

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO DEVELOPMENT REVIEW COMMITTEE MEETING
February 19, 2020**

A meeting of the Louisville Metro Development Review Committee was held on February 19, 2020 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
Jeff Brown
Jim Mims

Commissioners absent:

David Tomes, Chair

Staff members present:

Joe Reverman, Assistant Director, Planning & Design Services
Brian Davis, Planning & Design Manager
Joel Dock, Planner II
Beth Jones,
Jay Lockett, Planner I
Lacey Gabbard, Planner I
Travis Fiechter, Legal Counsel
Beth Stuber, Transportation
Rachel Dooley, Management Assistant (minutes)

The following matters were considered

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APPROVAL OF MINUTES

February 5, 2020 DRC Meeting Minutes

00:06:15 On a motion by Commissioner Brown, seconded by Commissioner Mims, the following resolution was adopted:

RESOLVED, that the Louisville Metro Development Review Committee does hereby **APPROVE** the minutes of its meeting conducted on February 5, 2020.

The vote was as follows:

YES: Commissioner Mims and Brown

ABSENT: Commissioner Tomes

ABSTAIN: Commissioner Carlson

DEVELOPMENT REVIEW COMMITTEE MINUTES
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NEW BUSINESS

CASE NUMBER 20-WAIVER-0010

Request: Waiver for number of signs
Project Name: Menards Signs
Location: 4900 Cooper Chapel Rd
Owner: Menard Inc.
Applicant: Springfield Sign
Jurisdiction: Louisville Metro
Council District: 23 – James Peden
Case Manager: **Beth Jones, 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:

00:07:20 Beth Jones presented the case via Power Point slide show (see staff report and recording for detailed presentation). She noted the applicant is requesting 13 attached signs to the front façade. This exceeds the permitted quantity allowed in the Suburban Marketplace Corridor Form District. Ms. Jones presented a paper copy of the façade rendering to Commissioners.

The following spoke in favor of this request:

Trey Watts, 831 Brook Forest, Nixa, Missouri, 65714

Summary of testimony of those in favor:

00:12:23 Trey Watts, representing the applicant, stated the requested 13 signs are for customers to know what is available at this business.

00:13:36 Commissioner Brown asked if the signs would face Preston Highway. Trey Watts replied the signs do face Preston Highway only on the front façade.

00:14:13 Commissioner Mims and Trey Watts discussed the use of the signs for customers and the reduction of the sign size (see recording for detailed presentation).

00:15:09 Commissioner Carlson asked if the signs are illuminated and the hours of operation. Trey Watts replied the signs are illuminated and turned off at night.

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Commissioner Carlson and Trey Watts discussed the propane refill station signage (see recording for detailed presentation).

The following spoke in opposition:

No one spoke.

Commissioner Deliberation:

00:16:40 Commissioners Deliberation (see recording for detailed presentation).

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

00:19:08 On a motion by Commissioner Brown, seconded by Commissioner Mims, the following resolution, based on the Standard of Review and Staff Analysis, and evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Development Review Committee finds that the waiver will not adversely affect adjacent property owners in that the proposed signage is located on a single façade of the building and the nearest adjacent properties affected are zoned for commercial use or a significant distance from the signage; and

WHEREAS, the Committee further finds that the waiver does not violate guidelines of Plan 2040, which requires that appropriateness must be evaluated in the context of the compatibility of the proposed use or uses with surrounding uses (Community Form 1.2.4); impacts on quality of life must be considered (Community Form 16); and adverse visual intrusions must be considered when there are impacts to residential areas (Community Form 20); and

WHEREAS, the Committee further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant in that the proposed signage follows corporate guidelines for all Menards locations; and

WHEREAS, the Committee further finds that the applicant has not incorporated design measures that compensate for non-compliance with requirements and strict application of the provisions of the regulation would not deprive the applicant of the reasonable use

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NEW BUSINESS

CASE NUMBER 20-WAIVER-0010

of the land. It would create an unnecessary hardship in that adjoining residential properties are not likely to be negatively impacted due to their distance from the signs; now, therefore be it

RESOLVED, the Louisville Metro Development Review Committee does hereby **APPROVE** the requested **WAIVER** to allow more than three attached signs on the façade of a commercial structure (LDC Table 8.3.2. Suburban Marketplace Corridor)

The vote as follows:

YES: Commissioners Brown, Mims, and Carlson.
Absent: Commissioner Tomes

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NEW BUSINESS

CASE NUMBER 19-DDP-0050

Request:	Revised detailed district development plan with waivers
Project Name:	Oxmoor Center West Out-parcel
Location:	7900 Shelbyville Road
Owner:	WMB 2, LLC & TWB Oxmoor 2, LLC
Applicant:	Brookfield Properties Retail, Inc.
Representative:	Frost Brown Todd, LLC
Jurisdiction:	Louisville Metro
Council District:	18 – Marilyn Parker
Case Manager:	Joel P. Dock, AICP, Planner II
Presented by:	Brian Davis, Planning & Design Manager

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:

00:20:15 Brian Davis presented the case via Power Point slide show (see staff report and recording for detailed presentation). Mr. Davis detailed waivers 1, 2, 3, and 4. He noted the CUP for this site was approved at BOZA on February 17, 2020.

00:24:00 Commissioner Brown asked if there are changes to the binding elements. Brian Davis replied there are no changes to the binding elements as stated in the staff report.

The following spoke in favor of this request:

Tim Martin, 400 West Market, Suite 3200, Louisville, Kentucky, 40202
Kelli Jones, 608 South 3rd Street, Louisville, Kentucky, 40202

Summary of testimony of those in favor:

00:24:37 Tim Martin representing the applicant, presented a Power Point slide show (see recording for detailed presentation). Mr. Martin detailed the history of the site, the proposed development plan, waivers, and landscaping/elevations. Tim Martin noted the binding element regarding off street parking.

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NEW BUSINESS

CASE NUMBER 19-DDP-0050

00:27:35 Kelly Jones presented a Power Point slide show (see recording for detailed presentation). Ms. Jones noted the landscape islands to comply with the ILA requirements in chapter 10 of the Land Development Code. She detailed the waivers for the entrance, the parking lot encroachment, the building façade design, and the pedestrian access to the building from the bus stop. Kelli Jones noted the prototypical materials on the façade.

00:35:28 Commissioner Brown and Kelli Jones discussed the location of the patio area and the façade materials (see recording for detailed presentation). Kelli Jones stated the patio does not have a specific design as of today's meeting, but it will face Shelbyville Road.

00:36:24 Commissioner Mims noted the orientation of the development should be facing a public road. Commissioner Mims and Kelli Jones discussed the building materials presented from the Power Point slide show (see recording for detailed presentation).

00:38:26 Commissioner Mims, Commissioner Brown, and Brian Davis discussed the proposed elevations and the addition of a binding element to mitigate the faux windows. (see recording for detailed presentation).

00:40:02 Travis Fiechter and Kelli Jones discussed the parking calculations for the site (see recording for detailed presentation).

00:41:24 Commissioner Carlson and Kelli Jones discussed the dumpster enclosure and landscaping along Oxmoor Lane (see recording for detailed presentation).

The following spoke in opposition:

No one spoke.

Commissioner Deliberation:

00:44:10 Commissioners discussed the landscape mitigation for the waivers, building orientation, style of the façade, and binding element number 11 (see recording for detailed presentation).

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

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NEW BUSINESS

CASE NUMBER 19-DDP-0050

00:58:48 On a motion by Commissioner Brown, seconded by Commissioner Mims, the following resolution, based on the Standard of Review and Staff Analysis, and evidence and testimony heard today, was adopted:

RESOLVED, the Louisville Metro Development Review Committee does hereby **CONTINUE** this planning case to the March 4, 2020 Development Review Committee meeting.

The vote as follows:

YES: Commissioners Brown, Mims, and Carlson.
Absent: Commissioner Tomes

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NEW BUSINESS

CASE NUMBER 19-DDP-0069

Request: District Development Plan
Project Name: Lots 2 & 3 Glenmary Village
Location: 9400 Clubview Drive
Owner/Applicant: Limestone Bank, Inc.
Representative: Kelli Jones - Sabak, Wilson & Lingo, Inc.
Jurisdiction: Louisville Metro
Council District: 22 – Robin Engel
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:

00:59:55 Lacey Gabbard presented the case via proposed development plan (see staff report and recording for detailed presentation). She noted the reduction of proposed units from 390 to 145 on lots 2 and 3. Ms. Gabbard stated the applicant is requesting the removal of binding element number 24 relating to affordable housing. due to compliance issue.

The following spoke in favor of this request:

Nick Pregliasco, 1000 North Hurstbourne Parkway, Louisville, Kentucky 40223
Kelli Jones, 608 S. 3rd Street, Louisville, Kentucky, 40202
Marilyn Harris, 444. S. 5th Street, Suite 500, Louisville, KY 40202

Summary of testimony of those in favor:

01:02:51 Nick Pregliasco, representing the applicant, presented a Power Point slide show (see recording for detailed presentation). Mr. Pregliasco detailed the previous proposed development plans on lots 2 and 3. He stated existing structures will remain and the proposed number of units will be a different style of duplex condos.

01:08:59 Kelli Jones detailed the existing structures, modification of roadways, guest parking spaces, the no build boundary around the cemetery, and the use of existing infrastructure entrances. Ms. Jones noted the reduction of units from previous plans.

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CASE NUMBER 19-DDP-0069

01:10:46 Nick Pregliasco detailed the removal of binding element number 24 and the Affordable Housing location noted on the original approved general detailed district development plan (see recording for detailed presentation).

01:12:49 Commissioner Mims asked if the new phase of development will be contributing to the master homeowners association. Nick Pregliasco stated there is a master HOA that will apply to this development and will not be changed.

01:13:45 Commissioner Mims and Joe Reverman discussed the affordable housing for this site (see recording for detailed presentation).

01:14:57 Travis Fiechter, legal counsel, noted binding element number 21 and asked if the CUP has been abandoned. Nick Pregliasco replied it was part of the original development plan.

01:15:38 Commissioner Brown asked what the language be for binding element number 24 if it was written today. Joe Reverman and Nick Pregliasco discussed the price percentage of this new development and the intention of this binding element in the original development for affordable housing (see recording for detailed presentation).

01:21:03 Marilyn Harris, Director of the Office of Housing, stated there was a housing needs assessment released, which shows a need for about 70,000 units of affordable housing throughout Louisville Metro. This development would be a good location because of the areas amenities and park. Ms. Harris detailed the affordable housing binding element and what it means in today's terms (see recording for detailed presentation).

01:23:47 Nick Pregliasco detailed lots 2 and 3 and the prices of the proposed units on the development (see recording for detailed presentation).

The following spoke in opposition:

No one spoke.

The following spoke in neither for nor against:

Terry Hedgespeth, 10208 Overlook Meadows Place, Louisville, Kentucky, 40291

Summary of testimony of those neither for nor against:

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01:26:21 Terry Hedgespeth, resident, stated he was informed the previous development will be similar style and number of units. The HOA funds would be affected by the reduction of units. He noted the back of the development would benefit from similar style units. Mr. Hedgespeth expressed concerns with existing building conditions, water drainage issues, change of road infrastructure, and parking.

01:33:36 Commissioner Carlson and Terry Hedgespeth discussed the original development design, the master plan of the site, and the homeowners association control of maintenance (see recording for detailed presentation).

Rebuttal:

01:36:36 Nick Pregliasco detailed the process of fully developing these lots and redesigning the neighborhood associations for this development. The existing structures will be included in the new HOA. Mr. Pregliasco noted Lot 2 and Lot 3 condo associations will be combined and the new development will comply with existing neighborhood association regulations.

01:42:46 Kelli Jones detailed the infrastructure modifications and amount of parking available for the development (see recording for detailed presentation).

01:44:30 Commissioner Mims and Nick Pregliasco discussed payments regarding maintenance and developers finishing lots 2 and 3 (see recording for detailed presentation).

Commissioner Deliberation:

01:50:50 Commissioners Deliberation (see recording for detailed presentation).

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

01:57:45 On a motion by Commissioner Brown, seconded by Commissioner Mims, the following resolution, based on the Standard of Review and Staff Analysis, and evidence and testimony heard today, was adopted:

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CASE NUMBER 19-DDP-0069

RESOLVED, the Louisville Metro Development Review Committee does hereby **CONTINUE** this planning case to the March 18, 2020 Development Review Committee Meeting.

The vote as follows:

YES: Commissioners Brown, Mims, and Carlson.

Absent: Commissioner Tomes

This meeting recessed for five minutes

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NEW BUSINESS

CASE NUMBER 19-RSUB-0005

Request: Revised Detailed District Development Plan and Revised Major Preliminary Subdivision Plan
Project Name: Orell Station Subdivision
Location: 7400 W Orell Rd
Owner/Applicant: Orell Development, LLC.
Representative: Blue Stone Engineers
Jurisdiction: Louisville Metro
Council District: 14 – Cindi Fowler
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:

01:59:10 Jay Lockett presented the case via Development Plan (see staff report and recording for detailed presentation). Mr. Lockett detailed the rezoning in 2007 and the reduction of type of development for single family homes.

02:00:14 Commissioner Brown and Jay Lockett discussed binding element number 12 and 21. Jay Lockett detailed the pedestrian access easement on Orell road from a previous development plan (see recording for detailed presentation).

The following spoke in favor of this request:

Chris Crumpton, 3703 Taylorsville Road, Suite 205, Louisville, Kentucky, 40220

Summary of testimony of those in favor:

02:01:41 Chris Crumpton, Blue Stone Engineers, detailed the proposed development plan for larger lots. He stated there will be road connections to Train Station Way and a road stub for future developments. Mr. Crumpton noted there will be 31 lots and lots along Orell road will connect to the new drive.

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02:03:50 Commissioner Mims asked for the size of the lots. Chris Crumpton replied the lots will be .25 acres to .7 acres and width of about 80 feet. Chris noted the design of the homes will be similar to those in the area and the size of the lots would reduce the amount of traffic.

02:04:45 Commissioner Carlson what restrictions are in place to prevent lots from being subdivided after purchase. Chris Crumpton replied the lots would be sold and be built on immediately. Commissioner Carlson and Chris Crumpton discussed the construction of adjacent properties (see recording for detailed presentation).

The following spoke in opposition:

No one spoke.

Commissioner Deliberation:

02:07:24 Commissioners Deliberation (see recording for detailed presentation).

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

02:07:54 On a motion by Commissioner Brown, seconded by Commissioner Mims, the following resolution, based on the Standard of Review and Staff Analysis, and evidence and testimony heard today, was adopted:

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

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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 Development Review Committee does hereby **APPROVE** the requested **Revised Detailed District Development Plan** and the requested **Revised Major Preliminary Subdivision Plan** subject to the following binding elements:

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. No further subdivision of the land into a greater number of lots than originally approved will occur without approval of the Planning Commission. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. The applicant shall submit a plan for approval by Planning Commission staff showing trees/tree masses to be preserved prior to beginning any construction procedure (i.e. clearing, grading, demolition). Adjustments to the tree preservation plan which are requested by the applicant may be approved by Planning Commission staff if the revisions are in keeping with the intent of the approved tree preservation plan. The plan shall exhibit the following:
3.
 - a. Proposed site plan (showing buildings, edges of pavement, property/lot lines, easements, existing topography, and other significant site features (LOJIC topographic information is acceptable))

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- b. Preliminary drainage considerations (retention/detention, ditches/swales, etc.).
 - c. Location of all existing trees/tree masses existing on the site as shown by aerial photo or LOJIC maps.
 - d. Location of construction fencing for each tree/tree mass designated to be preserved.
4. Before any permit (including but not limited to building, parking lot, change of use, site disturbance permit) is requested:
- a. The development plan must receive full construction approval from Louisville Metro Department of Inspections, Permits and Licenses, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. 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.
 - c. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
 - d. A minor plat or legal instrument shall be recorded consolidating the property into one lot. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services.
5. A note shall be placed on the preliminary plan, construction plan, and the record plat that states, "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. 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.
7. An original stamped copy of the approved Tree Preservation Plan shall be present on site during all clearing, grading, or construction activity and shall be made available to any DPDS inspector or enforcement office upon request.

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8. All plans setting out Tree Canopy Protection Areas (TCPAs) must contain the following notes:
 - a. Tree Canopy Protection Areas (TCPAs) identified on this plan represent individual trees and/or portions of the site designated to meet the Tree Canopy requirements of Chapter 10 Part 1 of the Land Development Code and are to be permanently protected. All clearing, grading, and fill activity in these areas must be in keeping with restrictions established at the time of development plan approval. As trees are lost thru natural causes new trees shall be planted in order to maintain minimum tree canopy as specified in Chapter 10, Part 1 of the LDC and as specified on the approved development or preliminary subdivision plan.
 - b. Dimension lines have been used on this plan to establish the general location of TCPAs and represent the minimum distances. The final boundary for each TCPA shall be established in the field by the applicant, developer, or property owner to include canopy area of all trees at or within the dimension line.
 - c. Tree protection fencing shall be erected around all TCPAs prior to site disturbance to protect the existing tree stands and their root systems. The fencing shall be located at least 3 feet beyond the edge of the tree canopy and shall remain in place until all construction is completed. When trees must be removed, the fence shall be relocated to protect all remaining trees within that TCPA.
 - d. No parking, material storage, or construction activities are permitted within the TCPAs beyond that allowed for preliminary site investigation work.
 - e. Clearing necessary to provide access for survey work, rock soundings or other usual and customary site investigations shall be permitted prior to Site Disturbance Approval. Preliminary site investigations shall be carefully planned to minimize the amount of clearing required. Clearing should follow proposed roadway centerlines and should not result in a clear access way of more than twenty (20) feet in width. Cleared access ways beyond proposed roadways to assess individual lots shall not exceed twelve (12) feet in width or encroach into any proposed open space lots. No trees exceeding eight (8) inches in diameter measured at breast height (DBH) shall be removed without prior approval by DPDS.

9. Prior to the recording of the record plat, copies of the recorded documents listed below shall be filed with the Planning Commission.
 - a. Articles of Incorporation filed with the Secretary of State and recorded in the office of the Clerk of Jefferson County and the Certificate of Incorporation of the Homeowners Association.

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- b. A deed of restriction in a form approved by Counsel to the Planning Commission addressing responsibilities for the maintenance of common areas and open space, TCPAs, WPAs.
 - c. Bylaws of the Homeowner's Association in a form approved by the Counsel for the Planning Commission.
10. 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.
 11. All street signs shall be installed by the Developer and shall conform with the Manual on Uniform Traffic Control Devices (MUTCD) requirements. Street signs shall be installed prior to the recording of the subdivision record plat or occupancy of the first residence on the street, 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.
 12. Trees will be preserved and/or provided on site as required by Chapter 10, Part 1 of the Land Development Code and as indicated in the Tree Canopy Calculations on the Preliminary Subdivision plan. The applicant shall submit a landscape plan for approval by Planning Commission staff for any trees to be planted to meet the Tree Canopy requirements of the Chapter 10, Part 1 of the LDC. A tree preservation plan shall be submitted for review and approval for any trees to be preserved to meet the Tree Canopy requirements of Chapter 10.
 13. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the March 09, 2017 meeting of the Land Development & Transportation Committee.
 14. At the time the developer turns control of the homeowner's association over to the homeowners, the developer shall (1) provide sufficient funds to ensure there is no less than \$3000 cash in the homeowner's association account and (2) provide

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public amenities in the designated open space areas to be reviewed and approved by the staff Landscape Architect.

15. The signature entrance plan shall be submitted to Planning Commission staff for review and approval prior to recording of the Record Plat.
16. The applicant shall provide a wetlands determination letter from the US Army Corps of Engineers for this site prior to any clearing, grading, or construction. If wetlands are identified, the applicant shall demonstrate to the Planning Commission that the wetlands on site will be preserved or shall revise the plan to mitigate any impact on the wetlands. The location of any wetlands and associated buffers must be identified on construction plans and/or record plats.
17. The applicant shall submit a landscape plan for approval by Planning Commission staff showing plantings and/or other screening and buffering materials to comply with the Chapter 10 of the Land Development Code prior to approval of the record plat. The applicant shall provide the landscape materials on the site as specified on the approved landscape plan prior to issuance of Certificates of Occupancy for the site.
18. The applicant shall install signs, approved by the Metro Public Works Dept., which indicate the future extension of the public right-of-way for Road A. Such signs shall be installed prior to release of bonds for the installation of street infrastructure.
19. Open space lots shall not be further subdivided or developed for any other use and shall remain as open space in perpetuity. A note to this effect shall be placed on the record plat.
20. Developer shall provide irrigation systems to ensure that the signature entrance to be located along West Orell Road is properly watered.
21. The applicant shall provide a 20-foot pedestrian easement to Louisville Metro for public access to extend the Orell Road sidewalk from Lower River Road west along the northern property line of Tract 5 to the Ohio River Levee Trail to be recorded on the record plat. Developer is not responsible for the building of the sidewalk.

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The vote as follows:

YES: Commissioners Brown, Mims, and Carlson.

Absent: Commissioner Tomes

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NEW BUSINESS

CASE NUMBER 19-DDP-0045

Request: Revised Detailed District Development Plan with revisions to binding elements and a Waiver
Project Name: 422 E Main St Development
Location: 410, 412, 414, 416, 418, 436 and 438 E Main St and 110 S Jackson St
Owner/Applicant: JPJ Main Street LLC
Representative: Frost, Brown, Todd LLC
Jurisdiction: Louisville Metro
Council District: 4 – Barbara Sexton Smith
Case Manager: **Jay Luckett, 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:

02:09:04 Jay Luckett presented the case via Power Point slide show (see staff report and recording for detailed presentation). Mr. Luckett noted the waiver to allow a loading to be access directly from Jackson Street, where alley access is available. He detailed the site history, previously approved plans from 2007 and 2010, and the proposed elevations. Staff analysis shows there are an excess of curb cuts that could cause pedestrian safety issues.

02:15:09 Commissioner Mims asked for detailed regarding the waiver request access for the dumpsters. Jay Luckett explained the Comprehensive Plan for the Downtown form district for curb cuts and alley access. The applicant is requesting a waiver to not use the alley and be allowed to establish a loading dock off of South Jackson Street. Commissioner Mims and Jay Luckett discussed the function of the proposed loading dock (see recording for detailed presentation).

The following spoke in favor of this request:

Tim Martin, 400 West Market, Suite 3200, Louisville, Kentucky, 40202
Rob Donhoff 716 East Market Street, Louisville, Kentucky, 40202
Marv Blomquist, 10529 Timberwood Circle, Suite D, Louisville, Kentucky, 40223

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CASE NUMBER 19-DDP-0045

Summary of testimony of those in favor:

02:18:40 Tim Martin, representing the applicant, presented a Power Point slide show (see recording for detailed presentation). Mr. Martin detailed the proposed apartment units, commercial space, and parking garage. He noted the concerns for entrances off of Main Street and the waiver for the loading dock. He stated there will be four entrances for the parking garage and the curb cut for the proposed loading dock. Tim Martin spoke of the traffic study and the off-street parking for delivery services along Jackson Street. He asked for binding element number 7 to be amended.

02:30:26 Rob Donhoff stated the loading dock is wider than the alley and would be safer maneuvering space for residents moving in and dumpster removal. Mr. Donhoff detailed the curb cuts.

02:33:49 Commissioner Brown asked staff if the site design requires alley access. Jay Lockett detailed the location of the alley access drive entrance and the provisions for loading docks. Commissioner Brown, Rob Donhoff, and Tim Martin discussed residential access to the alley from the parking garage (see recording for detailed presentation).

02:36:45 Commissioner Mims and Commissioner Brown discussed accessing the loading dock from Jackson Street (see recording for detailed presentation).

02:38:03 Commissioner Carlson asked Rob Donhoff if there could be a pull through to the loading dock from the alley. Rob Donhoff stated due to the size of the alley, structure of the building, and the options available in an urban environment the proposed loading dock would be safer for pedestrians and trucks/moving vans.

02:44:04 Commissioner Mims and Rob Donhoff discussed scheduling move in times for residents using the loading dock (see recording for detailed presentation).

02:44:48 Marv Blomquist detailed the size of the alley and the previous development curb cuts (see recording for detailed presentation).

02:48:08 Travis Fiechter questioned the curb cut access from South Jackson Street. Tim Martin stated the curb cut is for delivery services for the commercial space.

The following spoke in opposition:

No one spoke.

Commissioner Deliberation:

02:50:17 Commissioners Deliberation (see recording for detailed presentation).

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

Waiver

02:53:14 On a motion by Commissioner Brown, seconded by Commissioner Mims, the following resolution, based on the Standard of Review and Staff Analysis, and evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Development Review Committee finds the waiver will adversely affect adjacent property owners, as it would create an unsafe traffic situation near a major intersection; and

WHEREAS, the Committee further finds that the waiver will violate specific guidelines of the Comprehensive Plan. Community Form Goal 1, Policy 12 encourages the use of alleys to access parking and loading areas, particularly in the Downtown form district. Community Form Goal 1, Policy 13 says to integrate parking garage facilities into their surroundings and provide and active inviting street-level appearance. Community Form Goal 2, Policy 14 says that we should encourage adjacent development sites to share entrance and parking facilities in order to reduce the number of curb cuts and the amount of surface parking. Mobility Goal 1, Policy states that new development and redevelopment should provide for the movement of pedestrians, bicyclists and transit users. Mobility Goal 2, Policy 1 says to provide transportation facilities and systems that accommodate all users and allow for context-sensitive solutions that recognize the distinguishing characteristics of each of the Form Districts. Granting of the waiver would create potential conflicts and safety concerns for traffic in the surrounding public streets, especially for pedestrians and bicyclists. Alley access is available to serve the development and is the preferred method of access for parking and loading facilities in the Downtown form district; and

WHEREAS, the Committee further finds that the extent of the waiver is not the minimum necessary to afford relief to the applicant, as existing alleys and curb cuts could be utilized for access to the site; and

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WHEREAS, the Committee further finds that the strict application of the provisions of the regulation would not deprive the applicant of the reasonable use of the land, as access is available through the existing alley network; now, therefore be it

RESOLVED, the Louisville Metro Development Review Committee does hereby **APPROVE** the requested **Waiver** from 5.9.2.D.1 (19-Waiver-0092) to allow a loading dock to be accessed directly from Jackson St where alley access is available

The vote as follows:

YES: Commissioners Brown, Mims, and Carlson.

Absent: Commissioner Tomes

Revised Detailed District Development Plan

02:53:50 On a motion by Commissioner Brown, seconded by Commissioner Mims, the following resolution, based on the Standard of Review and Staff Analysis, and evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Development Review Committee finds there do not appear to be any environmental constraints on the subject site. The site is a known archeological site known as the Lewis Pottery site. The applicant has completed archaeological study of the site and a full report of findings has been provided. 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 not been provided. Staff has concerns about excess curb cuts proposed near the intersection of two arterial roadways in the Downtown form district, which will negatively impact safe circulation for all road users around the subject site. KYTC has indicated that they would permit site access as proposed; and

WHEREAS, the Committee further finds that all relevant open space provisions have been met for this proposal; and

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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 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. The Downtown Development Review Overlay has approved the building and site design; and

WHEREAS, the Committee further finds that the development plan does not conform to applicable guidelines and policies of the Comprehensive Plan. Community Form Goal 1, Policy 12 encourages the use of alleys to access parking and loading areas, particularly in the Downtown form district. Community Form Goal 1, Policy 13 says to integrate parking garage facilities into their surroundings and provide an active inviting street-level appearance. Mobility Goal 1, Policy states that new development and redevelopment should provide for the movement of pedestrians, bicyclists and transit users. Mobility Goal 2, Policy 1 says to provide transportation facilities and systems that accommodate all users and allow for context-sensitive solutions that recognize the distinguishing characteristics of each of the Form Districts. The development as presented does not adequately accommodate all road users, as pedestrian safety is compromised by excessive curb cuts for vehicular traffic and loading areas; now, therefore be it

RESOLVED, the Louisville Metro Development Review Committee does hereby **APPROVE** the requested **Revised Detailed District Development Plan SUBJECT** to the revised binding elements:

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

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3. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit is requested:
 - a. The development plan must receive full construction approval from Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. Encroachment permits must be obtained from the Kentucky Transportation Cabinet.
 - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - d. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as approved by the Downtown Development Review Overlay Committee hearing on December 4, 2019.
 - e. Final elevations/renderings shall be submitted for review and approval by Planning Commission staff. A copy of the approved rendering shall be available in the case file on record in the offices of the Louisville Metro Planning Commission.
4. 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.
5. 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.
6. The development shall be in conformance with all conditions of the approved DDRO Overlay Permit No. 19-OVERLAY-0013.
7. The Jackson St loading dock shall not be used weekdays from 7 AM to 9 AM or 4 PM to 6 PM.

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The vote as follows:

YES: Commissioners Brown, Mims, and Carlson.

Absent: Commissioner Tomes

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ADJOURNMENT

The meeting adjourned at approximately 4:00 p.m.

Chairman

Division Director