

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO DEVELOPMENT REVIEW COMMITTEE MEETING
February 6, 2019**

A meeting of the Louisville Metro Development Review Committee was held on February 6, 2019 at 1:00 p.m. at the Old Jail Building, located at 514 W. Liberty Street, Louisville, KY 40202.

Commissioners present:

David Tomes, Chair
Rich Carlson, Vice Chair
Emma Smith
Jeff Brown
Donald Robinson

Commissioners absent:

No one

Staff members present:

Joseph Reverman, Assistant Director, Planning & Design Services
Brian Davis, Planning Manager
Dante St. Germain, Planner II
Lacey Gabbard, Planner I
Joel Dock, Planner II
Zach Schwager, Planner I
Travis Fiechter, Legal Counsel
Mark Dutrow, Transportation
Chris Cestaro, Management Assistant

The following matters were considered

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APPROVAL OF MINUTES

January 23, 2019 DRC Meeting Minutes

00:13:27 On a motion by Commissioner Carlson, seconded by Commissioner Robinson, the following resolution was adopted:

RESOLVED, that the Louisville Metro Development Review Committee does hereby **APPROVE** the minutes of its meeting conducted on January 23, 2019.

The vote was as follows:

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

NO: No one.

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NEW BUSINESS

CASE NUMBER 18DEVPLAN1201

Request: Revised Detailed District Development Plan with Landscape Waiver
Project Name: Stor-All
Location: 12113 Shelbyville Road
Owner(s): Multiple Owners
Applicant: Stor-All
Representative: Nick Pregliasco – Bardenwerper Talbott & Roberts PLLC
Jurisdiction: City of Middletown
Council District: 19 – Anthony Piagentini

Case Manager: Joel Dock, 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:

00:14:37 Joel Dock presented the case (see staff report and recording for detailed presentation.) He noted that a CUP portion of this request went to the Board of Zoning Adjustment this past Monday (Case No. 18CUP1169), which was approved.

00:18:08 In response to a question from Commissioner Brown, Mr. Dock explained what was different about the previously-approved plan and today's plan, which required a waiver.

The following spoke in favor of this request:

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

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

Summary of testimony of those in favor:

00:19:20 Nick Pregliasco, the applicant's representative, presented the applicant's case (see recording for detailed presentation.) He discussed the new waiver request in more detail.

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CASE NUMBER 18DEVPLAN1201

00:24:26 Neil Bloomberg (sp), 12504 Nassau Lane, Louisville, KY, 40243, asked if this site would have access onto St. Claire Road. Mr. Pregliasco said no, and there will be no future connection. This is addressed in a binding element.

The following spoke in opposition to this request:

No one spoke.

Deliberation:

00:26:21 Commissioners' deliberation. In response to a question from Commissioner Brown, Mr. Dock said the waiver request would be to waive the screening requirement; the plantings and buffer would be provided as required.

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

00:27:55 On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution, based on the testimony heard today, was adopted:

RESOLVED, the Louisville Metro Development Review Committee does hereby **APPROVE** the requested Waiver of Land Development Code, section 10.2 to omit the screening requirement along the south property line.

The vote was as follows:

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

NO: No one.

Revised Detailed District Development Plan

00:28:32 On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution, based on the Standard of Review and Staff Analysis, and evidence and testimony heard today, was adopted:

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WHEREAS, the Louisville Metro Development Review Committee finds that the proposed development plan provides a woodland protection area for the permanent protection of 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 are provided as sidewalks along the frontage will be provided and access from the site will be restricted to the major arterial road; thus, eliminating any adverse impacts of its traffic on residential property; and

WHEREAS, the Committee further finds that a woodland protection area for the permanent protection of resources is provided; 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 is consistent with the corridor and has a limited impact on the primary roadway. Sufficient transition is provided on all but one property line upon which a waiver has been requested; and

WHEREAS, the Committee further finds that the development plan for mini-warehouse is in conformance with applicable policies of the comprehensive plan as the subject site is located to the rear of a commercial corridor consisting of a mixture of uses of varying intensities. The use itself does not occupy viable street frontage for future commercial uses providing neighborhood or regional goods and services. Further, the proposed land use does not detract from existing facilities or occupy space along the corridor that would detract from the use of alternative forms of transportation, vitality, or sense of place along the corridor; now, therefore be it

RESOLVED, the Louisville Metro Development Review Committee does hereby **RECOMMEND** to the City of Middletown that the requested Revised Detailed District Development Plan be **APPROVED**, with the following revision to binding element #10 as shown on page 7 of the staff report, to read as follows:

10. The only C-2 use permitted on Tract 2 as shown on the approved district development of case 18DEVPLAN1201 shall be a mini-warehouse, unless approved by the Louisville Metro Planning Commission and the City of Middletown.

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The vote was as follows:

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

NO: No one.

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NEW BUSINESS

CASE NUMBER 18DEVPLAN1205

Request: Revised Development Plan with associated Waiver
Project Name: Veterinary Clinic
Location: 11800 Capital Way
Owner(s): Karen Graehler, Kareco LLC
Applicant: Karen Graehler, Kareco LLC
Representative: Karen Graehler, Kareco LLC
Jurisdiction: City of Jeffersontown
Council District: 20 – Stuart Benson

Case Manager: Lacey Gabbard, AICP, Planner I

Notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicants.

The staff report prepared for this case was incorporated into the record. The Commissioners received this report in advance of the hearing, and this report was available to any interested party prior to the public hearing. (The staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

00:29:15 Lacey Gabbard presented the case (see staff report and recording for detailed presentation.)

The following spoke in favor of this request:

Kathy Linares, Mindel Scott & Associates, 5151 Jefferson Boulevard Suite 101, Louisville, KY 40219

Randy Graehler, 3719 Hillsboro Road, Louisville, KY 40207

Summary of testimony of those in favor:

00:31:55 Kathy Linares, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.)

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.

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NEW BUSINESS

CASE NUMBER 18DEVPLAN1205

00:36:00 Commissioners' deliberation.

Waiver of Jeffersontown Land Development Code Section 10.2.11.B to allow the maximum distance between ILAs within the VUA to exceed 120 feet

00:36:20 On a motion by Commissioner Carlson, seconded by Commissioner Robinson, the following resolution, based on the Standard of Review and Staff Analysis, and evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Development Review Committee finds that the waiver will not adversely affect adjacent property owners since a large portion of the parking lot is already existing; and

WHEREAS, the Committee further finds that Guideline 13, Policy 5 calls for standards to ensure the creation and/or preservation of tree canopy as a valuable community resource. The purpose of interior landscape areas is to break up large impervious areas and allow for a greater distribution of tree canopy coverage. The applicant is providing 1,786 square feet of interior landscape areas which meets the requirements for this site; 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 much of the parking lot is preexisting; 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 because much of the parking lot is preexisting, and even with the additional proposed parking spaces, the majority of the lot will conform with the Land Development Code maximum distance between ILAs; now, therefore be it

RESOLVED, that the Louisville Metro Development Review Committee does hereby **RECOMMEND** to the City of Jeffersontown that the requested Waiver of Jeffersontown Land Development Code Section 10.2.11.B to allow the maximum distance between ILAs within the VUA to exceed 120 feet be **APPROVED**.

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CASE NUMBER 18DEVPLAN1205

The vote was as follows:

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

NO: No one.

Revised Development Plan With Binding Element Amendments

00:37:41 On a motion by Commissioner Carlson, seconded by Commissioner Robinson, 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 plan does 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; 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; 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 **RECOMMEND** to the City of Jeffersontown that the proposed Detailed District

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Development Plan be APPROVED, to delete all existing binding elements, and
SUBJECT to the following binding elements:

Existing Site 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.~~
- ~~2. The development shall not exceed 11,562 square feet of gross floor area.~~
- ~~3. The only permitted freestanding sign shall be a monument style sign, located as shown on the approved development plan/sign plan. No portion of the sign, including the leading edge of the sign frame, shall be closer than 15 feet to front property line. The sign shall not exceed 30 square feet in area per side and 6 feet in height. No sign shall have more than two signs.~~
- ~~4. No outdoor advertising signs, small free-standing signs, pennants, balloons, or banners shall be permitted on the site.~~
- ~~5. There shall be no outdoor storage on the site.~~
- ~~6. 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.~~
- ~~7. Construction fencing shall be erected when off-site trees or tree canopy exist 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 areas.~~
- ~~8. The applicant shall identify and submit for approval by designated DPDS staff, a plan showing the location of Tree Preservation Areas on site (exclusive of areas dedicated as public right-of-way) prior to beginning any construction procedure (i.e. clearing, grading, demolition). All construction shall be conducted in accordance with the approved Tree Preservation Plan. A partial plan may be submitted to delineate clearing necessary for preliminary site investigation. All Tree Preservation Plans must be prepared in accordance with the standards set forth by DPDS.~~

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~~9. 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 requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.~~

~~10. If a building permit is not issued within one year of the date of approval of the plan, 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.~~

~~11. 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.~~

~~12. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors, and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.~~

~~13. 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.~~

~~14. A minor plat must be recorded reflecting the 30 foot LBA, reduced from the existing 50 foot LBA.~~

Proposed Site 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

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changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee and to the City of Jeffersontown 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. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.

4. 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.

5. 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.

6. 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.

7. 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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8. 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.
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. The proposed addition shall be substantially similar in appearance and materials to the existing building.
11. The plan indicates the approximate location for a future connection to the abutting site to the east. This connection shall be completed should the abutting site be redeveloped.

The vote was as follows:

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

NO: No one.

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NEW BUSINESS

CASE NUMBER 18DEVPLAN1200

Request: Revised Detailed District Development Plan with associated Waiver
Project Name: First Watch Middletown
Location: 12913 Shelbyville Road
Owner: W.M. Mooney, 12913 Louisville LLC
Applicant: W.M. Mooney, 12913 Louisville LLC
Representative: Mike Hill - Land Design & Development, Inc.
Jurisdiction: City of Middletown
Council District: 19 – Anthony Piagentini

Case Manager: Lacey Gabbard, AICP, Planner I

Notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicants.

The staff report prepared for this case was incorporated into the record. The Commissioners received this report in advance of the hearing, and this report was available to any interested party prior to the public hearing. (The staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

00:38:33 Lacey Gabbard presented the case (see staff report and recording for detailed presentation.)

The following spoke in favor of this request:

Mike Hill, Land Design & Development, 503 Washburn Avenue, Louisville, KY 40202

Amanda Williams and John Palesky, 5120 Taylor Mill Road, Taylor Mill, KY 41015

Summary of testimony of those in favor:

00:41:27 Mike Hill, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.)

The following spoke in opposition to this request:

No one spoke.

Deliberation:

00:55:42 Commissioners' deliberation.

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

Waiver of Land Development Code section 5.8.1.B to not provide the sidewalk along Shelbyville Road

00:56:03 On a motion by Commissioner Carlson, 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 waiver will not adversely affect neighboring property owners because there are no sidewalks in place along this portion of Shelbyville Road; and

WHEREAS, the Committee further finds that Guideline 7, Policy 1 states that developments should be evaluated for their impact on the street and roadway system and to ensure that those who propose new developments bear or reasonably share in the costs of the public facilities and services made necessary by development. Guideline 9, Policy 1 states that new development should provide for the movement of pedestrians, bicyclists and transit users with sidewalks along the streets of all developments where appropriate. The applicant is providing sidewalks along Data Vault Drive as well as well as internal to the site; 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 are currently no sidewalks in place along Shelbyville Road and there is a culvert that runs parallel to the site which could possibly create construction issues; now, therefore be it

RESOLVED, the Louisville Metro Development Review Committee does hereby **APPROVE** the requested Waiver of Land Development Code section 5.8.1.B to not provide the sidewalk along Shelbyville Road.

The vote was as follows:

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

NO: No one.

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CASE NUMBER 18DEVPLAN1200

Revised Detailed District Development Plan with Binding Element Amendments

00:57:07 On a motion by Commissioner Carlson, 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 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 plan does 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 Shelbyville Road, for which the applicant has submitted a waiver request; 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; 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 **RECOMMEND** to the City of Middletown that the requested Revised Detailed District Development Plan be approved, **SUBJECT** to the following amendments to binding elements:

Existing General Plan Binding Elements

1. The following uses permitted in a C-2 district will not be allowed in any phase of

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Middletown Station Center:

- a. Bowling alleys
- b. Ice storage houses
- c. Funeral homes
- d. Veterinary hospitals
- e. Automobile garages and used car sales area, except as part of a new automobile sales agency
- f. Dance halls
- g. Kennels
- h. Monument sales
- i. Plumbing and heating shops
- j. Refrigerated lockers
- k. Sign painting
- l. Skating rinks
- m. Storage garages
- n. Trade schools
- o. Upholstery and furniture repair shops

~~2. The development shall not exceed 730,245 of gross floor area. (Tract A to have 537,981 sf retail and 1,738 non-retail; Tract B to have 36,040 sf retail; Tract B1 to have 8,450 sf restaurant; Tract B2 to have 5,450 sf restaurant/bank; and Tract D to have 17,500 sf office. The remaining square footage is taken up by outlots.) Prior to the submittal of any detailed plan for tracts A, B, and D, an updated traffic study shall be submitted at the direction of Planning and Design staff.~~

3. The only permitted development identification signs shall be located as shown on the approved general district development plan. The primary entrance sign shall not exceed 255 square feet in area per side and 40 feet in height. The secondary entrance signs (2) shall not exceed 71 square feet in area per side and 10 feet in height. No sign shall have more than two sides.

4. The size and location of any proposed freestanding sign must be approved by the Planning Commission and the City of Middletown. The Planning Commission or the City of Middletown may require that the signs be smaller than would otherwise be permitted by the Zoning District regulations.

5. There shall be no direct vehicular access from outlots to Shelbyville Road.

6. There shall be no further creation of outlots along Shelbyville Road. Outlots are subject to all original binding elements.

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7. 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 and to the City of Middletown for review and approval; any changes/additions/alterations not so referred shall not be valid.

8. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.

9. 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. The appropriate variances shall be obtained from the Board of Zoning Adjustment to allow the development as show on the approved district development plan.

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 hereafter.

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 the Division of Planning and Design Services; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.

10. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.

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

12. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties

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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 the occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors, and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.

13. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the November 29, 2006 Development Review Committee meeting.

14. No idling of trucks shall take place within 200 feet of single-family residences. No overnight idling of trucks shall be permitted on-site.

15. At the time a building permit is requested, the applicant shall submit a certification statement to the permit issuing agency, from an engineer, or other qualified professional stating that the lighting of the proposed development is in accordance with Chapter 4 Part 1.3 of the land development code and shall be maintained thereafter. No building permits shall be issued unless such certification statement is submitted. Lighting shall be maintained on the property in accordance with Chapter 4 Part 1.3 of the land development code.

4. Existing Site Binding Elements

~~1. The development shall be in accordance with the approved district development plan, land use 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 the City of Middletown. All binding elements contained on the General District Development Plan shall remain in effect for the detailed plan.~~

~~2. The development shall not exceed 5,000 square feet of gross floor area.~~

~~3. Before a building or alteration permit and/or a certificate of occupancy is requested:~~

~~a. The development plan must be reapproved by the Jefferson County Department of Public Works and Transportation and the Metropolitan Sewer District.~~

~~b. The property owner/developer must obtain approval of a detailed plan for screening~~

~~(buffering/landscaping) as described in Article 12. A minimum level area 5 feet in width is required in the 25 foot wide landscape buffer area along Shelbyville Road. Such plan shall be implemented prior to requesting a certificate of occupancy and maintained thereafter.~~

~~4. No outdoor advertising signs (billboards), small freestanding (temporary) signs, pennants or banners shall be permitted on the site.~~

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~~5. The size and location of any proposed sign must be approved by the Planning Commission and City of Middletown. The Planning Commission and City of Middletown may require that the signs be smaller than would otherwise be permitted by the Zoning District Regulations.~~

~~6. If a building permit is not issued within one year of the date of approval of the plan, 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.~~

~~7. A certificate of occupancy must be received from the appropriate code enforcement officer prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.~~

5. Proposed Site 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 and to the City of Middletown 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.

4. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.

5. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area. 6. Before any permit (including but not limited to building, parking lot, change of use or site disturbance is requested:

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NEW BUSINESS

CASE NUMBER 18DEVPLAN1200

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.

7. 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.

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. 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.

10. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.

The vote was as follows:

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

NO: No one.

DEVELOPMENT REVIEW COMMITTEE MINUTES

February 6, 2019

NEW BUSINESS

CASE NUMBER 17DEVPLAN1216

Request: Category 3 Development Plan for a 28 unit apartment building
Project Name: Allen Apartments
Location: 1701 Stallings Avenue
Owner: Milton Allen, The 5101 Gemma Way Land Trust
Applicant: Milton Allen, The 5101 Gemma Way Land Trust
Representative: Mark Madison – Milestone Design Group Inc.
Jurisdiction: City of Shively
Council District: 3 – Keisha Dorsey

Case Manager: Zach Schwager, Planner I

Notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicants.

The staff report prepared for this case was incorporated into the record. The Commissioners received this report in advance of the hearing, and this report was available to any interested party prior to the public hearing. (The staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

00:58:12 Zach Schwager presented the case (see staff report and recording for detailed presentation.) He noted that staff was contacted by a neighboring property owner who is opposed to the development due to drainage issues, and the existing right-of-way on Stallings Avenue.

The following spoke in favor of this request:

Mark Madison, Milestone Design Group, 106 Davenport Lane, Louisville, KY 40223

Summary of testimony of those in favor:

00:59:41 Mark Madison, the applicant's representative, presented the applicant's case. He noted that no waivers or variances have been requested. He said the City of Shively had had some drainage concerns, which he said is being addressed by building an underground detention infiltration trench on the site. As part of the required road improvements, Mr. Madison said none of the drainage from this site will cross the road in the future; it will come back in to the detention system. He said the City of Shively is satisfied with the drainage resolution. He also discussed the Shively Fire Department's requirement that there be a minimum of 18 feet of pavement.

DEVELOPMENT REVIEW COMMITTEE MINUTES

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NEW BUSINESS

CASE NUMBER 17DEVPLAN1216

The following spoke in opposition to this request:

Ronald LeGrand, 1706 Stallings Avenue, Louisville, KY 40216

Robert Chastain, P.O. Box 43264, Louisville, KY 40253

Paul E. Denney, 4709 Walnut Grove, Louisville, KY 40216

Neil Bloomberg (sp), 12504 Nassau Lane, Louisville, KY, 40243

Summary of testimony of those in opposition:

01:02:24 Rob Chastain said he represents a family that owns an apartment complex behind this property. He said there have been drainage issues in this area for a very long time. He said the family he represents does support this development, because the site “has become a shelter for homeless”, drug users, etc. He discussed some drainage issues and said MSD’s drainage works has caused water to backflood onto his clients’ property, which he says has “destroyed nearly 15,000 square feet of parking lot.”

01:04:38 Commissioner Tomes asked Tony Kelly, MSD representative, to address Mr. Chastain’s comments about flooding on his clients’ property. Mr. Kelly said MSD has reviewed the drainage plans on behalf of Shively. He discussed some other projects in the area that has eliminated runoff in some areas (see recording for Mr. Kelly’s statement.)

01:05:44 Mr. Chastain said there has been about \$200,000 worth of water damage to his parking lot and he disagrees with Mr. Kelly’s assessment. He added that he/his clients are preparing legal action against MSD for flooding damage. He said the infiltration pond behind his clients’ property is not effective and has backflowed into their property for years.

01:07:00 Mr. Madison said he could only explain the applicant’s project and could not answer for MSD. He reviewed the drainage aspects again, and reiterated that there will be no water leaving this site.

01:08:15 Ronald LeGrand, a nearby resident, also complained about drainage issues and said that every time it rains, he gets about two feet of water in his backyard. He said the streets are too narrow and there is already too much traffic.

01:09:49 Paul Denney, a nearby resident, also complained about drainage and his basement flooding. He said traffic, particularly cut-through traffic, is already very bad.

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NEW BUSINESS

CASE NUMBER 17DEVPLAN1216

01:11:29 In response to some questions from Mr. Chastain, Mr. Madison explained how the catch basin would work, and how it and the road improvements could work to prevent water runoff onto other properties. In response to a question from Commissioner Tomes, Mr. Madison said the detention system is designed to hold greater than the expected capacity of the site runoff.

01:13:20 Mr. Chastain asked Mr. Madison some specific questions about a ditch and its effect on water runoff. See recording for detailed discussion. Mr. Kelly answered some questions about the location and functions of the existing MSD ditch (parts of the conversation were inaudible due to the speakers moving away from the microphone.)

01:19:48 Neil Bloomberg said he was present today on behalf of the owner of 4000-4010 Walnut Grove. He said he is also concerned that no water from this project would impact 4000-4010 Walnut Grove.

01:20:33 In response to a question from Commissioner Carlson, Mr. Kelly said that the City of Shively takes care of all their drainage, but MSD has a regional detention basin in the middle of the City of Shively. MSD maintains the basin, but the City of Shively handles all of the drainage coming to it. He reiterated that, in MSD's opinion, the applicant is actually improving the situation by handling their own drainage.

01:22:30 In response to a citizen question, Mr. Madison used the site plan to point out the location of the underground detention basin. He added that the property will be re-graded as part of this development and that all the stormwater will be handled on-site.

01:25:42 In response to a question from Commissioner Tomes, Mr. Madison said confirmed that the site will be re-graded.

Deliberation:

01:26:20 Commissioners' deliberation.

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

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NEW BUSINESS

CASE NUMBER 17DEVPLAN1216

01:28:18 On a motion by Commissioner Carlson, seconded by Commissioner Smith, 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 **RECOMMEND** to the City of Shively that the requested Category 3 Development Plan be **APPROVED**.

The vote was as follows:

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

NO: No one.

DEVELOPMENT REVIEW COMMITTEE MINUTES

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NEW BUSINESS

CASE NUMBER 18DEVPLAN1172

Request: Revised Detailed District Development Plan with associated Waiver
Project Name: Schumacher Homes Office
Location: 121 Huntington Ridge Drive
Owner: Schumacher Homes of Kentucky
Applicant: Schumacher Homes of Kentucky
Representative: Mark Madison – Milestone Design Group Inc.
Jurisdiction: City of Middletown
Council District: 19 – Anthony Piagentini

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:

01:30:01 Dante St. Germain presented the case (see staff report and recording for detailed presentation.)

01:34:45 Commissioner Carlson said he does not see any driveways on the plan. Ms. St. Germain said the three homes are not functional homes (no one will be living in them and there is no plumbing.) They are model homes only.

01:35:12 In response to another question from Commissioner Carlson, Ms. St. Germain confirmed that there is no wheelchair/handicapped access directly to the parking lot – that access is provided through/from the sales office into the lot.

01:36:40 Joseph Reverman, Assistant Director of Planning & Design Services, asked if something like this was proposed on this site in the past. Ms. St. Germain said no, there was a previous proposal for a hotel.

The following spoke in favor of this request:

Mark Madison, Milestone Design Group, 106 Davenport Lane, Louisville, KY 40223

Summary of testimony of those in favor:

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NEW BUSINESS

CASE NUMBER 18DEVPLAN1172

01:37:16 Mark Madison, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.) He added that the applicant will add a handicapped-accessible connection directly to the parking lot.

01:48:20 In response to a question from Commissioner Carlson, Mr. Madison said the applicant will agree to a binding element, COA, or a deed restriction stating that these model homes will never be used for permanent residential occupancy. In response to another question from Commissioner Carlson, Mr. Madison also said that the applicant will agree to a binding element guaranteeing fire protection access. This is also required via the permitting process.

01:50:12 In response to a question from Commissioner Brown, Mr. Madison said the proposed signage will be a monument-style sign by the entrance. He said that, to his knowledge, there is currently no signage proposed and they are not shown on the elevations. If the applicant wants additional signage, they would have to apply for a permit.

01:50:56 Commissioners Tomes, Brown and Smith discussed front-vs.-back sides of the structures and their orientations. Commissioner Smith expressed some concern that bypass drivers may mistake this for a development.

The following spoke in opposition to this request:

No one spoke.

Deliberation:

01:54:19 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 from City of Middletown Land Development Code section 5.5.2.A.1 to allow structures to face other than the abutting street serving the lot or a focal point within the development

DEVELOPMENT REVIEW COMMITTEE MINUTES

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NEW BUSINESS

CASE NUMBER 18DEVPLAN1172

01:55:20 On a motion by Commissioner Carlson, seconded by Commissioner Brown, the following resolution, based on the applicant's justification statement and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Development Review Committee finds that granting the requested waiver will not adversely affect the adjacent property owners. The applicant is orienting the largest of the proposed buildings, which is the sales / design office towards Huntington Ridge Drive. Further, the parking is adjacent to building and the roadway. The applicant is proposing a landscape buffer between the rear of the other proposed buildings and Huntington Ridge Drive. The placement of this buffer will prevent any negative impacts to nearby properties. The applicant is not requesting any landscape buffer waivers; and

WHEREAS, the Committee further finds that the Waiver will not violate the Comprehensive Plan because, given the above stated observations regarding nearby properties to be buffered, compliance with the landscape ordinance, the applicants' waiver request itself, and the landscape and screening for the proposed buffer, granting the requested waiver will not violate the Comprehensive Plan; and

WHEREAS, the Committee further finds that the extent of the waiver of the regulation the minimum necessary to afford relief to the applicant because the applicant has taken great care to minimize the impact of the proposed development on surrounding properties. The reason the applicant choose the subject site is for its visibility to the general public. Custom Homes is the product they sell. However, the focus of this development from Huntington Ridge Drive will be the sales I design office. As stated above, the display homes will be on the other side of a parking area that will be landscaped, and a landscape buffer that will screen the back of the display homes. Clearly the focus for the development will be the sign, parking and sales / design office. The request is the minimal relief needed; and

WHEREAS, the Committee further finds that the strict application of the provisions of the regulation deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant. For the reasons stated above denial of this waiver request will deprive the applicant of reasonable use of his land. Denial of the request simply causes the applicant to orient the display homes towards Huntington Ridge Drive and the rear of the homes facing the Gene Snyder Freeway; now, therefore be it

RESOLVED, the Louisville Metro Development Review Committee does hereby **APPROVE** the requested Waiver from City of Middletown Land Development Code section 5.5.2.A.1 to allow structures to face other than the abutting street serving the lot or a focal point within the development.

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The vote was as follows:

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

NO: No one.

Revised Detailed District Development Plan

01:56:51 On a motion by Commissioner Carlson, seconded by Commissioner Brown, the following resolution, based on 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. The site is undeveloped and no natural resources appear to exist on the site. The tree canopy which previously existed on the site has been removed; 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. Louisville Metro Public Works has provided preliminary approval of the 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. The subject site is located in an area with both developed and undeveloped parcels; 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 City of Middletown Land Development Code, with the exception of a requested waiver; now, therefore be it

DEVELOPMENT REVIEW COMMITTEE MINUTES

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NEW BUSINESS

CASE NUMBER 18DEVPLAN1172

RESOLVED, the Louisville Metro Development Review Committee does hereby **RECOMMEND** to the City of Middletown that the requested Revised Detailed District Development Plan be **APPROVED**, subject to the following binding elements:

Existing 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), or development plan revisions and all landscape plans shall be submitted to the Planning Commission or the Planning Commission's designee, and to the City of Middletown for review and approval; any changes/additions/alterations not so referred shall not be valid.
- ~~2. The square footage of the development shall not exceed: 8,190 SF for the restaurant on Lot 1; 52,125 SF for the hotel on Lot 2; 16,800 SF for the offices on Lot 3; and 7,300 SF for the retail space on Lot 4. As to Tract 1, the applicant agrees that there shall be no uses allowed other than C-1 uses, with the sole addition that outdoor sale and consumption of alcoholic beverages in connection with sit-down restaurant use is allowed, but no other C-2 use will be allowed on Tract 1. Additionally, the Applicant agrees that no building permit for the restaurant (or any alternate structure or use on Lot 1) will be issued until the Applicant acquires sufficient additional right-of-way for the construction of a dedicated left-hand turn lane on Urton Avenue.~~
- ~~3. The only access to the site will be provided from the curb cuts on Urton Lane as shown on the development plan.~~
- ~~4. Signs shall be in accordance with Chapter 8, and shall be as shown on the approved development plan.~~
5. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
6. Construction fencing shall be erected with 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, or demolition permit) is requested:
 - a. The development plan must receive full construction approval from Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. Encroachment permits must be obtained from the Kentucky Department of

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NEW BUSINESS

CASE NUMBER 18DEVPLAN1172

Transportation, Bureau of Highways.

~~c. A minor subdivision plat shall be recorded to create lot lines as shown on the development plan, and dedicating additional right-of-way to Urton Lane to provide a total of 50 feet from the centerline. A copy of the recorded instrument shall be submitted to the Division of Planning and Design 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 by the Planning Commission and the City of Middletown 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. There shall be no removal of the existing landscaping or required landscaping without City Commission approval. In the event any tree or other landscaping is removed without written consent of the City, the City may require the owner/applicant to replace with a tree of similar size and age (when cut), or as approved by the City Commission. Any replacement tree or trees shall be as are deemed adequate by the City to mitigate the impact.

e. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.

f. Unless a building permit or a clearing and grading permit is issued within two years from the date of the City of Middletown's approval herein, then the development plan must return to the Planning Commission and the City of Middletown for re-approval before any work can commence.

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 and the City of Middletown.

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 the 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. The materials and design of proposed structures shall be the same as depicted in the photographs as presented at the May 15 and July 3, 2008

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NEW BUSINESS

CASE NUMBER 18DEVPLAN1172

~~Planning Commission Public Hearings.~~

11. At the time a building permit is requested, the applicant shall submit a certification statement to the permit issuing agency, from an engineer, or other qualified professional stating that the lighting of the proposed development is in compliance with Chapter 4, Part 1.3 of the Land Development Code and shall be maintained thereafter. No building permits shall be issued unless such certification statement is submitted. Lighting shall be maintained on the property in accordance with Chapter 4 Part 1.3 of the land development code.

~~12. At the time that construction plans are submitted for approval, if funding is not in place for the US 60/Snyder Freeway interchange to commence concurrent with construction, as contemplated in the traffic analysis prepared by BTM Engineering, Inc., then, prior to approval of those construction plans, Metro Works may require that further traffic analysis be done by the developer in order to demonstrate the impact of this approved development and the possibility of phasing and/or delay in construction plan approval in the event that the referenced intersection improvements are not funded as contemplated.~~

~~13. The developer shall construct Urton Lane Road improvements and Shelbyville Road right turn lane as per the approved schematic and Kentucky Transportation Cabinet and Metro Public Works standards and requirements. The developer shall be responsible for utility relocation (if required), final surface overlay, signage, stumping and signal modifications associated with road improvements. Construction plans, bond, and encroachment permits shall be obtained prior to construction approval by metro Public Works. The developer shall not request a Certificate of Occupancy until improvements are complete.~~

~~14. All street signs shall be installed by the Developer, and shall conform to the Manual on Uniform Traffic Control Devices (MUTCD) requirements and shall be of the same type and quality as the standard Middletown street signage. Street signs shall be installed prior to the recording of the subdivision record plat or occupancy of the first residence on the street, and shall be in place at the time of any required bond release. The address number shall be displayed on a structure prior to requesting a certificate of occupancy.~~

~~15. If within 5 years of the date of this approval, an application for rezoning, "Plan Cert ain" development or other discretionary development review is received and thereafter approved for any of the subject properties (i.e., 201, 203, 205. 118 and the rear portion of 108 Urton Lane, and 13404 and 13406 Shelbyville Road as show on the map attached hearto), the developer of this project shall be entitled, through cost-sharing, to recapture a portion of the costs of its non- frontage-related road improvements required as part of this development plan approval. Such recapture~~

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~~shall only occur to the extent that Public Works and the Planning Commission require from such future developer(s) a contribution to the cost of the road improvement project in this case. To the extent that such contribution is required, it is anticipated that such cost-sharing contribution shall be calculated on the basis of the acreage that each new project contributes to the total acreage of all projects (i.e., those referenced above plus 114, 211, 213, 215 rear and 217 Urton Lane). Metro Works shall collect the required cost-sharing contribution and remit same to the developer in this case. Neither the Planning Commission nor Metro Public Works shall bear any liability to the applicant, developer and/or land owner in this case to collect such amounts or make such payments, this being only a statement of intent and anticipation.~~

Proposed 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), or development plan revisions and all landscape plans shall be submitted to the Planning Commission or the Planning Commission's designee, and to the City of Middletown 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.
3. Construction fencing shall be erected with 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, or demolition permit) is requested:
 - a. The development plan must receive full construction approval from Louisville Metro Public Works 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 by the Planning Commission and the City of Middletown 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. There

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shall be no removal of the existing landscaping or required landscaping without City Commission approval. In the event any tree or other landscaping is removed without written consent of the City, the City may require the owner/applicant to replace with a tree of similar size and age (when cut), or as approved by the City Commission. Any replacement tree or trees shall be as are deemed adequate by the City to mitigate the impact.

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.

e. Unless a building permit or a clearing and grading permit is issued within two years from the date of the City of Middletown's approval herein, then the development plan must return to the Planning Commission and the City of Middletown for re-approval before any work can commence.

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 and the City of Middletown.

6. 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 the 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.

7. The materials and design of proposed structures shall be the same as depicted at the February 6, 2019 meeting of the Development Review Committee.

8. At the time a building permit is requested, the applicant shall submit a certification statement to the permit issuing agency, from an engineer, or other qualified professional stating that the lighting of the proposed development is in compliance with Chapter 4, Part 1.3 of the Land Development Code and shall be maintained thereafter. No building permits shall be issued unless such certification statement is submitted. Lighting shall be maintained on the property in accordance with Chapter 4 Part 1.3 of the Land Development Code.

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

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NEW BUSINESS

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The vote was as follows:

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

NO: No one.

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ADJOURNMENT

The meeting adjourned at approximately 2:55 p.m.

Chairman

Division Director