

**MINUTES OF THE MEETING  
OF THE  
DEVELOPMENT REVIEW COMMITTEE  
July 17, 2019**

A meeting of the Development Review Committee was held on, July 17, 2019 at 1:00 p.m. in the Old Jail Building, located at 514 W. Liberty Street, Louisville, Kentucky.

**Committee Members present were:**

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

**Committee Members absent were:**

Donald Robinson

**Staff Members present were:**

Joe Reverman, Planning and Design Assistant Director  
Brian Davis, Planning and Design Manager  
Dante St. Germain, Planner II  
Lacey Gabbard, Planner I  
Jay Lockett  
Travis Fiechter, Legal Counsel  
Beth Stuber, Transportation Supervisor  
Pamela M. Brashear, Management Assistant

The following matters were considered:

**DEVELOPMENT REVIEW COMMITTEE**  
**July 17, 2019**

**APPROVAL OF MINUTES**

**JUNE 19, 2019 DRC MEETING MINUTES**

On a motion by Commissioner Carlson, seconded by Commissioner Brown, the following resolution was adopted.

**RESOLVED**, that the Development Review Committee does hereby **APPROVE** the minutes of its meeting conducted on June 19, 2019.

**The vote was as follows:**

**YES: Commissioners Brown, Carlson and Tomes**  
**NOT PRESENT FOR THIS CASE: Commissioner Robinson**  
**ABSTAINING: Commissioner Smith**

**DEVELOPMENT REVIEW COMMITTEE**

**July 17, 2019**

**NEW BUSINESS**

**CASE NO. 19WAIVER1027**

Project Name: Landscape Waiver  
Location: 11506 Shelbyville Road  
Owner(s): Brent Beanblossom  
Applicant: Alex Rosenberg, AL Engineering  
Jurisdiction: Middletown  
Council District: 19 – Anthony Piagentini  
**Case Manager: Lacey Gabbard, AICP, Planner I**

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

**Agency Testimony:**

00:04:40 Ms. Gabbard discussed the case summary, standard of review and staff analysis from the staff report.

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

Alex, Rosenberg, 13000 Middletown Industrial Boulevard, Suite A, Louisville, Ky. 40223

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

00:06:35 Mr. Rosenberg said he's here to answer questions. Commissioner Carlson asked if there will be any enhanced landscaping along Shepherdsville Rd. Mr. Rosenberg said there's only one area that can be done because the rest is state right-of-way. The applicant will be dedicating right-of-way on Watterson Trail, providing sidewalks and landscaping along the edge. Commissioner Brown asked if the state agrees with the remaining asphalt (parking). Mr. Rosenberg said the state's only concern is restricting the access, which will be made into a right-in right-out.

**Deliberation**

00:08:50 Commissioner Brown stated the applicant could do more to mitigate the impact of the encroachment, especially with the total number of parking spaces provided and the size of the building.

00:09:30 Commissioner Carlson stated he would like the applicant to come up with more alternatives.

00:10:09 Commissioner Smith said there would be a longer walk if people parked in the adjacent lot.

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**CASE NO. 19WAIVER1027**

00:10:48      Commissioner Brown said there's a lot of asphalt on this plan that isn't necessary, and although it's existing, the applicant still needs to do something to adhere to the corridor setback requirements.

00:11:59      Ms. Gabbard said the applicant would like to revise the plan.

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

On a motion by Commissioner Carlson, seconded by Commissioner Brown, the following resolution was adopted.

**RESOLVED**, that the Louisville Metro Development Review Committee does hereby **CONTINUE** this case to the July 31, 2019 DRC meeting.

**The vote was as follows:**

**YES: Commissioners Brown, Carlson, Smith and Tomes**

**NOT PRESENT AND NOT VOTING: Commissioner Robinson**

**DEVELOPMENT REVIEW COMMITTEE**  
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**NEW BUSINESS**

**CASE NO. 19WAIVER1030**

Project Name: Sign Waiver  
Location: 6408 Preston Highway  
Owner(s): Ed Neeley, Commonwealth Dodge  
Applicant: Ed Neeley, Commonwealth Dodge  
Jurisdiction: Louisville Metro  
Council District: 21 – Nicole George  
**Case Manager: Lacey Gabbard, AICP, Planner I**

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

**Agency Testimony:**

00:13:25 Ms. Gabbard discussed the case summary, standard of review and staff analysis from the staff report.

00:14:50 Commissioner Brown asked if the applicant can have a static sign and possibly make it compliant. Ms. Gabbard said if the sign was a combined static image and changing image, the entire sign could be 100 square feet and the waiver would not be needed. The applicant is requesting the sign be 100% changing image instead of 60%.

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

Ed Neeley, 6408 Preston Highway, Louisville, Ky. 40219

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

00:15:48 Mr. Neeley stated the maximum permitted size is 100 square feet and the regulation states that 60% can be changing image. The 60% would be very difficult to read (very small). Commissioner Carlson asked if the sign will be visible from the north and southbound traffic. Mr. Neeley answered, yes. Also, the changing image can't change more than 3 times a minute or once every 20 seconds. Mr. Neeley said the image will be set to change every 30 seconds. Commissioner Brown asked if the sign will be on 24 hours a day or just business hours. Mr. Neeley said 24 hours a day with a light sensor that automatically dims it when the sun goes down. Commissioner Carlson asked if the sign will be within 300 feet of residential. Ms. Gabbard said there's no residential within 200 feet.

**Deliberation**

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**NEW BUSINESS**

**CASE NO. 19WAIVER1030**

00:19:51      Development Review Committee deliberation.

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

**Waiver from Land Development Code section 8.2.1.D.4 to allow a changing image sign to compose 100% of the area of a sign in a Suburban Form District**

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

**WHEREAS**, the waiver will not adversely affect adjacent property owners as the sign must comply with Land Development Code regulations for auto-dimming and rate of change. Additionally, the subject site is located in a commercial corridor (Preston Highway). There are many signs along this portion of Preston Highway, and the changing image panel is relatively small compared to many of them; and

**WHEREAS**, Plan 2040 Land Use & Development Goal 1, Policy 14 ensures that signs are compatible with the Form District pattern and contribute to the visual quality of their surroundings. Promote signs of a size and height adequate for effective communication and conducive to motor vehicle safety. 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 compatible with the Form District pattern in that it is smaller in size than the 100 square feet permitted in the Suburban Marketplace Corridor.; and

**WHEREAS**, the Louisville Metro Development Review Committee finds the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the sign would be in compliance with LDC sign regulations if the total sign area were greater and the changing image portion made up a smaller percentage of the total sign; and

**WHEREAS**, the Louisville Metro Development Review Committee further finds the applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived, because if the sign were 100 square feet (the maximum permitted by the LDC), the changing image portion could be 60 square feet. The existing changing image sign is 32.6 square feet.

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**CASE NO. 19WAIVER1030**

**RESOLVED**, that the Louisville Metro Development Review Committee does hereby **APPROVE** the waiver from Land Development Code section 8.2.1.D.4 to allow a changing image sign to compose 100% of the area of a sign in a Suburban Form District.

**The vote was as follows:**

**YES: Commissioners Brown, Carlson, Smith and Tomes**

**NOT PRESENT AND NOT VOTING: Commissioner Robinson**

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**NEW BUSINESS**

**CASE NO. 19WAIVER1028**

Request: Sidewalk Waiver  
Project Name: Signature Point Waiver  
Location: 1111 Rose Hill Lane  
Owner: Signature Point Development, LLC  
Applicant: Signature Point Development, LLC  
Representative: Land Design and Development  
Jurisdiction: Louisville Metro  
Council District: 20 – Stuart Benson  
**Case Manager: Jay Lockett, AICP, Planner I**

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

**Agency Testimony:**

00:21:26 Mr. Lockett discussed the case summary, standard of review and staff analysis from the staff report.

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

Ann Richard, 503 Washburn Avenue, Louisville, Ky. 40222

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

00:23:22 Ms. Richard stated that adding the sidewalk would be redundant because the area is already well served. Commissioner Carlson asked if there will be sidewalks on the other side of the street. Ms. Richard said yes. Mr. Fiechter, legal counsel, asked what is the length of sidewalk to be waived? Ms. Richard replied under 1000 feet.

**Deliberation**

00:25:47 Commissioner Brown agrees that the requested sidewalks to be waived would not benefit anyone. They are providing sidewalks on Rose Hill Ln., which provides the connectivity. Commissioner Smith said the development is geared toward the older population and the sidewalk issue would not be important. Commissioner Carlson said this sidewalk would not be critical. Chair Tomes agrees. The street is served by a sidewalk and all the residents have front sidewalks. Providing this sidewalk to the back of the lots would be a burden.



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**CASE NO. 19WAIVER1028**

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

**Waiver of Land Development Code section 5.8.1.B to not provide sidewalks on proposed "Court A" adjacent to lots 174-178 on the approved Detailed District Development Plan**

On a motion by Commissioner Carlson, seconded by Commissioner Brown, the following resolution based on the Standard of Review and Staff Analysis was adopted.

**WHEREAS**, the waiver will not adversely affect adjacent property owners, as sidewalk connectivity will still serve all lots within the development as required by the Land Development Code; and

**WHEREAS**, Land Use & Development Goal 1, Policy 1.3 promotes sidewalks along the streets of all developments. Land Use & Development Goal 1, Policy 1 states that in order for promote healthy lifestyles and reduce congestion, new development and redevelopment should provide for the movement of pedestrians, bicyclists and transit users, where appropriate. Land Use & Development Goal 3, Policy 5 states that developments should be evaluated for their impact on the transportation network (including the street, pedestrian, transit, freight movement and bike facilities and services) and air quality. The proposed waiver will not violate the comprehensive plan, as the development will still be well served by a sidewalk network; and

**WHEREAS**, the Louisville Metro Development Review Committee finds the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant, as all other required sidewalks will be constructed in within the development and in adjacent rights-of-way; and

**WHEREAS**, the Louisville Metro Development Review Committee further finds the strict application of the provisions of the regulations would create an unnecessary hardship on the applicant, as the lots in question would double sidewalks that would not otherwise add to the connectivity of the development.

**RESOLVED**, that the Louisville Metro Development Review Committee does hereby **APPROVE** the waiver of Land Development Code section 5.8.1.B to not provide sidewalks on proposed "Court A" adjacent to lots 174-178 on the approved Detailed District Development Plan.

**The vote was as follows:**

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**NEW BUSINESS**

**CASE NO. 19WAIVER1028**

**YES: Commissioners Brown, Carlson, Smith and Tomes**

**NOT PRESENT AND NOT VOTING: Commissioner Robinson**

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**NEW BUSINESS**

**CASE NO. 19DEVPLAN1095**

Request:	Revised Detailed District Development Plan
Project Name:	Zips Express Car Wash
Location:	1700 Alliant Avenue
Owner:	Zips Real Estate II, LLC.
Applicant:	Zips Real Estate II, LLC.
Representative:	Bryant Engineering
Jurisdiction:	Jeffersontown
Council District:	20 – Stuart Benson
<b>Case Manager:</b>	<b>Jay Luckett, AICP, Planner I</b>

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

**Agency Testimony:**

00:29:06 Mr. Luckett stated the applicant is requesting a continuance. NTS Development owns the larger development area and they have requirements within their deed restrictions and land use rules. Their buffering requirements are more restrictive so the applicant/representatives have revised the plan. It shouldn't trigger any waivers but staff needs time to review the new plan.

**Deliberation**

00:30:19 Development Review Committee deliberation.

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

On a motion by Commissioner Carlson, seconded by Commissioner Smith, the following resolution was adopted.

**RESOLVED**, that the Louisville Metro Development Review Committee does hereby **CONTINUE** this case to the July 31, 2019 DRC meeting per the applicant's request.

**The vote was as follows:**

**YES: Commissioners Brown, Carlson, Smith and Tomes**  
**NOT PRESENT AND NOT VOTING: Commissioner Robinson**

## DEVELOPMENT REVIEW COMMITTEE

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### NEW BUSINESS

#### CASE NO. 19DEVPLAN1102

Request: Detailed District Development Plan with Binding Elements  
Project Name: Paddlewheel Partners Office  
Location: 3195 Terra Crossing Boulevard  
Owner: Paddlewheel Partners LLC  
Applicant: Paddlewheel Partners LLC  
Representative: Blomquist Design Group  
Jurisdiction: Louisville Metro  
Council District: 19 – Anthony Piagentini  
**Case Manager: Dante St. Germain, AICP, Planner II**

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

#### **Agency Testimony:**

00:31:25 Ms. St. Germain discussed the case summary, standard of review and staff analysis from the staff report.

00:35:05 Commissioner Carlson asked, can a building be built before receiving the sustainable permit? Ms. St. Germain said it depends on which one they decide to pursue (there are 3). Commissioner Carlson said the applicant could build a building and for some reason not receive the certification and come back for a variance which they may or may not receive. Ms. St. Germain said that is possible.

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

Marv Blomquist, Blomquist Design Group, 10529 Timberwood Circle, Suite B, Louisville, Ky. 40223

Mitchell Kersting, 3235 Robin Road, Louisville, Ky. 40213

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

00:36:26 Mr. Blomquist stated he hasn't seen any development plans for the neighboring properties (only for across the street). Chair Tomes said the site plan and the plat don't appear to line up. Mr. Blomquist said it went through the minor plat process. Commissioner Brown asked if one of the access points (full access) was right-in right-out. Mr. Blomquist said yes, they're all full access. Commissioner Brown stated, a lot of these sites on the general plan would have one full access and a shared access on the common property line. It looks like you've shifted the right-in right-out just to your frontage and you're providing a cross-access further back in the site. Mr. Blomquist answered, there is cross access to be provided (per binding elements)

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between the lots when they are developed. The existing curb cuts are not lined up with the isle.

00:40:24 Mr. Kersting stated he's here to answer questions about sustainability. Commissioner Carlson asked, how likely is it to get the certification? Mr. Kersting said it's very likely. The notes will be on the drawings to pursue Energy Star accreditation/certification. It does happen during the design process and post-construction. The building will comply as is and documented per the requirements.

**Deliberation**

00:41:26 Development Review Committee deliberation.

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

**Detailed District Development Plan and Binding Elements**

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

**WHEREAS**, there do not appear to be any natural or historic resources on the subject site; and

**WHEREAS**, 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**, there are no open space requirements pertinent to the current proposal; and

**WHEREAS**, 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 Louisville Metro Development Review Committee finds the overall site design and land uses are compatible with the existing and future development of the area. The subject site is undeveloped and surrounded by parcels in various stages of

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development. The site is part of a larger development under a general plan, and all surrounding parcels can be expected to develop in a compatible manner; and

**WHEREAS**, the Louisville Metro Development Review Committee further finds the development plan conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code.

**RESOLVED**, that the Louisville Metro Development Review Committee does hereby **APPROVE** the Detailed District Development Plan **SUBJECT** to the following Binding Elements:

#### Existing General Plan 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.
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, site disturbance) is requested:

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- a. The development plan must receive full construction approval from Develop Louisville, Louisville Metro Public Works and the Metropolitan Sewer District.
  - b. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 for each lot prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
  - c. An 80' access and public utility easement will be dedicated with the first plat. All roads shall be dedicated and recorded to Public R/W on a major subdivision plat once 80% of the lots are developed.
  - 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.
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.
  8. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
  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 property owner shall provide a cross over access easement to the property to the east (Jewish Hospital property) if it is developed for a nonresidential use. A copy of the signed easement agreement shall be provided to Planning Commission staff upon request.
  11. The materials and design of proposed structures shall be substantially the same as depicted in the exhibits as presented at the January 19, 2017 Planning Commission meeting.

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12. No idling of trucks between the site and adjacent residential uses. No overnight idling of trucks shall be permitted on-site.
13. All street name signs shall be installed prior to requesting a certificate of occupancy for any structure. The address number shall be displayed on a structure prior to requesting a certificate of occupancy for that structure.
14. A note shall be placed on the preliminary plan, construction plan and the record plate that states, "Construction fencing shall be erected prior to any grading or construction activities – preventing compaction of root systems of trees to be preserved. The fencing shall enclose the area beneath the dripline of the tree canopy and shall remain in place until all construction is completed. No parking, material storage, or construction activities shall be permitted within the fenced area."
15. Threshold for road improvements detailed within shall be based on current ITE trip generation peak hour rates and calculated prior to construction approval for each site. Construction plans, bond and encroachment permit shall be required from the developer prior to construction plan approval of each site as the trip generation thresholds are met, and improvements shall be constructed and operational prior to issuance of Certificate of Occupancy for the site. A table containing approved sites and trips generated shall be maintained by Transportation Planning.
  - a. Prior to issuance of a building permit for a site-generated 100th peak hour trip from the entire development, a stabilized road bed connecting Factory Lane and Old Henry Road shall be provided. Prior to the issuance of a certificate of occupancy (CO) for this site-generated 100th peak hour trip, the roadway connecting Factory Lane and Old Henry Road shall be completed.
  - b. Prior to the issuance of a building permit for the 150th site-generated peak hour trip, construction plans for the dual right-turn lane from the I-265 northbound ramp to Old Henry Road shall be submitted to KYTC. The turn lane shall be operational before issuance of a final CO related to this 300th site generated peak hour trip or a bond for the amount of the construction shall be posted.
  - c. Prior to the issuance of a building permit for the site generating the 225th peak hour trip of the entire development, a traffic signal shall be present at the I-265 southbound at Old Henry Rd intersection. Traffic signal shall be operational prior to the issuance of Certificate of Occupancy.
  - d. Prior to the issuance of a building permit for the site generating the 500th peak hour trip of the entire development, a dual left turn lane and signalization shall be provided at the Old Henry and Terra Crossing intersection. Signal and left turn



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lanes shall be operational prior to the issuance of Certificate of Occupancy. Implementation of this binding element is conditioned on KTC approval.

16. A Uniform signage plan in compliance with LDC 5.12.1 shall be submitted with or prior to approval of the first Detailed District Development Plan of this GDDP.

**Proposed DDDP Binding Elements**

**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. 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.
3. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit is requested:
  - a) The development plan must receive full construction approval from Develop Louisville, Louisville Metro Public Works and the Metropolitan Sewer District.
  - b) 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.
4. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.

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5. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
6. Building design and materials shall be substantially similar to those presented at the public meeting of the Development Review Committee on July 17, 2019.
7. When adjacent properties are developed, 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.
8. The building shall be developed as a Sustainable Permit Project as defined in the Land Development Code. If the building is unable to be certified as a Sustainable Permit Project, the developer shall request a variance for the building height.

**The vote was as follows:**

**YES: Commissioners Brown, Carlson, Smith and Tomes**

**NOT PRESENT AND NOT VOTING: Commissioner Robinson**

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ADJOURNMENT

The meeting adjourned at approximately 1:45 p.m.

*Richard Carl* 7/21/19  
\_\_\_\_\_  
Vice Chair

*[Signature]*  
\_\_\_\_\_  
Planning Director

