

**MINUTES OF THE MEETING
OF THE
LAND DEVELOPMENT AND TRANSPORTATION COMMITTEE**

April 10, 2014

A meeting of the Land Development and Transportation Committee was held on, Thursday, April 10, 2014 at 1:00 PM in the Metro Development Center, located at 444 South Fifth Street, Louisville, Kentucky.

Committee Members present were:

Donnie Blake, Chairman
Vince Jarboe, Vice-Chair
Jeff Brown

Committee Members absent were:

Clifford Turner

Staff Members present were:

Emily Liu, Director, Planning and Design Services
John Carroll, Legal Counsel
Joseph Reverman, Planning Supervisor
Jessica Wethington, Public Information Specialist
Julia Williams, Planner II
David B. Wagner, Planner II
Tammy Markert,
Chris Cestaro, Management Assistant (minutes)

The following matters were considered:

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Approval of Minutes

March 27, 2014 LD&T Committee Meeting Minutes

On a motion by Commissioner Jarboe, the following resolution was adopted:

RESOLVED, the Land Development and Transportation Committee does hereby **APPROVE** the minutes of its meeting conducted Thursday, March 27, 2014.

The vote was as follows:

YES: Commissioners Blake, Jarboe, and Brown.

NO: No one.

NOT PRESENT: Commissioner Turner.

ABSTAINING: No one.

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New Cases

Case No. 18175

Case No:	18175
Project Name:	Alley Closure for Expressway Church of Christ
Location:	4437 South 6 th Street
Owner:	Louisville Metro
Applicant:	Expressway Church of Christ
Representative:	Expressway Church of Christ
Jurisdiction:	Louisville Metro
Council District:	15 – Marianne Butler

Case Manager: **David B. Wagner, 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 LD&T meeting. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Request:

Alley Closure for the alley in the block bounded by Florence Avenue, South 5th Street, Expressway Avenue, and South 6th Street.

The following spoke on behalf of Case No. 18175:

Jayne Burden, representing Expressway Church of Christ, 4437 South 6th Street, Louisville, KY

Susan Hughes, legislative aide to Councilwoman Marianne Butler, 601 West Jefferson Street, Louisville, KY 40202

DISCUSSION:

David Wagner presented the case (see staff report for detailed presentation.) He said the unimproved alley has trees on it. He said the request has been approved by all other relevant agencies except for LG&E. There are properties adjoining the site that would need to grant easements to LG&E, because there is infrastructure in the alley. He said that, because there is not 100% adjoining property owner consent to the closure, this case will have to go before the Planning Commission for a public hearing after the easement agreements have

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been received from LG&E. When those have been received a public hearing date can be set.

Commissioner Jarboe asked what the reason was for the lack of consent. Jayme Burden, representing Expressway Church of Christ, said that the LG&E agreement obligates residents to remain financially responsible if there was something wrong with the infrastructure on/in that easement area that needed to be fixed. Because of this, two of the property owners have refused to sign anything. Commissioner Jarboe asked if there was a time limit on residents' liability for paying for repairs. Mr. Burden said there did not appear to be any limit. Commissioner Brown asked if LG&E would be open to modifying the language in the easement agreement. Mr. Wagner explained his communications with LG&E on this and other topics.

He said that there may be another option to a public hearing, which would be to revise the plat and pull the plat back below where the adjoining property owners are who did not consent. He said he had no issue with this case going to the Planning Commission or coming back to the next LD&T Committee meeting, as long as the necessary LG&E easement agreements had been secured.

Susan Hughes, legislative aide to Councilwoman Marianne Butler, discussed possible ways to help expedite the situation with Mr. Wagner. Using the plat, Mr. Wagner pointed out the locations of properties whose owners did not want to sign the consent. In response to a question from Mr. Wagner, Mr. Burden said the church had already signed to purchase the Massie property. He said the owner of the Massie property had signed the easement agreement, so LG&E has the easement on that property.

Mr. Wagner discussed the procedures for an alley closure.

Mr. Burden said there was one property owner who has still not responded to their communications – they had been trying to reach this property owner since 2012.

The Committee by general consensus agreed to **CONTINUE** this case to an LD&T meeting at an unspecified date.

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New Cases

CASE NO. 13DEVPLAN1089

***NOTE: This case was removed from the agenda prior to the hearing.**

Project Name:	Highland Latin School
Location:	10801 Shelbyville Road
Owner:	HLS, LLC
Applicant:	HLS, LLC
Representative:	Jacobi, Toombs & Lanz, Inc.
Jurisdiction:	Louisville Metro
Council District:	19 – Jerry Miller

Case Manager: Christopher Brown, Planner II

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CASE NO. 13DEVPLAN1081

Project Name:	Post-Acute Care Center
Location:	3500 Good Samaritan Way
Owner:	The Evangelical Lutheran Good Samaritan Society
Applicant:	Prince Alexander Architects, Inc.
Representative:	Prince Alexander Architects, Inc.
Jurisdiction:	City of Jeffersontown
Council District:	11 – Kevin Kramer

Case Manager: **David B. Wagner, 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 LD&T meeting. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Request:
Revised Detailed District Development Plan and Amendment to Binding Elements for an addition to an existing nursing home.

The following spoke on behalf of Case No. 13DEVPLAN1081:
Stephen Alexander and Lori Waugh, Prince Alexander Architects, 21 West Merrill Street, Indianapolis, IN 46225

DISCUSSION:
David Wagner presented the case (see staff report for detailed presentation.) He added that this plan would be a RECOMMENDATION to the City of Jeffersontown. He said the applicants will need to pursue a modified CUP through the City of Jeffersontown.

He discussed the zoning on the site and the surrounding areas.

He said revised plans are necessary because there is right-of-way that needs to be dedicated per the City of Jeffersontown at the Good Samaritan entrance off Watterson Trail. He added that, before there is any transmittal to the City of Jeffersontown, the applicant will need to resubmit revised plans showing the right-of-way dedication.

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Stephen Alexander, the applicant's representative, gave a brief history of the project. He said they have been working with Louisville Metro and also with the City of Jeffersontown on a variety of issues, including a trail that they are going to construct. He said the right-of-way has been "worked out" on Watterson Trail; he said he believed that that has been signed by the owner and has been forwarded.

Lori Waugh said that Matt Meunier, from the City of Jeffersontown, has some revised drawings to allow the applicant to shift the driveway slightly to accommodate the trail. She mentioned that Mr. Meunier also said there will be some binding elements worked out by the City of Jeffersontown and provided to the applicant.

Revised Detailed District Development Plan (RDDDP) and Amendment to Binding Elements

On a motion by Commissioner Jarboe, the following resolution was adopted:

WHEREAS, the Louisville Metro Land Development and Transportation Committee finds that there do not appear to be any environmental constraints or historic resources on the subject site. Additional landscaping will be provided along the southern boundary of the site and the existing tree coverage along the western boundary of the site will be left as is; and

WHEREAS, the Committee further finds that provisions for safe and efficient vehicular and pedestrian transportation within and around the development has been provided. An entrance and sidewalk have been provided along Jefferson Street that will connect the building to the sidewalk via the internal walkways. Metro Public Works has approved the preliminary development plan on condition that the applicant submits revised plans showing the planned right-of-way dedication along Watterson trail; and

WHEREAS, the Committee further finds that open Space is not required for this proposal; and

WHEREAS, the Committee further finds that the Metropolitan Sewer District has approved the preliminary development plan and will ensure the provisions of

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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 site is currently used as a nursing home and since the use will remain the same, no additional burden will be placed on adjoining property owners. Additional landscaping will be provided along the southern boundary of the site to help mitigate any concerns; and

WHEREAS, the Louisville Metro Land Development and Transportation Committee finds that, based on the evidence and testimony presented today, the staff report, and the applicant's justification, that all of the applicable Guidelines of Cornerstone 2020 and the Comprehensive Plan are being met; now, therefore be it

RESOLVED, that the Land Development and Transportation Committee does hereby RECOMMEND APPROVAL to the City of Jeffersontown of the request for a Revised Detailed District Development Plan **AND** Amendments to Binding Elements, subject to the following revised binding elements, and **ON CONDITION** that the applicant submits revised plans showing the right-of-way dedication on Watterson Trail:

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 Jeffersontown 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.

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3. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested:
 - a. The development plan must receive full construction approval from Jeffersontown Department of Inspections, Permits and Licenses, 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 appropriate conditional use permit shall be obtained from the Jeffersontown Board of Zoning Adjustment to allow the development as shown on the approved district development plan.
 - d. 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.
5. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
6. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the April 10, 2014 LD&T Committee meeting.

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The vote was as follows:

YES: Commissioners Blake, Jarboe, and Brown.

NO: No one.

NOT PRESENT: Commissioner Turner.

ABSTAINING: No one.

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New Cases

CASE NO. 14ZONE1005

Project Name:	Auto Truck
Location:	13000 Equity Place & 325 N. English Station Road
Owner:	Citizen Union Bank
Applicant:	Auto Truck Group LLC
Representative:	Cliff Ashburner - Wyatt Tarrant & Combs Mindel Scott & Associates
Jurisdiction:	City of Middletown
Council District:	19 – Jerry Miller
Case Manager:	Julia Williams, 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 LD&T meeting. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Request:

A change in zoning from OR-3 Office/Residential to M-2 Industrial, Revised District Development Plans, and Landscape Waivers are being requested.

The following spoke on behalf of Case No. 13ZONE1028:

Cliff Ashburner, Wyatt Tarrant & Combs, 500 West Jefferson Street Suite 2800, Louisville, KY 40202

David Scheitlin, Auto Truck Group, 13710 Lower Huntington Road, Roanoke, IN 46783

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

Ray Larmee, 716 North English Station Road, Louisville, KY 40223

Barry Bohanan (sp), 13000 Equity Place, Louisville, KY 40223

Jim Grant, 223 Buckland Trace, Louisville, KY 40245

Mark Wheeler, 13000 Equity Place, Louisville, KY 40223

Michael Shay (sp), 13000 Equity Place, Louisville, KY 40223

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CASE NO. 14ZONE1005

DISCUSSION:

Julia Williams presented the case (see staff report for detailed presentation.) She said the site is proposed for truck/vehicle storage. She added that the site has been identified as a karst area, but no karst features were found.

Ms. Williams said that a full Planning Commission public hearing date has already been set for April 17, 2014, with a recommendation to the City of Middletown (which has the final say on the case.)

Cliff Ashburner, the applicant's representative, gave a brief history of the site to illustrate the reasons for the waiver requests. He said that buffers and easements were originally created for a different OR-3 development; however, buffer requirements for an M-2 proposal are bigger and could conflict with the utilities which are already installed, and the utility easements which are already platted. He said a binding element has been proposed limiting truck access on Equity Place. He said drainage issues have been discussed but there is no definite plan in place yet. Subsurface or surface basins have been considered; drainage from some surrounding properties needs to be accommodated, as well as drainage from the site.

Mr. Ashburner said that, after a consultation with the adjacent condominium owners, the applicant has agreed to install a 6-8-foot berm, limit truck access, and proposed a binding element that would limit/prohibit certain uses without further approval. He said the applicant does not anticipate this property being used for anything other than truck storage.

David Scheitlin, the applicant, explained a bit about the business and their proposed expansion. In response to a question from Commissioner Brown, he said the trucks are brought in via carrier. He also explained the property connections on the site map.

Commissioner Brown said the City of Middletown had expressed interest in extending Middletown Industrial Boulevard. Mr. Ashburner said the applicant is willing to accommodate that by granting an easement or dedicating right-of-way. Using a map of the site and the surrounding areas, he pointed out where that extension would take place, related to the site.

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Kathy Linares, an applicant's representative, said there is a note on the plan addressing this. She said the applicant was able to eliminate a buffer requirement since this would be one industrial property next to another. The tree canopy requirements will be met. She pointed out an area where no industrial activities would take place.

Commissioner Brown asked, if there was a portion of the site that would have no industrial use on it, would it be necessary to rezone the entire parcel as M-2. Ms. Williams said that if it would be used for any kind of access to the site it would have to have the same industrial zoning.

Ray Larmee, a condominium owner, said the he thinks the buffer seems okay but the berm could be "quite a bit" larger and taller. He asked that the retention basin be placed behind the buffer so residents would not be subjected to noise. He asked if this could be rezoned to "M-2 with conditional use for parking only", so if the applicant wants to go back to manufacturing or do expand their operation, they would have to come back to the Planning Commission. Ms. Williams said a conditional use for parking only applies to vehicles, but not to trucks. Mr. Ashburner said the issue is whether this is truck storage or truck parking. He said if the applicant wanted to create a parking lot, it would have to be designed as a parking lot with tree islands, etc. That is not what is being proposed here. This is why the buffering and trees were moved to the edge of the site. He said this business would require moving inventory within the truck-assembly use. He said the protections in the plan are within the binding elements.

In response to a question from Commissioner Blake, Ms. Linares said she felt the berm was more than adequate, especially since it will be planted. She said there is significant space between it and the property line. She discussed the detention basin and some conversations between herself and engineers. She added that, if at-grade detention was used, that area would become a detention area thus reducing the proposed paved area.

In response to a question from Commissioner Jarboe, Mr. Larmee said he requested the location of the basin where he did because it would put more space between the condominiums and the operations. Commissioner Jarboe said that berms are more effective in reducing noise by locating them closer to the source of the sound. He said he was not sure if a taller berm would accomplish that.

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Barry Bohanan (sp), also a condominium owner, said the subject property was zoned for office use when many of the owners purchased there. The condominium owners are concerned that this use could affect their units' resale values. He said he understood that the applicant was willing to limit their uses; however, he was concerned about what could happen if a future property owner wants to put a heavier industrial use here. He said the M-2 zoning category allows a lot of uses. He said this is not a "treed lot", that most of it has been cleared. Kathy Linares pointed out the existing trees using the LOJIC map. He expressed some concerns about traffic and said the applicant's explanations of proposed traffic patterns were "too vague". Using the site plan, Mr. Ashburner and others discussed where the trucks would be coming in to the site and the system for storing them. Commissioner Blake said some pictures at the public hearing would help to illustrate the flow of traffic.

Mr. Bohanan also expressed concern about something he had heard about the applicant possibly moving their shop building to another part of the parcel that was closer to the condominiums.

Jim Grant said he owns three of the condominium units. He said that originally, there was "an expectation" that there would be other office condominiums. He said there is nothing in the agreement that gives neighbors any say in what goes in here.

In response to a question from Commissioner Jarboe, there was a discussion regarding what activities are permitted in various zoning categories. Mr. Ashburner mentioned that this business is growing in response to Ford's growing truck business. Although this is classified as an industrial use, the actual use is parking trucks on the property and should have low impact on adjacent properties.

Commissioner Blake said the main concerns he had heard were visual impacts on adjacent properties, and limiting uses. He said the LD&T Committee/Planning Commission does not have the ability to exclude uses that are otherwise permitted in a zoning category; that has to be voluntary.

Mark Wheeler, a condominium unit owner, said owners' main concern is doing what they can to protect the value of their investments and could make marketing their properties if they should need to in the future. Commissioner Jarboe asked

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Mr. Wheeler if he thought the only way for their property to stay valuable is for this site to be commercial condominiums. Mr. Wheeler said no, but there should be "some certainty" about traffic and what kind of visual will be had by condominium tenants. Commissioner Jarboe said the truck traffic is coming through on Welker. Mr. Wheeler said that was not guaranteed.

Commissioner Blake reiterated that evidence presented at the Planning Commission should include diagrams showing the traffic flow, and the way the storage is going to be handled. The applicant can consider a binding element to guarantee that.

Commissioner Brown asked if an easement had already been created. Mr. Ashburner said a minor plat has been approved but not yet recorded. Equity Place will serve Lots 1 and 2 and what will be Lot 3. Commissioner Brown asked if there was language limiting the use only to certain vehicles. Mr. Ashburner said that delivery trucks come to every business.

Michael Shay (sp), a condominium owner, said the suggestions about binding elements are appreciated; however, the condominium owners received them 30 minutes before this meeting. He said more conversation is needed about these. Also, he said he wanted to talk to the owner of this property regarding the condominium owners' agreement with the bank which owns part of this parcel. Mr. Ashburner said the condominium owners have an agreement with the bank, but not with the applicant.

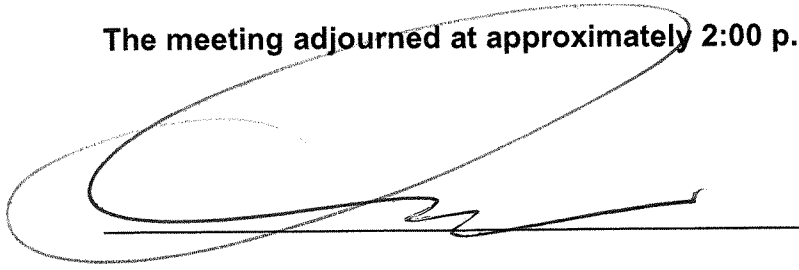
Mr. Larmee said he wanted the record to show that the condominium owners are not objecting to the rezoning, but rather to how the criteria is being worked out. He reiterated that the condo owners want better buffering/more protections for their property. He asked that traffic be "restricted to only passenger vehicles".

The Committee by general consensus scheduled Case No. 14ZONE1005 for the April 17, 2014 Planning Commission public hearing.

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The meeting adjourned at approximately 2:00 p.m.

A large, stylized handwritten signature in black ink, written over a horizontal line. The signature is highly cursive and loops back to the left.

Chairman

A smaller, more fluid handwritten signature in black ink, written over a horizontal line. The signature is cursive and ends with a long horizontal stroke.

Division Director