

**MINUTES OF THE MEETING  
OF THE  
DEVELOPMENT REVIEW COMMITTEE  
January 6, 2016**

A meeting of the Development Review Committee was held on, January 6, 2016, at 1:00 p.m. in the Old Jail Building, located at 514 W. Liberty Street, Louisville, Kentucky.

**Committee Members present were:**

David Tomes, Chairman  
Rob Peterson, Vice Chairman  
Jeff Brown, Commissioner  
Robert Kirchdorfer, Commissioner

**Committee Members absent were:**

Chip White, Commissioner

**Staff Members present were:**

Emily Liu, Director, Planning and Design Services (arrived at 2:40 p.m.)  
Joseph Reverman, AICP, Planning Coordinator  
Brian Davis, AICP, Planning Supervisor  
Sherie Long, Landscape Architect  
Steve Hendrix, Planning Supervisor  
Laura Mattingly-Humphrey, Planner I  
Joel P. Dock, Planner II  
Christopher Brown, Planner II  
John Carroll, Legal Counsel  
Tammy Markert, Transportation Planning  
Pat Barry, MSD representative  
Chris Cestaro, Management Assistant

The following matters were considered:

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**APPROVAL OF MINUTES**

**Approval of the minutes of the December 16, 2015 Development Review Committee meeting**

00:04:01 On a motion by Commissioner Kirchdorfer, seconded by Commissioner Peterson, the following resolution was adopted.

**RESOLVED**, that the Development Review Committee does hereby **APPROVE** the minutes of its meeting conducted on December 16, 2015.

**The vote was as follows:**

**YES: Commissioners Tomes, Brown, Peterson, and Kirchdorfer.**

**NO: No one.**

**NOT PRESENT: Commissioner White.**

**ABSTAINING: No one.**

**DEVELOPMENT REVIEW COMMITTEE**  
**January 6, 2016**

**NEW BUSINESS**

**CASE 15DEVPLAN1175**

Request: Category 3 Development Plan  
Project Name: 10104 & 10106 Grand Avenue  
Location: 10104R & 10106 Grand Avenue  
Owner(s): TMF Mobile Home Park  
Applicant: Owner  
Representative(s): Land Design & Development  
Jurisdiction: City of Jeffersontown  
Council District: 11 – Kevin Kramer

**Case Manager: Sherie Long, Landscape Architect**

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

**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.**

**Agency Testimony:**

00:04:32 Sherie Long presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.) She mentioned that it was unclear which trees could be saved, due to grading and improvements.

00:17:34 In response to a question from John Carroll, legal counsel for the Planning Commission, Ms. Long discussed notification/s for the hearings for this case.

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

Michael Tigue, P.O. Box 729, LaGrange, KY 40031

Ann Richard, Land Design & Development, 503 Washburn Avenue., Louisville, KY 40222

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

00:18:23 Michael Tigue, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.)

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**NEW BUSINESS**

**CASE 15DEVPLAN1175**

00:30:43 Commissioner Brown asked about a sanitary/storm sewer being proposed on an adjoining property. Ann Richard, an applicant's representative, discussed the drainage easement.

00:32:29 Commissioner Brown and Ms. Richard discussed the 12-foot service drive/shared driveway.

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

Carl and Shawn Stucker, 2917 Valley Drive, Louisville, KY 40299

Regan Thomas, 10112 Grand Avenue, Louisville, KY 40299

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

00:33:36 Carl and Shawn Stucker spoke in opposition. They said they do not want the added traffic, the building, or the development. He said the property was improperly zoned as C-N in the late 1970's; has continued to be used as an R-4 property for 40 years, and should be continued to be used as an R-4 property. Mr. Stucker said the plat does not match up with the deed or the MSD survey.

00:36:50 Shawn Stucker said the zoning on this site is "convoluted" as has always been shown as being split zoned (as both C-N and R-4). Ms. Stucker gave more of the history of the site and what it had been used for, and maintained that the entire lot is R-4.

00:40:48 Regan Thomas, an adjoining property owner, spoke in opposition. He pointed out that the Jeffersontown council unanimously denied the original proposal. He said the two parking spaces in the setback in front of the building violate the LDC because no parking spaces are allowed in the required setback. He said that MSD will return in the spring and regrade his front yard, because he has standing water in it; this has increased his concerns about drainage issues. He also took issue with the design of the development.

00:47:43 Commissioner Tomes asked Ms. Long to clarify the zoning map, particularly the zoning on the parcel. She added that the applicant is using the zoning line, rather than the property line, to calculate the setbacks and buffers. She said there was no legal description with the original rezoning; however, this has been confirmed by the City of Jeffersontown.

00:51:09 Mr. Tigue and Ms. Richard discussed the zoning line versus the property line.

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**CASE 15DEVPLAN1175**

00:54:23 In response to a question from Commissioner Tomes, Mr. Tigue said that the two parking spaces that Mr. Thomas spoke about are not in the required “yard”.

**The following spoke neither for nor against the request:**

No one spoke.

00:55:10 Commissioners’ deliberation.

00:57:01 On a motion by Commissioner Brown, seconded by Commissioner Peterson, the following resolution was adopted:

**WHEREAS**, the Louisville Metro Development Review Committee finds that the proposal reuses three of the five existing buildings located on the subject site. Also, the existing trees not being impacted by the new construction will remain. Additional trees will be added to the site to meet the perimeter and interior landscape requirements of the development including tree canopy; 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 Transportation Planning has approved the preliminary development plan; and

**WHEREAS**, the Committee further finds that the proposal provides 12,500sf of open space within the development; including 2,808sf of picnic area and 3,450sf of walk area. Several of the existing large trees will be retained to provide shade and enhance the proposed open space; and

**WHEREAS**, the Committee further finds that a storm water detention basin is proposed on the site. The Metropolitan Sewer District has approved the preliminary development plan and will ensure the provisions 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 building and parking lot will meet all required setbacks. The overall site design and land uses are compatible with the existing and future development of the area. Appropriate landscape plantings will be provided; and

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**CASE 15DEVPLAN1175**

**WHEREAS**, the Committee further finds that, based the staff report and on the evidence and testimony presented today, that all of the applicable Guidelines of Cornerstone 2020 and the Comprehensive Plan are being met; now, therefore be it

**RESOLVED**, the Louisville Metro Development Review Committee does hereby **RECOMMEND** to the City of Jeffersontown that the proposed Category 3 Development Plan be **APPROVED**.

**The vote was as follows:**

**YES: Commissioners Peterson, Brown, and Kirchdorfer.**

**NO: No one.**

**NOT PRESENT: Commissioner White.**

**ABSTAINING: Commissioner Tomes.**

**DEVELOPMENT REVIEW COMMITTEE**

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**NEW BUSINESS**

**CASE NO. 15CELL1009**

Request: Request to construct a 180-foot monopole tower with a 5-foot tall lightning arrestor for a total height of 185 feet with a 2,500 square foot compound area; AND a waiver

Project Name: Killion Derby City  
Location: 2707 Millers Lane  
Owner: Killion Associates Number 1 Ltd.  
Applicant: Powertel/Memphis Inc. d/b/a T-Mobile/Branch Communications and Branch Towers, LLC

Representative: David Pike – Pike Legal Group LLC  
Jurisdiction: Louisville Metro  
Council District: 3 – Mary Woolridge

**Case Manager: Steve Hendrix, Planning Supervisor**

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

**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.**

**Agency Testimony:**

00:58:25 Steve Hendrix presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.)

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

David Pike, Pike Legal Group, P.O. Box 369, Shepherdsville, KY 40165 (applicant's representative)

Stephen Lentz, Pike Legal Group, P.O. Box 369, Shepherdsville, KY 40165

Lorne Belden (representing applicant T-Mobile), c/o Pike Legal Group, P.O. Box 369, Shepherdsville, KY 40165

Bernie Killion (landowner), c/o Pike Legal Group, P.O. Box 369, Shepherdsville, KY 40165

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**NEW BUSINESS**

**CASE NO. 15CELL1009**

Kayla Kramer (for applicant Branch Communications), c/o Pike Legal Group, P.O. Box 369, Shepherdsville, KY 40165

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

01:02:11 David Pike, the applicant's representative, handed out binders of information and then presented the applicant's case, with a Power Point presentation (see recording for detailed presentation.)

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

No one spoke.

**The following spoke neither for nor against the proposal:**

No one spoke.

01:16:09 On a motion by Commissioner Brown, seconded by Commissioner Kirchdorfer, the following resolution was adopted:

**WHEREAS**, the Louisville Metro Development Review Committee finds that the proposal meets the intents of **Guideline 3.1 – Compatibility**. The proposed tower will be surrounded by existing EZ-1 District (Enterprise Zone) properties which include trucking/trailer parking. The applicant is the owner of the property to the west and MSD is the owner of the property to the east where a vacant field fronts Millers Lane and a warehouse/staging area are located at the rear; and

**WHEREAS**, the Committee further finds that the proposal meets the intents of **Guideline 3.9 – Visual Impacts**. The monopole will be more than 640 feet from the street at the rear of the parcel and will be buffered by existing trucker/trailer parking; and

**WHEREAS**, the Committee further finds that the proposal meets the intents of **Guideline 3.22 – Buffers**. Landscaping is not required, since the proposed site is adjacent to existing EZ-1 properties; and

**WHEREAS**, the Committee further finds that the proposal meets the intents of **Guideline 3.30 – Cell Towers**. The applicant states that there are no other suitable or willing co-locatable structures or structure owners identified within the vicinity to meet the coverage objectives. The applicant states they have considered the likely effects of the installation on nearby land uses and values and have concluded that there is no more suitable location reasonably available from which adequate service can be provided. The applicant further states that the proposed facility has been designed to



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accommodate additional wireless telecommunication carriers, thus reducing the need for additional towers in the area in the future; and

**WHEREAS**, the Committee further finds that the proposal meets the intents of the LDC Guideline for Community Facilities.

**Community Facilities**

**15.21 Antenna Towers for Cellular Telecommunications**

Cellular towers should be designed to:

--- minimize impact on the character of the general area concerned,

---be sited in order from most preferred to least preferred :

1. highway rights-of-way except designated parkways;
2. existing utility towers
3. commercial centers
4. governmental buildings
5. high-rise office structures
6. high rise residential structures

---minimize the likely effects of the installation on nearby land uses and values;

---be designed to address compatibility issues such as co-location, mass, scale, siting, abandonment and removal of antenna tower structure.

Although the proposed site is not within one of the listed preferred sites, the proposal will be located in an existing zoned EZ-1 property within a Traditional Workplace Form District with the monopole being more than 640 feet from Millers Lane.

And

**WHEREAS**, the Committee further finds that the waiver will not adversely affect adjacent property owners since the surrounding land uses to the south, east and west are similar and the compound area is more than 450 feet from the back of the buildings that are on the southern side of the big "A" Commerce Center; and

**WHEREAS**, the Committee further finds that the placement of the compound area to the rear of the property will not violate specific guidelines of Cornerstone 2020, since a structure could still be located within the 25 foot setback as required in a Traditional Workplace; and

**WHEREAS**, the Committee further finds that the waiver is the minimum necessary to afford relief to the applicant in order for the placement of the compound area to remain as located; and

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**CASE NO. 15CELL1009**

**WHEREAS**, the Committee further finds that the applicant has located the compound area to the rear of the property to provide less of a visual intrusion to the vicinity, although the tower itself will still be visible; and

**WHEREAS**, the Committee further finds that, based the staff report and on the evidence and testimony presented today, that all of the applicable Guidelines of Cornerstone 2020 and the Comprehensive Plan are being met; now, therefore be it

**RESOLVED**, the Louisville Metro Development Review Committee does hereby **APPROVE** the requested 180 foot monopole tower with a 5 foot lightning arrestor for a total structure height of 185 feet and a 2,500 square foot compound area; **AND** the requested waiver for the monopole to be approximately 640 feet from the Millers Lane property line instead of being within 25 feet of the front property line.

**The vote was as follows:**

**YES: Commissioners Peterson, Tomes, Kirchdorfer, and Brown.**

**NO: No one.**

**NOT PRESENT: Commissioner White.**

**ABSTAINING: No one.**

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**NEW BUSINESS**

**CASE NO. 15CELL1010**

Request: Request to construct a 155-foot monopole tower with a 5-foot tall lightning arrestor for a total height of 160 feet with a 10,000 square foot compound area.

Project Name: Fairdale

Location: 907 Mount Holly Road

Owner: Carol Avis and Orville E. Avis Jr.

Applicant: Central States Tower III, LLC and Cellco Partnership d/b/a Verizon Wireless

Representative: David Pike – Pike Legal Group LLC

Jurisdiction: Louisville Metro

Council District: 13 – Vicki Aubrey Welch

**Case Manager: Steve Hendrix, Planning Supervisor**

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

**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.**

**Agency Testimony:**

01:16:58 Steve Hendrix presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.)

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

David Pike, Pike Legal Group, P.O. Box 369, Shepherdsville, KY 40165 (applicant's representative)

Stephen Lentz, Pike Legal Group, P.O. Box 369, Shepherdsville, KY 40165

Gordon Snyder, for applicant (Verizon Wireless), c/o Pike Legal Group, P.O. Box 369, Shepherdsville, KY 40165

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

01:20:27 David Pike, the applicant's representative, handed out binders of information and then presented the applicant's case, with a Power Point presentation

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**NEW BUSINESS**

**CASE NO. 15CELL1010**

(see recording for detailed presentation.) He added that no waivers or variances are being requested.

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

Dan Nelson, 906 Fairdale Road, Louisville, KY 40118

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

01:33:38 Dan Nelson spoke in opposition to the location and quoted from the Snyder Corridor Study. He said there is already an arrangement with another cell company to build another tower about 1,000 feet to the northeast away from this location, and that moving the location of this tower would bring it within the Guidelines/Recommendations of the Snyder Corridor Study.

**Rebuttal:**

01:38:12 Mr. Pike said there has been no application filed for any other company to build a cell tower in this area; maybe another company is trying to lease property? He added that 1,000 feet north is out of the applicant's search area.

01:39:26 Mr. Nelson said he would like to see a diagram of the coverage area in the binder.

01:41:04 Commissioner Tomes asked John Carroll, legal counsel for the Planning Commission, about the Snyder Corridor Study.

01:41:55 – On a motion by Commissioner Brown, seconded by Commissioner Peterson, the following resolution was adopted:

**WHEREAS**, the Louisville Metro Development Review Committee finds that the proposal meets the intents of **Guideline 3.1 – Compatibility**. The proposed tower will be approximately 337 feet to the closest residential structure which is located on Tin Door Way, but will have existing trees and the proposed privacy fence and plantings to buffer the compound area from view; and

**WHEREAS**, the Committee further finds that the proposal meets the intents of **Guideline 3.9 – Visual Impacts**. The compound area will be approximately 600 feet from Mt. Holly Road and will have an existing stand of trees and the proposed privacy fence and plantings to lessen the visual impact; and

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**CASE NO. 15CELL1010**

**WHEREAS**, the Committee further finds that the proposal meets the intents of Guideline 3.22 – Buffers. Landscaping will include the privacy fence and the proposed plantings of pin oaks and American holly; and

**WHEREAS**, the Committee further finds that the proposal meets the intents of **Guideline 3.30 - Cellular Towers**. The applicant states that there are no other suitable or willing co-locatable structures or structure owners identified within the vicinity to meet the coverage objectives. The applicant states they have considered the likely effects of the installation on nearby land uses and values and have concluded that there is no more suitable location reasonably available from which adequate service can be provided. The applicant further states that the proposed facility has been designed to accommodate additional wireless telecommunication carriers, thus reducing the need for additional towers in the area in the future; and

WHEREAS, the Committee further finds that the proposal meets the intents of the LDC Guideline for Community Facilities.

**Community Facilities**

15.21 Antenna Towers for Cellular Telecommunications

Cellular towers should be designed to:

--- minimize impact on the character of the general area concerned,

---be sited in order from most preferred to least preferred :

1. highway rights-of-way except designated parkways;
2. existing utility towers
3. commercial centers
4. governmental buildings
5. high-rise office structures
6. high rise residential structures

---minimize the likely effects of the installation on nearby land uses and values;

---be designed to address compatibility issues such as co-location, mass, scale, siting, abandonment and removal of antenna tower structure.

Although the proposed site is not within one of the listed preferred sites, the proposal will be located away from Mt. Holly Road and will be buffered by existing vegetation, the privacy fence and the required plantings.

And;

**WHEREAS**, the Committee further finds that, based the staff report and on the evidence and testimony presented today, that all of the applicable Guidelines of Cornerstone 2020 and the Comprehensive Plan are being met; now, therefore be it

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**NEW BUSINESS**

**CASE NO. 15CELL1010**

**RESOLVED**, the Louisville Metro Development Review Committee does hereby **APPROVE** the requested 155-foot monopole tower with a 5-foot tall lightning arrestor for a total height of 160 feet with a 10,000 square foot compound area.

**The vote was as follows:**

**YES: Commissioners Peterson, Tomes, Kirchdorfer, and Brown.**

**NO: No one.**

**NOT PRESENT: Commissioner White.**

**ABSTAINING: No one.**

**DEVELOPMENT REVIEW COMMITTEE**

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**NEW BUSINESS**

**CASE NO. 15MINORPLAT1169**

Request: Record Plat Amendment and LDC Waiver for lot depth  
Project Name: 6411 Shirley Avenue  
Location: 6411 Shirley Avenue  
Owner: Ethel Lighbourne  
Applicant: Mick Logsdon  
Representative: Mick Logsdon  
Jurisdiction: Louisville Metro  
Council District: 16 – Kelly Downard

**Case Manager: Laura Mattingly-Humphrey, Planner I**

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

**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.**

**Agency Testimony:**

01:42:34 Laura Mattingly-Humphrey presented the case and showed the site plan (see staff report and recording for detailed presentation.)

01:46:38 In response to a question from Commission Tomes, Ms. Mattingly-Humphrey confirmed that the access to Lot 2 would be from Bass Road. In response to a question from John Carroll, legal counsel for the Planning Commission, Ms. Mattingly-Humphrey said the new lot would remain R-4.

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

Mick Logsdon, 1948 Gardiner Lane, Louisville, KY 40205

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

01:47:32 Mick Logsdon, Logsdon Surveying, the applicant's representative, presented the applicant's request. He said this request is to build a new single-family home in the back of the lot.

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

No one spoke.

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**NEW BUSINESS**

**CASE NO. 15MINORPLAT1169**

**The following spoke neither for nor against the proposal:**

No one spoke.

01:49:29 On a motion by Commissioner brown, seconded by Commissioner Peterson, the following resolution was adopted:

**WHEREAS**, the Louisville Metro Development Review Committee finds that the waiver will not adversely affect adjacent property owners, as new properties created will be R-4 Single Family Residential, which is consistent with surrounding properties; and

**WHEREAS**, the Committee further finds that Guideline 1, Policy B.4, characterizes the Village form district with predominately low to medium density residential uses. Guideline 3, Policy A.1 promotes compatibility with surrounding uses. The waiver will not violate these specific guidelines of Cornerstone 2020, as the creation of these two lots maintains the character of the Village form district and is compatible with the adjacent single family uses; 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, as the applicant is creating two lots that meets all zoning and subdivision regulations except for the infill standards for lot depth. Both new lots have frontage on a public street with individual access; and

**WHEREAS**, the Committee further finds that the strict application of the provisions of the regulation would cause an unnecessary hardship on the applicant, as the subdivision in strict compliance with the land development code would not be possible unless the existing home was demolished and rebuilt; and

**WHEREAS**, the Committee finds that, based the staff report and on the evidence and testimony presented today, that all of the applicable Guidelines of Cornerstone 2020 and the Comprehensive Plan are being met; now, therefore be it

**RESOLVED**, the Louisville Metro Development Review Committee does hereby **APPROVE** the requested Amendment to Record Plat AND the requested Waiver of 5.4.2.C.2 to allow lot depth to be less than 80% of established pattern.

**The vote was as follows:**

**YES: Commissioners Peterson, Tomes, Kirchdorfer, and Brown.**

**NO: No one.**

**NOT PRESENT: Commissioner White.**

**ABSTAINING: No one.**



# DEVELOPMENT REVIEW COMMITTEE

January 6, 2016

## NEW BUSINESS

### CASE NO. 15WAIVER1037

Request: Waiver of 50-foot Gene Snyder Highway buffer for proposed residential garage  
Project Name: Willard Glass garage  
Location: 8901 William Penn Way  
Owner: Willard Glass  
Applicant: Willard Glass  
Representative: Willard Glass  
Jurisdiction: Louisville Metro  
Council District: 23 – James Peden

**Case Manager: Joel P. Dock, Planner II**

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

**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.**

#### Agency Testimony:

01:50:10 Joel Dock presented the case and showed a Power Point presentation.

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

No one was present to speak for the applicant.

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

No one spoke.

01:56:29 On a motion by Commissioner Brown, seconded by Commissioner Peterson, the following resolution was adopted:

**WHEREAS**, the Louisville Metro Development Review Committee finds that the waiver will not adversely affect adjacent property owners as the garage is in compliance with the residential site design standards of LDC 5.4.2.D: Accessory Structures; and

**WHEREAS**, the Committee further finds that the waiver will not violate specific guidelines of Cornerstone 2020. Guideline 3, policy 9 of Cornerstone 2020 calls for the protection of the character of residential areas, roadway corridors and public spaces

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**CASE NO. 15WAIVER1037**

from visual intrusions and mitigate when appropriate. Guideline 3, policies 21 and 22 calls for appropriate transitions between uses that are substantially different in scale and intensity or density, and to mitigate the impact caused when incompatible developments occur adjacent to one another through the use of landscaped buffer yards, vegetative berms and setback requirements to address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances. The intent of parkway development standards is to protect existing scenic and aesthetic qualities, to ensure a quality visual experience on developing corridors and to protect and improve the visual experience on established corridors. The waiver will not violate specific guidelines of Cornerstone 2020 as the proposed structure is an accessory structure to the existing primary residence and will not serve as a dwelling unit for individuals or their families; therefore, any negative impacts of the Freeway on the residential property as discussed in Guideline 3, policies 21 and 22 will not adversely impact the existing conditions of the residential use of the property. Conversely, the intrusion of the garage into the required 50' buffer will not adversely impact the aesthetic quality of the highway as the property is elevated above the pavement and existing tree masses shield the residence from view of vehicular traffic, see Attachment 3; 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 as the structure is being placed at a location where it can be the size desired by the applicant, along with having adequate spacing in relation to the primary structure and rear yard features; including, the gazebo and patio; and

**WHEREAS**, the Committee further finds that 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 as the required buffer limits the flexibility for construction of detached accessory structures towards the rear of the property; and

**WHEREAS**, the Committee finds that, based the staff report and on the evidence and testimony presented today, that all of the applicable Guidelines of Cornerstone 2020 and the Comprehensive Plan are being met; now, therefore be it

**RESOLVED**, the Louisville Metro Development Review Committee does hereby **APPROVE** the requested Waiver of Land Development Code (LDC) section 10.3.7.A to reduce the required 50' Gene Snyder Freeway landscape buffer to allow for the construction of a residential accessory structure.

**The vote was as follows:**

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**CASE NO. 15WAIVER1037**

**YES: Commissioners Peterson, Kirchdorfer, Brown, Tomes.**

**NO: No one.**

**NOT PRESENT: Commissioner White.**

**ABSTAINING: No one.**

**DEVELOPMENT REVIEW COMMITTEE**

**January 6, 2016**

**NEW BUSINESS**

**CASE NO. 15DEVPLAN1164**

Request: Revised Detailed District Development Plan  
Project Name: Kroger  
Location: 9000 Taylorsville Road  
Owner: BRE Retail Residual Owner 6 (c/o Brixmor)  
Applicant: The Kroger Co.  
Representative: The Law Office of Jeffrey A. Berger  
Heritage Engineering  
Jurisdiction: City of Jeffersontown  
Council District: 11 – Kevin Kramer

**Case Manager: Christopher Brown, Planner II**

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

**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.**

**Agency Testimony:**

01:57:17 Christopher Brown presented the case and showed the site plan and elevations (see staff report and recording for detailed presentation.)

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

Danny Lethco (real estate manager for Kroger), 1600 Ormsby Station Court, Louisville, KY 40223

Scott Hannah, 642 South Fourth Street, Louisville, KY 40202

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

02:00:54 Danny Lethco spoke on behalf of the applicant and presented the applicant's request.

02:02:56 John Carroll, legal counsel for the Planning Commission, asked about square footage on the revised binding elements. Mr. Brown explained.

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

No one spoke.

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**NEW BUSINESS**

**CASE NO. 15DEVPLAN1164**

02:03:57 On a motion by Commissioner Brown, seconded by Commissioner Kirchdorfer, the following resolution was adopted:

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

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

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

**WHEREAS**, the Committee further finds that the Metropolitan Sewer District has approved the preliminary development plan and will ensure the provisions 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 finds that, based the staff report and on the evidence and testimony presented today, that all of the applicable Guidelines of Cornerstone 2020 and the Comprehensive Plan are being met; now, therefore be it

**RESOLVED**, the Louisville Metro Development Review Committee does hereby **RECOMMEND** to the City of Jeffersontown that the requested Revised Detailed District Development Plan Waiver and binding elements on Page 7 of the staff report be **APPROVED, SUBJECT** to the following binding elements:

1. The development shall be in accordance with the approved district development plan and agreed upon binding elements unless amended pursuant to the **Land Development Code Zoning District Regulations**. Any changes/additions/alterations of any binding element(s) shall be submitted to the

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Planning Commission **and to the city of Jeffersontown** for review and approval; any changes/additions/alterations not so referred shall not be valid.

2. The development shall not exceed ~~233,877~~ **253,305** square feet of gross floor area.
3. There shall be no freestanding sign permitted on site without prior approval. Monument style signs that meet the size and height limits established in the "Policies for Future Development along Designated Parkways" may be approved by DPDS staff. Signs that exceed those limits are permitted only if approved by LD&T or the Commission. LD&T or the Planning Commission may require that the signs be smaller than would otherwise be permitted by the Zoning District Regulations.
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 feet 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 **Develop Louisville Construction Permit Review and Transportation Planning** ~~the Jefferson county Department of Public Works and Transportation (400 Fiscal Court Building) and the Metropolitan Sewer District (700 West Liberty).~~
  - b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
  - c. A minor subdivision plat shall be recorded dedicating additional right-of-way to Taylorsville Road, as shown on the plan. A copy of the recorded instrument shall be submitted to the Division of Planning and Development Services; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
  - d. 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

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permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.

7. If a building permit is not issued within ~~one year~~ **two years** of the date of approval of the plan or rezoning, whichever is later, the property shall not be used in any manner unless a revised district development plan is approved or an extension is granted by the Planning Commission.
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. 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.
10. A soil erosion and sedimentation control plan shall be developed and implemented in accordance with the Metropolitan Sewer District and the USDA Natural Resources Conservation Service recommendations. Documentation of the MSD's approval of the plan shall be submitted to the Planning Commission prior to commencement of any clearing, grading, or construction activities.
11. 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.
12. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the ~~February 22<sup>nd</sup>, 2004 LD&T~~ **January 6<sup>th</sup>, 2016 Development Review Committee** meeting.

**The vote was as follows:**

**YES: Commissioners Peterson, Kirchdorfer, Brown, Tomes.**

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**NO: No one.**

**NOT PRESENT: Commissioner White.**

**ABSTAINING: No one.**



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**ADJOURNMENT**

The meeting adjourned at approximately 4:05 p.m.

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**Chair**

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**Planning Director**