum of 25 spaces for their parking lot. Mr. Shirley noted there will be a provision of sidewalks and handicap parking along the adjacent roads.

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

No one spoke.

**Deliberation:**

01:40:28 Commissioner Brown is in support of the parking waiver and the access is justified because of the location of the parking is pedestrian friendly.

## DEVELOPMENT REVIEW COMMITTEE MINUTES

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### NEW BUSINESS

#### CASE NUMBER 18WAIVER1055

01:41:24 Commissioner Jarboe asked if the entrance were to be located on the back left corner of the building would it be in the plan, Ms. Gabbard replied to be in compliance with the form district the entrance would have to be on the corner of the building facing the intersection.

01:42:25 Commissioner Jarboe, Carlson, and Brown discussed the location of the proposed entrance of the building and safety of employees due to the location of the door (see recording for detailed presentation.)

01:46:05 Commissioner Brown, Lacey Gabbard, Brian Davis, and Emily Liu discussed the option of installing a false door on the façade of the building (see recording for detailed presentation.) Emily Liu explained if there were to be a false door that would require a separate waiver.

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

- **Waiver #1- Waiver of Land Development Code table 9.1.2 to increase the maximum parking allowed from 19 spaces to 25**
- **Waiver #2 - Waiver of Land Development Code 5.5.1.A.1.b to not provide an entrance door on the façade facing Oehrle Drive**

01:49:08 On a motion by Commissioner Brown, seconded by Commissioner Jarboe, the following resolution, based on the Standard of Review and Staff Analysis and testimony heard today, was adopted:

**(Waiver #1) WHEREAS**, the Louisville Metro Development Review Committee finds the Mobility Goal 1, Policy 4 states that higher densities and intensities are encouraged within or near existing marketplace corridors and existing future activity and employment centers to support transit-oriented development and an efficient public transportation system. Mobility Goal 3, Policy 3 states that developments are evaluated for their ability to promote public transit and pedestrian use. Encourage higher density mixed-use developments that reduce the need for multiple automobile trips as a means of achieving air quality standards and providing transportation and housing choices. Mobility Goal 3, Policy 9 states that when existing transportation facilities and services are inadequate and public funds are not available to rectify the situation, the developer may be asked to make improvements, roughly proportional to the projected impact of the proposed development, to eliminate present inadequacies if such improvements

## DEVELOPMENT REVIEW COMMITTEE MINUTES

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### NEW BUSINESS

#### CASE NUMBER 18WAIVER1055

would be the only means by which the development would be considered appropriate at the proposed location.

Additional parking spaces on this site supports auto-oriented development, not transit-oriented development. However, the proposed development provides 11,686 square feet of tree canopy (40.9% of the site) and the required tree canopy is 2,860 square feet (10% of the site). The additional tree canopy mitigates the request for additional parking spaces and impervious surface area.

A justification statement provided by the applicant demonstrates the need for this specific use, a law office, to offer the number of spaces requested due to the parking needs of employees on a maximum shift and peak customer demand. The subject site does not have on-street parking available; and

**WHEREAS**, the Louisville Metro Development Review Committee further finds the applicant's proposal includes tree canopy that exceeds the requirements of the Land Development Code and in accordance with applicable guidelines of the Comprehensive Plan; and

**WHEREAS**, the Louisville Metro Development Review Committee further finds the requirements found in Table 9.1.2 do not accurately depict the parking needs of the proposed use and the requested increase will accommodate the parking demand to be generated by the proposed use. The applicant has provided a justification stating that when they are fully staffed, only one parking space would be available plus two ADA spaces. The parking requirements of Table 9.1.2 are based on square footage and the peak employees on site would occupy nearly all of those allowed spaces. Once peak customer parking demand is incorporated, a demand for 6 additional spaces is needed beyond the allowed 19 spaces; and

**WHEREAS**, the Louisville Metro Development Review Committee further finds This request is the minimum number of spaces that is needed on site to accommodate for employees and customers, specifically during peak times of demand when all staff is present and customers and clients are also visiting the building; and

**(Waiver #2) WHEREAS**, the Louisville Metro Development Review Committee further finds the waiver will adversely affect adjacent property owners since it is not consistent with the intent of the Dixie Highway Corridor Master Plan. A desired outcome of the Plan is for a uniform urban design theme in the corridor; and

**WHEREAS**, the Louisville Metro Development Review Committee further finds the Community Form Goal 1, Policy 4 states that the proposal ensures new development and redevelopment are compatible with the scale and site design of nearby existing

## DEVELOPMENT REVIEW COMMITTEE MINUTES

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### NEW BUSINESS

#### CASE NUMBER 18WAIVER1055

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. Community Form Goal 2, Policy 2.2 states that proposed uses, density and design are compatible with adjacent uses and meets Form District guidelines.

The Land Development Code requires that retail and office uses within buildings facing two or more streets shall have at least one customer entrance facing the primary street and one customer entrance facing the second street or instead of two entrances, a corner entrance. Additionally, the requested waiver is not consistent with the intent of the Dixie Highway Corridor Master Plan to create a uniform urban theme in the corridor; and

**WHEREAS**, the Louisville Metro Development Review Committee further finds the extent of the waiver is the minimum necessary to afford relief to the applicant because there are no sidewalk networks in the surrounding areas to have a pedestrian connection to connect to; and

**WHEREAS**, the Louisville Metro Development Review Committee further finds the extent of waiver of the regulation is not the minimum necessary to afford relief to the applicant since the building could be redesigned to accommodate an additional entrance facing Oehrle Drive, or a corner entrance; and

**WHEREAS**, the Louisville Metro Development Review Committee further finds the applicant has not incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived, therefore be it

**RESOLVED**, the Louisville Metro Development Review Committee does hereby **APPROVE** the requested waiver of the Land Development Code table 9.1.2 to increase the maximum parking allowed from 19 spaces to 25; and the requested waiver of the Land Development Code 5.5.1.A.1.b to not provide an entrance door on the façade facing Oehrle Drive **ON THE CONDITION** the waiver applies just for this particular use and change in use may require that pedestrian access or entrance.

**The vote was as follows:**

**YES: Commissioners Brown, Jarboe, and Carlson.**

**ABSENT: Commissioners Smith, Robinson, and Tomes.**

**DEVELOPMENT REVIEW COMMITTEE MINUTES**  
**April 3, 2019**

**NEW BUSINESS**

**CASE NUMBER 18DEVPLAN1215**

|                   |                                         |
|-------------------|-----------------------------------------|
| Request:          | Parking waiver and façade design waiver |
| Project Name:     | Hughes and Coleman                      |
| Location:         | 3620 Dixie Hwy                          |
| Owner/Applicant:  | Lee Coleman, ML Destiny Plaza LLC       |
| Representative:   | Lee Coleman, ML Destiny Plaza LLC       |
| Jurisdiction:     | Louisville Metro                        |
| Council District: | 4 – Barbara Sexton Smith                |

Case Manager: Lacey Gabbard, 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.)

**This case was heard with 18WAIVER1055**

**Agency Testimony:**

01:31:25 Lacey Gabbard presented the case (see staff report and recording for detailed presentation.) Gabbard noted the Dixie Highway Corridor plan

01:33:26 In response to a question from legal counsel John Carroll, Ms. Gabbard stated this case can be approved or denied at today's meeting.

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

Brian Shirley, 1136 South Park Drive, Bowling Green, Kentucky, 42014

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

01:36:06 Brian Shirley detailed the history and the area of the site. He stated the applicant did an internal parking study and determined the site needed a minimum of 25 spaces for their parking lot. Mr. Shirley noted they will be providing sidewalks along adjacent roads and handicap parking.

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

No one spoke.

**Deliberation:**

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### NEW BUSINESS

#### CASE NUMBER 18DEVPLAN1215

01:40:28 Commissioner Brown is in support of the parking waiver and the access is justified because of the location of the parking being pedestrian friendly.

01:41:24 In response to a question from Commissioner Jarboe, if the entrance were to be located on the back left corner of the building would it be in the plan, Ms. Gabbard replied it be in compliance with the form district the entrance would have to be on the corner of the building facing the intersection.

01:42:25 Commissioner Jarboe, Carlson, and Brown discussed the location of the proposed entrance of the building and safety of employees due to the location of the door (see recording for detailed presentation.)

01:46:05 Commissioner Brown, Lacey Gabbard, Brian Davis, and Emily Liu discussed the option of installing a false door on the façade of the building (see recording for detailed presentation.) Emily Liu explained if there were to be a false door that would require a separate waiver.

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

- **Waiver #1- Waiver of Land Development Code table 9.1.2 to increase the maximum parking allowed from 19 spaces to 25**
- **Waiver #2 - Waiver of Land Development Code 5.5.1.A.1.b to not provide an entrance door on the façade facing Oehrle Drive**

01:49:08 On a motion by Commissioner Brown, seconded by Commissioner Jarboe, the following resolution, based on the Standard of Review and Staff Analysis and testimony heard today, was adopted:

**(Waiver #1) WHEREAS**, the Louisville Metro Development Review Committee finds the Mobility Goal 1, Policy 4 states that higher densities and intensities are encouraged within or near existing marketplace corridors and existing future activity and employment centers to support transit-oriented development and an efficient public transportation system. Mobility Goal 3, Policy 3 states that developments are evaluated for their ability to promote public transit and pedestrian use. Encourage higher density mixed-use developments that reduce the need for multiple automobile trips as a means of achieving air quality standards and providing transportation and housing choices. Mobility Goal 3, Policy 9 states that when existing transportation facilities and services are inadequate and public funds are not available to rectify the situation, the developer may be asked to make improvements, roughly proportional to the projected impact of

## DEVELOPMENT REVIEW COMMITTEE MINUTES

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### NEW BUSINESS

#### CASE NUMBER 18DEVPLAN1215

the proposed development, to eliminate present inadequacies if such improvements would be the only means by which the development would be considered appropriate at the proposed location.

Additional parking spaces on this site supports auto-oriented development, not transit-oriented development. However, the proposed development provides 11,686 square feet of tree canopy (40.9% of the site) and the required tree canopy is 2,860 square feet (10% of the site). The additional tree canopy mitigates the request for additional parking spaces and impervious surface area.

A justification statement provided by the applicant demonstrates the need for this specific use, a law office, to offer the number of spaces requested due to the parking needs of employees on a maximum shift and peak customer demand. The subject site does not have on-street parking available; and

**WHEREAS**, the Louisville Metro Development Review Committee further finds the applicant's proposal includes tree canopy that exceeds the requirements of the Land Development Code and in accordance with applicable guidelines of the Comprehensive Plan; and

**WHEREAS**, the Louisville Metro Development Review Committee further finds the requirements found in Table 9.1.2 do not accurately depict the parking needs of the proposed use and the requested increase will accommodate the parking demand to be generated by the proposed use. The applicant has provided a justification stating that when they are fully staffed, only one parking space would be available plus two ADA spaces. The parking requirements of Table 9.1.2 are based on square footage and the peak employees on site would occupy nearly all of those allowed spaces. Once peak customer parking demand is incorporated, a demand for 6 additional spaces is needed beyond the allowed 19 spaces; and

**WHEREAS**, the Louisville Metro Development Review Committee further finds This request is the minimum number of spaces that is needed on site to accommodate for employees and customers, specifically during peak times of demand when all staff is present and customers and clients are also visiting the building; and

**(Waiver #2) WHEREAS**, the Louisville Metro Development Review Committee further finds the waiver will adversely affect adjacent property owners since it is not consistent with the intent of the Dixie Highway Corridor Master Plan. A desired outcome of the Plan is for a uniform urban design theme in the corridor; and

**WHEREAS**, the Louisville Metro Development Review Committee further finds the Community Form Goal 1, Policy 4 states that the proposal ensures new development

## DEVELOPMENT REVIEW COMMITTEE MINUTES

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#### CASE NUMBER 18DEVPLAN1215

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. Community Form Goal 2, Policy 2.2 states that proposed uses, density and design are compatible with adjacent uses and meets Form District guidelines.

The Land Development Code requires that retail and office uses within buildings facing two or more streets shall have at least one customer entrance facing the primary street and one customer entrance facing the second street or instead of two entrances, a corner entrance. Additionally, the requested waiver is not consistent with the intent of the Dixie Highway Corridor Master Plan to create a uniform urban theme in the corridor; and

**WHEREAS**, the Louisville Metro Development Review Committee further finds the extent of the waiver is the minimum necessary to afford relief to the applicant because there are no sidewalk networks in the surrounding areas to have a pedestrian connection to connect to; and

**WHEREAS**, the Louisville Metro Development Review Committee further finds the extent of waiver of the regulation is not the minimum necessary to afford relief to the applicant since the building could be redesigned to accommodate an additional entrance facing Oehrle Drive, or a corner entrance; and

**WHEREAS**, the Louisville Metro Development Review Committee further finds the applicant has not incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived., therefore be it

**RESOLVED**, the Louisville Metro Development Review Committee does hereby RECOMMEND to the City of Shively that the requested waiver of the Land Development Code table 9.1.2 to increase the maximum parking allowed from 19 spaces to 25; and the requested waiver of the Land Development Code 5.5.1.A.1.b to not provide an entrance door on the façade facing Oehrle Drive, be approved **ON CONDITION** that the waiver applies just for this particular use, and any change in use may require that pedestrian access or entrance.

**The vote was as follows:**

**YES: Commissioners Brown, Jarboe, and Carlson.**

**ABSENT: Commissioners Smith, Robinson, and Tomes.**

**DEVELOPMENT REVIEW COMMITTEE MINUTES**  
**April 3, 2019**

**NEW BUSINESS**

**CASE NUMBER 19WAIVER1004**

|                   |                                                 |
|-------------------|-------------------------------------------------|
| Request:          | Landscape buffer area waivers                   |
| Project Name:     | 2705 Watterson Trail Industrial                 |
| Location:         | 2713 Watterson Trail                            |
| Owner/Applicant:  | Bryan Barnett, Outer Loop Investment Properties |
| Representative:   | Bryan Barnett, Outer Loop Investment Properties |
| Jurisdiction:     | Jeffersontown                                   |
| Council District: | 11 – Kevin Kramer                               |

Case Manager: Lacey Gabbard, 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:**

01:51:23 Lacey Gabbard presented the case (see staff report and recording for detailed presentation.)

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

Michael E. Gregory, 1161 E. Broadway, Louisville, Kentucky, 40204

Bryan Barnet, 9462 Brownsboro Road, Louisville, Kentucky, 40241

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

01:54:09 Michael Gregory, presented on behalf of the applicant, detailed history of site and the surrounding area. There is an access road on the site going to a neighboring property and there is a current litigation for this access. The request for a landscape buffer is to provide options to the neighboring property owner for access.

01:56:07 Bryan Barnet explained the development for the landscape buffer via site plans. He detailed the grade and elevations of the site along the adjacent property and the proposed landscape buffer uses (see recording for detailed presentation.)

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

Jessica Brotzge, 201 Threman Lane, Louisville, Kentucky, 40207

## **DEVELOPMENT REVIEW COMMITTEE MINUTES**

**April 3, 2019**

### **NEW BUSINESS**

#### **CASE NUMBER 19WAIVER1004**

Henry Robinson, 400 Landis Lake Court, Louisville, Kentucky, 40245

Daniel Breul, 2801 Watterson Trail, Jeffersontown, Kentucky, 40299

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

02:00:00 Jessica Brotzge, representing adjacent property owner Henry Robinson, stated there will be litigation for this site. She described the landscape buffer areas and the current state of access to Robinson's property (see recording for detailed presentation.) Ms. Brotzge stated she is against the landscape buffer waivers and do not believe it is justified as there is no resolution for an access point to her clients property.

02:05:14 Commissioner Jarboe questioned where the original access point was for this development. Ms. Brotzge explained the industrial park area used to be owned by her clients relatives and he will be able to explain the access.

02:06:17 Henry Robinson, adjacent property owner, presented an overlay map of the area to explain the access to his property. In response to a question from Commissioner Jarboe, Mr. Robinson detailed the history of the site and access to his property (see recording for detailed presentation.)

02:09:22 Commissioner Carlson asked if the outcome of the litigation will have any impact on the waivers presented today. Ms. Brotzge stated the it would affect the proposed landscape buffer waiver as it would determine if the waivers will be needed at all.

02:11:43 Daniel Breul, adjacent property owner, explained he does not want the buffer encroaching onto his property and asked why the development should not have the same set back of 50 feet like the other properties.

#### **Rebuttal:**

02:14:25 Michael Gregory explained they will not discuss the litigation at this meeting and showed the expansion of the developments building. He detailed the grade which would change the drainage and prevent water run off onto the adjacent properties.

#### **Deliberation:**

02:18:49 Commissioner Carlson asked if this waiver could be sent without recommendation to Jeffersontown. Commissioners Brown, Carlson, and Jarboe

## DEVELOPMENT REVIEW COMMITTEE MINUTES

April 3, 2019

### NEW BUSINESS

#### CASE NUMBER 19WAIVER1004

discussed to forward the waiver without recommendation (see recording for detailed presentation.) Brian Davis confirmed there can be a motion to move the waiver without recommendation.

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

- **Waiver #1- Waiver of Land Development Code section 10.2 to allow the proposed Building #2 to encroach 5 feet into the 15 foot LBA along the southeast property line**
- **Waiver of Land Development Code section 10.2 to eliminate a 15 foot LBA on the north side of the proposed Building #2 to allow for future road extension**

02:21:15 On a motion by Commissioner Brown, seconded by Commissioner Jarboe, the following resolution, based on the Standard of Review and Staff Analysis and testimony heard today, was adopted:

**(Waiver #1) WHEREAS**, the Louisville Metro Development Review Committee finds the waiver will not adversely affect adjacent property owners since all planting requirements will be met and Building #2 and the area where the waiver is requested is not visible from the roadway, and it does not pose safety or health concerns; and

**WHEREAS**, the Louisville Metro Development Review Committee further finds the Community Form Goal 1, Policy 20 calls for the mitigation of adverse visual intrusions when there are impacts to residential areas, roadway corridors, and public spaces. Community Form Goal 1, Policy 9 calls for the insurance of appropriate transitions 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. Community Form Goal 2, Policy 2.1 states that proposed uses, density and design are compatible with adjacent uses and meet Form District guidelines.

This site abuts similarly zoned and used properties, so the difference in intensity or density of development is not substantial in scale. Planting requirements along the

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southeast property line will still be met. This portion of the building is not visible from the roadway; and

**WHEREAS**, the Louisville Metro Development Review Committee further finds the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since, according to the applicant's justification statement, Building #2 cannot be constructed without the granting of the waiver; 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 future roadway extension and adequate access and parking to Building #2 would not be possible without the waiver; and

**(Waiver #2) WHEREAS**, the Louisville Metro Development Review Committee further finds the waiver will not adversely affect adjacent property owners since the area where the waiver is requested is not visible from the roadway, and does not pose safety or health concerns to the adjoining properties; and

**WHEREAS**, the Louisville Metro Development Review Committee further finds the Community Form Goal 1, Policy 20 calls for the mitigation of adverse visual intrusions when there are impacts to residential areas, roadway corridors, and public spaces. Community Form Goal 1, Policy 9 calls for the insurance of appropriate transitions 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. Community Form Goal 2, Policy 2.1 states that proposed uses, density and design are compatible with adjacent uses and meet Form District guidelines.

This site abuts similarly zoned and used properties, so the difference in intensity or density of development is not substantial in scale. This portion of the building is not visible from the roadway; and

**WHEREAS**, the Louisville Metro Development Review Committee further finds the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since, according to the applicant's justification statement, Building #2 cannot be constructed without the granting of the waiver; 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

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since the future roadway extension and adequate access and parking to Building #2 would not be possible without the waiver, therefore be it

**RESOLVED**, the Louisville Metro Development Review Committee does hereby **MOVE WITHOUT RECOMMENDATION** the requested Waiver of Land Development Code section 10.2 to allow the proposed Building #2 to encroach 5 feet into the 15 foot LBA along the southeast property line; and to **MOVE WITHOUT RECOMMENDATION** the requested Waiver of Land Development Code section 10.2 to eliminate a 15 foot LBA on the north side of the proposed Building #2 to allow for future road extension

**The vote was as follows:**

**YES: Commissioners Brown, Jarboe, and Carlson.**

**ABSENT: Commissioners Smith, Robinson, and Tomes.**

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**NEW BUSINESS**

**CASE NUMBER 19DEVPLAN1000**

|                   |                                                |
|-------------------|------------------------------------------------|
| Request:          | Development plan with a building height waiver |
| Project Name:     | First German Methodist Church                  |
| Location:         | 207 S Hancock Street                           |
| Owner/Applicant:  | Bill Weyland, Kirche LLC                       |
| Representative:   | Bill Weyland, Kirche LLC                       |
| Jurisdiction:     | Louisville Metro                               |
| Council District: | 4 – Barbara Sexton Smith                       |

Case Manager: Lacey Gabbard, 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:**

02:22:23 Lacey Gabbard presented the case (see staff report and recording for detailed presentation.)

02:23:54 In response to a question from Commissioner Jarboe, Ms. Gabbard replied this new structure will be 2 stories due to the form district.

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

Matt Wolff, 608 South Third Street, Louisville, Kentucky, 40217

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

02:24:16 Matt Wolff stated he is present for questions. The waiver is being requested so the new building will be in compliance with the form district.

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

No one spoke.

**Deliberation:**

02:24:56 Commissioners' deliberation.

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### NEW BUSINESS

#### CASE NUMBER 19DEVPLAN1000

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

#### **Waiver of Land Development Code section 5.2.1.C.2 to allow the street wall on the proposed structure to be two stories instead of the required three**

02:25:09 On a motion by Commissioner Brown, seconded by Commissioner Jarboe, the following resolution, based on the Standard of Review and Staff Analysis and testimony heard today, was adopted:

**WHEREAS**, the Louisville Metro Development Review Committee finds the requested waiver will not adversely affect adjacent property owners since there are several structures on the same block as well as the opposite side of the street which are two stories. The proposed two story structure does not pose a safety or health threat; and

**WHEREAS**, the Louisville Metro Development Review Committee further finds the Guideline 3, Policies 1 and 2 call for the compatibility of all new development and redevelopment with the scale and site design of nearby existing development and with the pattern of development within the form district. The type of building materials may be considered as a mitigation measure and may also be considered in circumstances specified in the Land Development Code. When assessing compatibility, it is appropriate to consider the choice of building materials in the following circumstances: (1) projects involving residential infill; (2) projects involving non-residential uses; and (3) when specified in the Land Development Code. The proposal is for a non-residential use. The Land Development Code provides building design standards for non-residential and mixed use buildings

The proposed structure meets the other Land Development Code building design requirements and has received approval from Urban Design staff through 18COA1291. The proposed materials are compatible with existing nearby structures; and

**WHEREAS**, the Louisville Metro Development Review Committee further finds the extent of the waiver of the regulation is not the minimum necessary to afford relief to the applicant since there are many buildings in the vicinity which are two stories, and the proposed development does not require a larger building; 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 since the proposed development does not require a three story building, therefore be it

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### **NEW BUSINESS**

#### **CASE NUMBER 19DEVPLAN1000**

**RESOLVED**, the Louisville Metro Development Review Committee does hereby **APPROVE** the requested **Waiver** of Land Development Code section 5.2.1.C.2 to allow the street wall on the proposed structure to be two stories instead of the required three.

**The vote was as follows:**

**YES: Commissioners Brown, Jarboe, and Carlson.**

**ABSENT: Commissioners Smith, Robinson, and Tomes.**

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**ADJOURNMENT**

The meeting adjourned at approximately 3:24 p.m.

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Chairman

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Division Director