

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO DEVELOPMENT REVIEW COMMITTEE MEETING
January 9, 2019**

A meeting of the Louisville Metro Development Review Committee was held on January 9, 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
Emma Smith
Jeff Brown
Donald Robinson

Commissioners absent:

David Tomes, Chair

Staff members present:

Emily Liu, Director, Planning & Design Services
Joseph Reverman, Assistant Director, Planning & Design Services
Joe Haberman, Planning & Design Manager
Brian Davis, Planning Manager
Jay Lockett, Planner I
Dante St. German, Planner II
Beth Jones, Planner II
Lacey Gabbard, Planner I
John Carroll, Legal Counsel
Beth Stuber, Transportation
Chris Cestaro, Management Assistant

The following matters were considered

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APPROVAL OF MINUTES

December 19, 2018 DRC Meeting Minutes

00:07:09 On a motion by Commissioner Brown, seconded by Commissioner Smith, the following resolution was adopted:

RESOLVED, that the Louisville Metro Development Review Committee does hereby **APPROVE** the minutes of its meeting conducted on December 19, 2018.

The vote was as follows:

YES: Commissioners Brown, Smith, and Carlson.

NOT PRESENT: Commissioners Tomes and Robinson.

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NEW BUSINESS

CASE NUMBER 18DEVPLAN1217

Request: Revised District Development Plan and associated waivers.
Project Name: Mini-Warehouse
Location: 4401 Bardstown Road
Owner(s): Salt River Investment LLC
Applicant: Sterling Development LLC
Representative: Cliff Ashburner - Dinsmore & Shohl LLP
Jurisdiction: Louisville Metro
Council District: 2 – Barbara Shanklin

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:

00:08:42 Beth Jones presented the case. She noted that this case has a CUP associated with it; that was the first application that was turned in. The hearing on the CUP was held this past Monday, January 7, 2019 at the Board of Zoning Adjustment (BOZA) meeting. She handed out a copy of the staff report that was distributed to BOZA on Monday (heard at BOZA as Case No. 18CUP1113). See staff report and recording for detailed presentation.)

00:13:06 She added that BOZA has already continued this case to the January 22, 2019 BOZA meeting to determine whether this project meets the requirements of the CUP.

00:18:08 In response to a question from John Carroll, legal counsel for the Planning Commission, Ms. Jones said that BOZA will be reviewing only the CUP request once DRC has made its determinations regarding the Development Plan and Waiver requests today.

00:18:56 Emily Liu, Director of Planning & Design Services, said the two waiver requests were noticed/advertised to be heard at today's DRC meeting. Therefore, the DRC can discuss and make decisions on the waivers today, if they choose.

00:20:01 Commissioner Brown, Ms. Liu and Ms. Jones discussed Waiver #2 in the BOZA staff report, which reads:

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Waiver 2: of requirement that the number and width of curb cuts shall be limited in conformance with the access management principles contained in Chapter 6 Part 1 (LDC 5.9.2.A.1.b.iii.)

They discussed what was shown on the Development Plan and how that relates to the Access Management Principles (appendix in Chapter 6). Ms. Jones said there is a specific minimum distance between curb cuts that is stated in the Chapter 6 Access Management Principles. This plan would not be able to meet that minimum distance.

00:21:41 Ms. Jones said staff met with the applicant this morning regarding the access system and the frontage road. She said the applicant is proposing that they be allowed to develop a right-in-right-out-only access point at the point shown on today's plan. The applicant is required to set aside sufficient space to put in a frontage road in the future when that narrow property to the left is developed; but the applicant will not build that frontage road at this time, only when the adjacent property is developed.

00:22:50 It was agreed that Waiver request #2 be deleted, and Waiver request #1 should stand. Waiver #1, as stated in the BOZA staff report, reads as follows:

Waiver 1: of requirement that all abutting non-residential uses shall provide for vehicular and pedestrian circulation between their sites, through parking lot or alley connections, hard surface walkways, and similar measures (LDC 5.9.2.A.1.b.ii.)

The following spoke in favor of this request:

Cliff Ashburner, Dinsmore & Shohl, 101 South 5th Street Suite 2500, Louisville, KY 40202

Kent Gootee, Mindel Scott & Associates, 5151 Jefferson Boulevard, Louisville, KY 40219

Clint Patterson, Sterling Development, 3900 Edison Lakes Parkway, Mishawaka, IN 46545

Summary of testimony of those in favor:

00:23:22 Cliff Ashburner, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.) He mainly discussed access and cross-connectivity (or lack thereof.) He reiterated that, until the property in the middle develops, the connectivity is not going to be there. He showed the plan that had been revised this morning.

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00:32:04 Mr. Ashburner discussed a proposed replacement to existing binding element #9, and Proposed Binding element #5.e as shown in the BOZA staff report, to read as follows:

The property owner shall submit a development plan to PDS for review and approval which has been revised to reflect the actions of the DRC at its review of the proposal on January 9, 2019. This revised development plan shall be presented to BOZA for approval of the requested CUP for Mini-Warehouses (18CUP1113). The development plan as presented to the DRC shall be revised:

- A. To show the direct access point from the subject site to Bardstown Road via a right-in/right-out with a non-mountable barrier median.
- B. To show a frontage road which shall provide a connection between this direct access point to the existing paved stub located on the adjoining property at 4337 Bardstown Road.
- C. No connection to the property at 4405 Bardstown Road shall be required.

00:32:49 Joseph Reverman, Assistant Director of Planning & Design Services, asked how the drive in front would affect the landscape buffer areas. Mr. Ashburner said it would not. He said there would be sufficient space between the rear of the drive aisle and the building to provide that buffer.

00:33:25 Mr. Ashburner said Waiver #1 requires abutting, non-residential uses to provide vehicular and pedestrian access. He said the applicant will be providing pedestrian access through the provision of a sidewalk along the entire frontage, in addition to pavement striping when necessary within the ROW. Regarding the vehicular connection, he said the plan is required to go back to staff for approval.

00:34:26 He said that he did not think that Waiver #2 applies because Bardstown Road is a State road, and ultimately KYTC is going to have the final say on the number, location, and configuration of entrances to its ROW. He said he felt that DRC does not have to act on this.

00:35:00 Ms. Jones discussed proposed changes to binding elements (see recording. Staff would require the frontage road and the connection to be made at this time with this plan, whereas the applicant is proposing that the physical improvement be made only at such time as that next-door property is developed.

00:35:43 Mr. Ashburner disagreed. He said that he was under the impression that staff was okay with having that connection made at the time that the next-door property was developed, and the applicant leaving room for that.

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00:36:16 In response to a question from Commissioner Carlson, Mr. Ashburner said there is no proposal to make a connection from this site to the car wash, at any time. He added that, at Monday's BOZA meeting, the owner of the car wash testified that he did not want any connection. Using the current revised plan, Mr. Ashburner pointed out the locations of the proposed access road, and said that the applicant's request is to have the access road constructed at the time a building permit is issued for development on the adjacent property. He said the applicant does not think it is appropriate to build the road now, since no one knows what could be built on this adjacent property.

00:39:29 Commissioner Brown asked about the conditions which would need to be met before the applicant builds the access road. He cited examples of other, non-building uses for the lot (detention area, consolidated in to another lot, etc.) Mr. Ashburner discussed why the applicant chose "building permit" as a condition. Mr. Reverman and Mr. Ashburner discussed other possible, future uses for the adjacent property (small retail seems to be most likely.) Commissioner Brown and Mr. Ashburner discussed right-in/right-out access; this is what will be presented to KYTC. Cross-connectivity to the car wash property was examined; after much discussion, Mr. Ashburner said the applicant could agree to "reserve" that area, while maintaining the access point to Bardstown Road.

00:44:52 Commissioner Carlson said there seems to be some conflict between staff's proposed binding element and the applicant's binding element, and when construction takes place. He suggested some revised wording.

00:46:55 Mr. Ashburner asked if this case could be tabled until later in the meeting, so that some language issues in the binding element could be worked out.

The following spoke in opposition to this request:

No one spoke.

00:48:07 *NOTE: This case was tabled for later in the meeting to allow staff and the applicant to work out details in the proposed binding element.

01:29:41 This case was resumed after the applicant and staff discussed certain aspects of binding elements that remained to be agreed upon.

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01:30:01 Mr. Ashburner stated what the applicant is proposing, and read a proposed binding element into the record, as follows:

The property owner shall submit a development plan to PDS for review and approval which has been revised to reflect the actions of the DRC at its review of the proposal on January 9, 2019. This revised development plan shall be presented to BOZA for approval in association with the requested CUP for Mini-Warehouses (18CUP1113). The development plan as presented to the DRC shall be revised:

- A. To show the direct access point from the subject site to Bardstown Road configured for right-in/right-out access with a non-mountable barrier median or such direct access configuration as approved by KYTC.
- B. To show a frontage road which shall provide a connection between this direct access point to the existing paved stub located on the adjoining properties at 4337 Bardstown Road and at 4405 Bardstown Road.
 - i. The frontage road between the direct access point and the property at 4337 Bardstown Road shall be constructed at such time as a Revised Development Plan is approved for any development on the adjoining 4337 Bardstown Road site. The frontage road between the direct access point and the property at 4405 Bardstown Road shall be constructed at such time as a Revised Development Plan is approved for any development on the adjoining 4405 Bardstown Road site.
 - ii. If, at such time as the Revised Development Plan for the adjoining site is issued, the direct access point to the subject site does NOT include a non-mountable barrier median restricting direct access to the right-in/right-out, it shall be installed at such time as development occurs on the adjacent properties, pursuant to KYTC approval.

01:33:45 Mr. Ashburner listed some justifications for why this proposal works, and the proposal to build the road now does **not** work. This is in the record for the BOZA case. See recording for his detailed presentation.

01:38:06 Commissioner Brown stated that the applicant could have something to gain from a frontage road, because the applicant will have restricted access to Bardstown Road, and a connection to one of the existing access points would be the only full access the applicant may have available. Mr. Ashburner discussed the cost of providing access, and said that if the connection is demanded to be provided now, the project will not happen.

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01:40:02 Commissioner Carlson and Mr. Ashburner discussed some wording in proposed binding element # ii.

01:41:22 Mr. Ashburner read some changes to binding element # I and ii into the record (reflected at 1:30:01, above.)

01:43:49 Ms. Jones and Commissioner Brown discussed e-mails from KYTC regarding cross-access and the proposed access road (on file.)

Deliberation:

01:47:15 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.

01:47:57 On a motion by Commissioner Brown, seconded by Commissioner Robinson, 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 that the conservation of natural resources on the property proposed for development, including: trees and other living vegetation, steep slopes, water courses, flood plains, soils, air quality, scenic views, and historic sites, is being met because the site does not include these features; and

WHEREAS, the Commission further finds that sidewalks are provided for pedestrian use. The plan may require amendment to provide for safe and efficient vehicular transportation, based on the results of the 1/7/2019 BOZA hearing; and

WHEREAS, the Commission further finds that open space is not required of this development; and

WHEREAS, the Commission 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

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WHEREAS, the Commission further finds that the proposed development is compatible with existing and projected future development of the area, with any plan amendments as required by BOZA as a result of its 1/7/2019 hearing; and

WHEREAS, the Commission further finds that the proposed development plan generally conforms with the Comprehensive Plan and with CUP and form district requirements. The development is not an expansion of non- residential uses into residential areas and provides buffering for adjacent residential uses in excess of requirements; now, therefore be it

RESOLVED, the Louisville Metro Development Review Committee does hereby **APPROVE** the requested Revised Detailed District Development Plan and binding elements, **ON CONDITION** that the Board of Zoning Adjustment (BOZA) approves the Conditional Use Permit, and **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. 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 pennants, balloons, or banners shall be permitted on the site.
3. 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.
4. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested:
 - a. The development plan must receive full construction approval from Louisville Metro Department of Inspections, Permits and Licenses, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. A minor subdivision plat or legal instrument shall be recorded creating the lot lines as shown on the development plan. A copy of the recorded instrument shall be submitted to Metro Planning and Design Services;

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- transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
- c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in LDC Chapter 10 **and in the conditions of the approved CUP** prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - d. The property owner shall submit a development plan to PDS for review and approval which has been revised to reflect the actions of the DRC at its review of the proposal on January 9, 2019. This revised development plan shall be presented to BOZA for approval in association with the requested CUP for Mini-Warehouses (18CUP1113). The development plan as presented to the DRC shall be revised:
 - A. To show the direct access point from the subject site to Bardstown Road configured for right-in/right-out access with a non-mountable barrier median or such direct access configuration as approved by KYTC.
 - B. To show a frontage road which shall provide a connection between this direct access point to the existing paved stub located on the adjoining properties at 4337 Bardstown Road and at 4405 Bardstown Road.
 - i. The frontage road between the direct access point and the property at 4337 Bardstown Road shall be constructed at such time as a Revised Development Plan is approved for any development on the adjoining 4337 Bardstown Road site. The frontage road between the direct access point and the property at 4405 Bardstown Road shall be constructed at such time as a Revised Development Plan is approved for any development on the adjoining 4405 Bardstown Road site.
 - ii. If, at such time as the Revised Development Plan for the adjoining site is issued, the direct access point to the subject site does NOT include a non-mountable barrier median restricting direct access to the right-in/right-out, it shall be installed at such time as development occurs on the adjacent properties, pursuant to KYTC approval.
5. 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.

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6. There shall be no outdoor music (live, piped, radio or amplified), ~~or~~ outdoor entertainment or outdoor PA system audible beyond the property line.
7. 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 their content. 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 them. 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.
8. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the **January 7, 2019 BOZA hearing.**
9. No idling of trucks shall take place within 200 feet of single-family residences. No overnight idling of trucks shall be permitted on site.

The vote was as follows:

YES: Commissioners Robinson, Brown, Smith, and Carlson.

NOT PRESENT: Commissioner Tomes.

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NEW BUSINESS

CASE NUMBER 18WAIVER1052

Request: Waivers to allow a changing sign to be closer than 300 feet to residential properties and to allow a changing image panel to exceed 30% of the area of a sign in the Neighborhood form district.

Project Name: Messiah Trinity Church Signage
Location: 8701 Shepherdsville Road
Owner(s): Messiah Evangelical Lutheran Church
Applicant: Messiah Evangelical Lutheran Church
Representative: Golden Rule Signs
Jurisdiction: Louisville Metro
Council District: 23 – James Peden

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:

00:48:33 Dante St. Germain presented the case (see staff report and recording for detailed presentation.)

00:52:18 She said noted that the applicant has agreed to a Condition of Approval for Waiver #1, which is in the staff report and reads as follows:

The message or image on the sign shall change no more frequently than once per minute. There shall be no animated or flashing message or image at any time.

00:52:30 She noted that Waiver #2 did not meet the standard of review (see staff report and recording for detailed statement.)

00:53:43 In response to a question from Commissioner Robinson, Ms. St. Germain confirmed that this will be an LED sign, not a video sign.

The following spoke in favor of this request:

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Logan Baker, 2420 Holloway Road, Louisville, KY 40299

Summary of testimony of those in favor:

00:53:02 Logan Baker, the applicant's representative, presented the applicant's case (see recording for detailed presentation.)

00:55:12 In response to a question from Commissioner Brown, Mr. Baker said the sign will have an auto-dimming feature (will be scheduled to dim/shut off at night.) Commissioner Carlson asked for "something in writing" regarding the hours of operation for the sign (as a Condition of Approval.) Mr. Baker agreed. In response to another question from Commissioner Carlson, Ms. St. Germain confirmed that adjacent property owners were notified and she has not received any interested party comments.

00:58:57 Mr. Baker said the applicant would be willing to shut off the digital (electronic) portion of the sign at 9:00 p.m. and turning it back on at 6:00 a.m. The "identification" portion of the sign (non-electronic) would remain on at night.

The following spoke in opposition to this request:

No one spoke.

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.

00:59:38 Commissioners' deliberation.

00:59:38 Commissioner Brown discussed the permitted sign dimensions in this form district. He said he could support both waivers because they are both under the maximums permitted by the Land Development Code.

01:00:43 Commissioner Carlson and Commissioner Brown discussed Public Works/Transportation's findings regarding traffic sight-line issues.

01:01:50 In response to a question from Commissioner Carlson, Ms. St. Germain discussed two adjacent properties where notices were sent. Commissioner Carlson said he was satisfied that anyone who would be impacted by this sign has had the opportunity to respond.

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NEW BUSINESS

CASE NUMBER 18WAIVER1052

Waiver #1 - 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.

Waiver #2 - Land Development Code section 8.2.1.D.4.a to allow a changing image panel in the Neighborhood form district to exceed 30% of the total area of a sign

01:03:58 On a motion by Commissioner Brown, seconded by Commissioner Robinson, the following resolution, based on the Standard of Review and Staff Analysis, and evidence and testimony heard today, was adopted:

(Waiver #1) WHEREAS, the Louisville Metro Development Review Committee finds that the waiver will not adversely affect adjacent property owners as the applicant will not change the image on the sign more frequently than once per minute, mitigating the adverse impact of the changing image; and

WHEREAS, the Committee further finds that 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 Committee further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as there is no location on the property where a sign could be placed that is more than 300 feet from residential properties; and

WHEREAS, the Committee further finds that 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 by stating that the message on the sign will change no more frequently than once per minute; now, therefore be it

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RESOLVED, that the Louisville Metro Development Review Committee does hereby **APPROVE** the requested Waiver of 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; **ON CONDITION** that the LED portion of the sign shall be turned off no later than 9:00 p.m. and turned back on no earlier than 6:00 a.m., seven days a week; **AND ON CONDITION** that the message or image on the sign shall change no more frequently than once per minute, and there shall be no animated or flashing message or image at any time.

The vote was as follows:

YES: Commissioners Smith, Brown, Robinson, and Carlson.

NOT PRESENT: Commissioner Tomes.

01:05:50 On a motion by Commissioner Brown, seconded by Commissioner Smith, the following resolution, based on Parts A and B of the Standard of Review and Staff Analysis, and evidence and testimony heard today, was adopted:

(Waiver #2) WHEREAS, the Louisville Metro Development Review Committee finds that the waiver will not adversely affect adjacent property owners as the proportions of the changing image panel relative to the overall sign are unlikely to have an adverse effect; and

WHEREAS, the Committee further finds that 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 Committee further finds that the extent of this waiver is the minimum necessary to afford relief to the applicant, as a 12-square-foot LED changing image sign would be permitted in this form district and zoning district, and that the applicant has taken steps to mitigate the impact of this sign by turning it off at 9:00 p.m. and back on

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at 6:00 a.m.; and also limiting the frequency of the changing message to once per minute; now, therefore be it

RESOLVED, that the Louisville Metro Development Review Committee does hereby **APPROVE** the requested Waiver of Land Development Code section 8.2.1.D.4.a to allow a changing image panel in the Neighborhood form district to exceed 30% of the total area of a sign.

The vote was as follows:

YES: Commissioners Smith, Brown, Robinson, and Carlson.

NOT PRESENT: Commissioner Tomes.

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NEW BUSINESS

CASE NUMBER 18MINORPLAT1100

Request: Amendment to a Record Plat to allow additional lots in the Wood Creek Section 1-A Subdivision
Project Name: 8909 South Park Road
Location: 8909 South Park Road
Owner: Shawn Asher, Norman Hougton
Applicant: Shawn Asher, Norman Hougton
Jurisdiction: Louisville Metro
Council District: 24 – Madonna Flood

Case Manager: Molly Clark, Associate 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:

01:07:13 Jay Lockett, Planner I with Planning & Design Services, presented the case on behalf of Case Manager Molly Clark (see staff report and recording for presentation.)

01:08:08 In response to a question from Commissioner Carlson, Mr. Lockett said it was his understanding that this was being done for the purpose of building some homes. The back side of those homes would be against South Park Road. Brian Davis, Planning Manager, said the minor plat regulations do not have any recommendations for setbacks, etc.

The following spoke in favor of this request:

No one spoke.

The following spoke in opposition to this request:

No one spoke.

Deliberation:

01:11:23 Commissioners' deliberation.

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NEW BUSINESS

CASE NUMBER 18MINORPLAT1100

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.

01:11:40 On a motion by Commissioner Brown, seconded by Commissioner Robinson, the following resolution, based on the Standard of Review and Staff Analysis and testimony heard today, was adopted:

RESOLVED, the Louisville Metro Development Review Committee does hereby **APPROVE** the requested Record Plat Amendment.

The vote was as follows:

YES: Commissioners Smith, Brown, Robinson, and Carlson.

NOT PRESENT: Commissioner Tomes.

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NEW BUSINESS

CASE NUMBER 18DEVPLAN1189

Request: Revised District Development Plan with revisions to binding elements.
Project Name: 8002 New LaGrange Road Office
Location: 8002 New LaGrange Road
Owner: Gagecoltzach LLC
Applicant: Gagecoltzach LLC
Jurisdiction: City of Lyndon
Council District: 18 – Marilyn Parker

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:

01:12:21 Jay Lockett presented the case (see staff report and recording for detailed presentation.)

The following spoke in favor of this request:

Mark Madison (applicant's representative), 108 Davenport Lane Suite 300, Louisville, KY 40223

Summary of testimony of those in favor:

01:14:40 Mark Madison, the applicant's representative, said he was available for questions.

The following spoke in opposition to this request:

No one spoke.

01:15:09 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.

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NEW BUSINESS

CASE NUMBER 18DEVPLAN1189

Revised District Development Plan with amendments to Binding Elements

01:15:19 On a motion by Commissioner Brown, seconded by Commissioner Smith, 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 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 has approved the preliminary development plan; and

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

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

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

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

RESOLVED, that the Louisville Metro Development Review Committee does hereby **RECOMMEND** to the City of Lyndon that the requested Revised District Development Plan with amendments to Binding Elements be **APPROVED, SUBJECT** to the following binding elements:

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CASE NUMBER 18DEVPLAN1189

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. No further development shall occur without prior approval from the Planning Commission and city of Lyndon except for land uses permitted in the established zoning district.
2. Signs shall be in accordance with Chapter 8 of the Land Development Code in effect for the City of Lyndon.
3. No outdoor advertising signs (billboards), small free-standing (temporary) signs, pennants or banners shall be permitted on the site.
4. There shall be no outdoor storage on the site
5. Outdoor lighting shall be directed down and away from surrounding residential properties.
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. 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 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - d. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.

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8. A certificate of occupancy must be received from the appropriate code enforcement office prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
9. The property owner/developer shall provide copies of these binding elements to tenants, contractors and other parties engaged in development of this project, and shall inform them of the content of these binding elements. Further, the property owner/developer shall require contractors to similarly notify all of their sub-contractors whose duties relate to the binding elements. The property owner/developer shall ensure their compliance with the binding elements.

The vote was as follows:

YES: Commissioners Smith, Brown, Robinson, and Carlson.

NOT PRESENT: Commissioner Tomes.

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NEW BUSINESS

CASE NUMBER 18DEVPLAN1162

Request: Revised District Development Plan with Waivers
Project Name: Hardee's with Drive-Thru
Location: 11201 Oscar Road
Owner: RE NO ONE, LLC / Guggenheim Development Services
Applicant: RE NO ONE, LLC / Guggenheim Development Services
Representative: Phil Gambrell – Prism Engineering
Jurisdiction: Louisville Metro
Council District: 17 – Glen Stuckel

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:

01:16:18 Lacey Gabbard presented the case, which was Continued from a previous hearing. She noted that she has not yet reviewed the plan being submitted today (see staff report and recording for detailed presentation.)

The following spoke in favor of this request:

Phil Gambrell, Prism Engineering, 2309 Watterson Trail Suite 200, Louisville, KY 40299

Summary of testimony of those in favor:

01:18:55 Phil Gambrell, the applicant's representative, presented the applicant's case. He discussed landscaping and its effect on sight-line safety issues; sidewalk location and constructability; and modifications to previously-requested Waivers (see recording for detailed presentation.)

01:24:25 Commissioner Brown asked about the landscaping waiver request/s. Mr. Gambrell discussed the hedges and trees in the ROW, and replacing the hedges in the buffer the applicant is providing.

01:26:04 Commissioner Brown asked about the rendering of the building that was presented at the last DRC meeting. Mr. Gambrell said the building itself has not

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changed; just the parking in front of it, which has been adjusted to accommodate revised landscaping and a sidewalk.

The following spoke in opposition to this request:

No one spoke.

01:27:06 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.

Waiver #1 - Waiver of Section 10.2.10 to allow existing parking areas to encroach into required LBAs and to allow the proposed dumpster enclosure to encroach into the LBA

Waiver #2 - Waiver of Section 10.2.11 to eliminate LBA, screening and tree requirements along Chamberlain Lane

01:27:24 On a motion by Commissioner Brown, seconded by Commissioner Robinson, 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 that the waiver will not adversely affect adjacent property owners since the parking lot and curb are already existing and the configuration will not change substantially. The dumpster will be appropriately screened per LDC section 5.5.2.B.2; and

WHEREAS, the Committee further finds that the waiver will not violate Guideline 3, Compatibility, of Cornerstone 2020, which calls for the protection of roadway corridors and public areas from visual intrusions, for mitigation of parking areas so as not to negatively impact nearby residents and pedestrians, and for screening and buffering of parking areas adjacent to streets. The waiver will not violate Guideline 13, Landscape Character, which calls for the protection of parkways through standards for buffers, landscape treatment, lighting and signs. The purpose of vehicle use area landscape buffer areas is to improve the appearance of vehicular use areas and property abutting public rights-of way. The parking lot is already in place and the dumpster will be appropriately screened, so the streetscape or and general appearance of the site will

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not be worsened. The dumpster itself does not appear to encroach into the LBA, but the enclosure structure does. The enclosure structure provides screening for the dumpster; 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 since the landscaping and parking areas are already in place. The dumpster is appropriately located on the site and the encroachment into the LBA is minimal; 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. The parking lot is already in place and the dumpster encroachment is minimal; and

(Waiver #2) WHEREAS, the Committee further finds that the waiver will not adversely affect adjacent property owners since the parking lot is existing, however the screening provided exists in the right-of-way and does not meet current landscape requirements; and

WHEREAS, the Committee further finds that the waiver will violate Guideline 3, Compatibility, of Cornerstone 2020, which calls for the protection of roadway corridors and public areas from visual intrusions, for mitigation of parking areas so as not to negatively impact nearby residents and pedestrians, and for screening and buffering of parking areas adjacent to streets. The waiver will not violate Guideline 13, Landscape Character, which calls for the protection of parkways through standards for buffers, landscape treatment, lighting and signs. Chamberlain Lane is not a parkway or a scenic roadway. The purpose of vehicle use area landscape buffer areas is to improve the appearance of vehicular use areas and property abutting public rights-of way. While the buffer along Chamberlain Lane is required due to the existing location of the parking lot, the landscaping that is currently in place exists in the right-of-way. The gaps in the screening could be filled in order to mitigate the waiver request; and

WHEREAS, the Committee further finds that the extent of the waiver of the regulation is not the minimum necessary to afford relief to the applicant because hedges may be planted. The site currently provides most of the plantings, however, the 3 foot screen is not fully provided and the gaps could be filled in; and

WHEREAS, the Committee further finds that the applicant has incorporated other design measures within the right-of-way that generally meet the minimum of the district and compensate for non-compliance. However, the existing gaps in the 3 foot screen could be filled in; now, therefore be it

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RESOLVED, that the Louisville Metro Development Review Committee does hereby **APPROVE** the requested Waiver of Section 10.2.10 to allow existing parking areas to encroach into required LBAs and to allow the proposed dumpster enclosure to encroach into the LBA; and the requested Waiver of Section 10.2.11 to eliminate LBA, screening and tree requirements along Chamberlain Lane.

The vote was as follows:

YES: Commissioners Smith, Brown, Robinson, and Carlson.

NOT PRESENT: Commissioner Tomes.

Revised Development Plan with Binding Element Amendments

01:28:31 On a motion by Commissioner Brown, seconded by Commissioner Smith, the following resolution, based on the Standard of Review and Staff Analysis, and testimony heard today, was adopted:

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

Existing General Plan 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 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.

- a. Prior to the development of each site or phase of this project, the applicant, developer, or property owner shall obtain approval of a detailed district development plan from the Planning Commission. Each plan shall be in adequate detail and subject to additional binding elements. The additional binding elements may relate, but not be limited, to the following items:
- b. screening, buffering, landscaping, tree preservation b. density, floor area, size, and height of buildings
- c. points of access and site layout with respect to on-site circulation d. land uses
- e. signage
- f. loading berths g. parking

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- h. sidewalks
 - i. site design elements relating to alternative transportation modes j. outdoor lighting
 - k. minor subdivision plat approval l. air pollution
 - m. the timing of construction to coincide with the availability of flood protection measures, municipal sewer and water service, and adequate fire protection
 - n. dumpsters
- 2. A detailed construction plan showing existing and proposed construction in Chamberlain Lane and Westport Road, and including a 20 scale drawing of their intersection, will be submitted to and approved by the Jefferson County Department of Public Works and the Kentucky Department of Transportation prior to the commencement of any construction. These improvements will be in conformance with the approved General District Development Plan, Preliminary Subdivision Plan Docket No. 10-48-88, and Traffic Impact Analysis study, and will be completed prior to the issuance of any certificate of occupancy.
- 3. Direct access is prohibited to any lot from Westport Road with the exception of the entrance 400 feet east of Chamberlain Lane center line to center line. The access shall be right-in right-out only, as approved by the Jefferson County Department of Public Works and Transportation.
- 4. There shall be no direct access to Chamberlain Lane for the out parcels except out lot #2 and service roads as shown on the approved development plan.
- 5. The development excluding out lots shall not exceed the following:
 - a. R-7 Residential Multi-family district – 200 dwelling units (18.18 du / acre on 11.0 acres) OR-3 Office/Residential District – 139,200 square feet
 - b. C-1 Commercial District – 394,000 square feet
 - c. C-2 Commercial District – 15,000 square feet
- 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) and the Metropolitan Sewer District (700 West Liberty).
 - b. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Article 12 prior to

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

- c. A major subdivision plat creating the lots and roadway as shown on the approved general district development plan and preliminary subdivision plan shall be recorded prior to issuance of any building permits.
 - d. An access or crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be secured from the adjoining property owner and recorded. 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.
 - e. All necessary recording fees shall be paid.
- 7. All primary development identification signs shall be monument signs. Each sign shall not exceed 64 square feet in area and 9 feet in height.
 - 8. All lots located below the 100 year flood elevation shall conform to the Floodplain Regulations.
 - 9. No outdoor advertising signs, small freestanding signs, pennants, balloons or banners shall be permitted on the site.
 - 10. Tenants of all automobile service facilities shall submit written documentation to the Planning Commission concerning tire disposal.
 - 11. The motel located east of Chamberlain Lane, as depicted on the General District Development Plan, shall not exceed two stories or 25 feet in height.
 - 12. A six-foot high solid brick wall of style and design to be approved by the Shaker Farms Condominium Association, which approval shall not be unreasonably withheld, shall be constructed for a length of approximately 950 feet along the edge of the motel and office parking areas which are situated east of Chamberlain Lane along the north property line of the Maple Brook development; location of the wall is shown on the site plan entitled Maple Brook Wall Exhibit dated July 25, 1996. Along that north property line is an approximate 15-foot landscape buffer area which shall separate the motel and office buildings from the Shaker Farms Condominium development. The wall shall be situated along the south side of that landscape buffer area. In order to soften the impact of the wall, the developer or its successor in interest shall be responsible for planting

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trees or shrubbery along the north side of the wall in accordance with Article 12 of the Jefferson County Development Code (the County landscape regulation). This landscape buffer area may be fully utilized by Shaker Farms Condominium owners as if this area were an extension of their yard; however, unless the parties agree otherwise, this landscape buffer area shall continue to be owned by the developers of their successors in interest. The wall shall be maintained on both the north and south sides by the developers or their successors in interest.

- a. The wall shall be constructed prior to commencement of building construction on Lots 1 or 2 as shown on the approved General District Development Plan and Preliminary Subdivision Plan. Site grading for the proposed construction and the wall may occur concurrently, however, no building construction may occur until such time as the wall is completed.

13. Free-standing signs shall be restricted as follows:

For the lot depicted on the general district development plan as mote #1, 20 feet in height and 80 square feet in area.

For the lot and building depicted on the general district development plan as motel #2, 30 feet in height and 144 square feet in area.

For the lot and building depicted on the general district development plan as restaurant #1, 20 feet in height and 80 square feet in area.

For the lot and building depicted on the general district development plan restaurant #2, 30 feet in height and 96 square feet in area.

For the lot and building depicted on the general district development plan as out parcel #4, 20 feet in height and 96 square feet in area.

14. Outdoor lighting (for parking lot illumination and security) 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.
15. The following uses, although permitted generally in the C-2 Commercial District, are prohibited uses within the C-2 areas of Maple Brook, adult entertainment, book binding facilities, dance halls, kennels, monuments sales, sign painting, skating rinks, used car sales unless in connection with a new car sales dealership, and advertising signs (billboards).

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16. If a building permit is not issued within two years of the date of approval of the plan or rezoning, whichever is later, the property shall not be used in any manner unless a revised district development plan is approved or an extension is granted by the Planning Commission.
17. A certificate of occupancy must be received from the appropriate code enforcement office prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
18. 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.
19. 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.
20. The above binding elements may be amended as provided for in the Zoning District Regulations.

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, 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. 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.

4. Before any permit (including but not limited to building, parking lot, change of use, site disturbance is requested:

a. The development plan must receive full construction approval from Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.

b. A minor subdivision plat or legal instrument shall be recorded creating the lot lines as shown on the development plan. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services prior to obtaining a building permit.

c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.

d. A reciprocal access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be created between the adjoining property owners and recorded. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services.

5. If a certificate of occupancy (building permit) is not issued within one (two) year(s) of the date of approval of the plan or rezoning, whichever is later, the property shall not be used in any manner unless a revised district development plan is approved or an extension is granted by the Planning Commission.

6. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line or permitted on the site.

7. 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

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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.

8. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the December 19, 2018 DRC meeting.

The vote was as follows:

YES: Commissioners Smith, Brown, Robinson, and Carlson.

NOT PRESENT: Commissioner Tomes.

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NEW BUSINESS

CASE NUMBER 18DEVPLAN1178

NOTE: Commissioner Brown left the meeting and did not hear of vote on this case or Case No. 18DEVPLAN1188.

Request:	Revised District Development Plan and Sidewalk Waiver
Project Name:	7301 Logistics Drive
Location:	7301 Logistics Drive
Owner:	Juan M. Gutierrez, Republic Conduit Manufacturing
Applicant:	Juan M. Gutierrez, Republic Conduit Manufacturing
Representative:	John Addington - BTM Engineering
Jurisdiction:	Louisville Metro
Council District:	1 – Jessica Green

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:

01:50:45 Lacey Gabbard presented the case (see staff report and recording for detailed presentation.) She explained that the waiver has not been supported by staff.

The following spoke in favor of this request:

John Addington and Chris Brown, BTM Engineering, 3001 Taylor Springs Drive, Louisville, KY 40220

Summary of testimony of those in favor:

01:52:40 John Addington, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.)

02:02:37 In response to a question from Commissioner Carlson, Mr. Addington said there is no record of a waiver, but he also did not see any sidewalk originally being proposed along Cane Run. Chris Brown, an applicant's representative, discussed the original rezoning/plans for Riverport Phase Four (done in 2000) and whether there was a sidewalk requirement at that time.

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02:06:19 Commissioner Robinson asked if much foot traffic would be coming through this area, since it seems to be primarily industrial.

02:07:05 In response to a question from Commissioner Smith, Mr. Addington said that a sidewalk here would not connect to anything.

The following spoke in opposition to this request:

No one spoke.

02:07:48 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.

Waiver

02:09:54 On a motion by Commissioner Robinson, seconded by Commissioner Smith, the following resolution, based on the applicant's justification and evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Development Review Committee finds that the proposed waiver conforms to the Comprehensive Plan and the intent of the Land Development Code because there are existing sidewalks along Logistics Drive that end at Cane Run Road, where the Louisville Loop Trail runs along its west side. Pedestrians who would use a 5' wide sidewalk that does not connect to any similar sidewalk, would choose to use the 10-foot wide multi-use trail that connects to a network of trails throughout Jefferson County. The 10-foot wide multi-use trail serves as the intended path connecting properties along Cane Run Road; and

WHEREAS, the Committee further finds that compliance with the regulations is not appropriate, and granting of the waiver will result in a development more in keeping with the Comprehensive Plan and the overall intent of the Land Development Code, because to build a sidewalk along the east side of Cane Run Road would create an additional at-grade pedestrian crossing at a railroad where the sidewalk would not connect to any other walkway. This would create a safety hazard for pedestrians and add more impervious surface in an area near the Ohio River and prone to wet conditions and flooding. The Louisville Loop Trail provides pedestrians with a safe and attractive walkway that fully meets the intent of Guidelines 7 & 9 of the Comprehensive Plan; and

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WHEREAS, the Committee further finds that granting this waiver would have no impact on adjacent property owners since there are no sidewalks along the eastern side of Cane Run Road; and

WHEREAS, the Committee further finds that the strict application of the regulation would require the owner to build over 1,360 linear feet of 5-foot wide sidewalk (6,800 square feet of concrete) that would not connect to any other walkway and only route potential pedestrians to another at-grade railroad crossing that would create a safety hazard. To be required to build this sidewalk in an area where there are no other sidewalks, where a far superior multi-use trail already exists, would create an unnecessary hardship for the applicant and it would be an unreasonable requirement in comparison with the size of the building addition; now, therefore be it

RESOLVED, that the Louisville Metro Development Review Committee does hereby **APPROVE** the requested Waiver of Section 5.8.1 to eliminate the sidewalk along Cane Run Road.

The vote was as follows:

YES: Commissioners Smith, Robinson, and Carlson.

NOT PRESENT: Commissioners Tomes and Brown.

Revised Development Plan

02:10:35 On a motion by Commissioner Robinson, seconded by Commissioner Smith, 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 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. The proposed additions do not substantially alter the site or its natural resources; 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. The exception to this is the sidewalk along Cane Run Road, for which the applicant has submitted a waiver; and

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

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

WHEREAS, the Committee further finds that the overall site design and land uses are compatible with the existing and future development of the area. Appropriate landscape buffering and screening already exists and will not be affected by the current proposal; 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 Development Plan.

The vote was as follows:

YES: Commissioners Smith, Robinson, and Carlson.

NOT PRESENT: Commissioners Tomes and Brown.

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NEW BUSINESS

CASE NUMBER 18DEVPLAN1188

NOTE: Commissioner Brown left the meeting and did not hear of vote on this case or Case No. 18DEVPLAN1178.

Request:	Detailed District Development Plan with Binding Element Amendments
Project Name:	L&N Federal Credit Union
Location:	13200 Magisterial Drive
Owner:	Stephen C. Gault / Gault Eastpoint, LLC
Applicant:	L&N Federal Credit Union
Representative:	Chris Brown - BTM Engineering
Jurisdiction:	Louisville Metro
Council District:	19 – Julie Denton

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:

02:11:20 Lacey Gabbard presented the case (see staff report and recording for detailed presentation.) One binding element (binding element#12) in the staff report was proposed by TARC.

The following spoke in favor of this request:

Chris Brown, BTM Engineering, 3001 Taylor Springs Drive, Louisville, KY 40220

Summary of testimony of those in favor:

02:13:37 Chris Brown, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.)

02:16:34 Mr. Brown discussed issues with binding elements #3, #4, and #12 (see his presentation.) He noted that binding element #12 (proposed by TARC) references a TARC stop being constructed – the applicant does not propose to locate a stop there. This is a circulator-only route.

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02:19:04 In response to a question from Commissioner Carlson, Ms. Gabbard briefly discussed the binding elements. Mr. Brown added that the applicant is requesting binding element #12 to be deleted because the applicant is not proposing a TARC stop along the property. He explained some of the conversations he has had with TARC about this.

02:21:42 Commissioner Smith and Mr. Brown discussed whether many (if anyone) would use this route, and also the maintenance and enforceability issue.

The following spoke in opposition to this request:

No one spoke.

02:23:56 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.

Detailed District Development Plan with Binding Element Amendments

02:27:00 On a motion by Commissioner Robinson, seconded by Commissioner Smith, 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 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. The site is exempt from Chapter 4.9.3 of the Land Development Code requiring a karst survey of the property per the exemptions listed under Chapter 4.9.2.C since the site is part of a subdivision and a plan certain development approved prior to the effective date of the karst regulation as well as the exemption for construction existing on lots show on preliminary plans approved between August 7, 1997 and March 1, 2003 under Chapter 4.6.1.B.6 of the Land Development Code; 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 has approved the preliminary development plan. KYTC has provided their preliminary approval. Old Henry Road is a state road; and

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WHEREAS, the Committee further finds that there are no open space requirements pertinent to the current proposal. Future multi- family development proposed on the subject site will be required to meet Land Development Code requirements; and

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

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

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

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

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. Prior to development (includes clearing and grading) of each site or phase of this project, the applicant, developer, or property owner shall obtain approval of a detailed district development plan in accordance with Chapter 11, Part 6. Each plan shall be in adequate detail and subject to additional binding elements.
3. The development shall be in accordance with the approved Preliminary Subdivision Plan. No further subdivision of the land into a greater number of lots than originally approved shall occur without approval of the Planning Commission.

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4. Use of the subject site shall be limited to a bank and other uses permitted in the PEC zoning district. There shall be no other use of the property unless prior approval is obtained from the Planning Commission. Notice of a request to amend this binding element shall be given in accordance with the Planning Commission's policies and procedures. The Planning Commission may require a public hearing on the request to amend this binding element.
5. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
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. 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. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
8. If a certificate of occupancy (building permit) is not issued within one (two) year(s) 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.
9. 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

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implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.

10. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line or permitted on the site.
11. 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.

The vote was as follows:

YES: Commissioners Smith, Robinson, and Carlson.

NOT PRESENT: Commissioners Tomes and Brown.

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ADJOURNMENT

The meeting adjourned at approximately 3:31 p.m.

Chairman

Division Director