

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO DEVELOPMENT REVIEW COMMITTEE MEETING
January 23, 2019**

A meeting of the Louisville Metro Development Review Committee was held on January 23, 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:

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

The following matters were considered

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APPROVAL OF MINUTES

January 9, 2019 DRC Meeting Minutes

00:02:46 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 **APPROVE** the minutes of its meeting conducted on January 9, 2019.

The vote was as follows:

YES: Commissioners Brown, Smith, and Carlson.

ABSTAIN: Commissioner Tomes.

NOT PRESENT: Commissioner Robinson.

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NEW BUSINESS

CASE NUMBER 18DEVPLAN1190

Request: Category 3 Development Plan
Project Name: Renaissance South Business Park Warehouse
Location: 8218 Minor Lane
Owner(s): Louisville Renaissance Zone Corp.
Applicant: Louisville Renaissance Zone Corp.
Representative: Sabak, Wilson & Lingo
Jurisdiction: Louisville Metro
Council District: 13 – Mark Fox

Case Manager: Dante St. Germain, AICP, Planner II

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

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

Agency Testimony:

00:03:53 Dante St. Germain presented the case (see staff report and recording for detailed presentation.)

00:05:19 Commissioner Carlson asked about what appears to be a retention basin from an aerial photo. Ms. St. Germain said a compensation lake is being constructed to accept that drainage.

00:06:28 In response to a question from Commissioner Carlson, Ms. St. Germain said there are no binding elements associated with a Category 3 development plan.

00:06:46 Commissioner Smith asked what types of products/items will be stored in the warehouse. Ms. St. Germain said the applicant could answer that question. In response to a question from Commissioner Carlson, Ms. St. Germain said there are protections in the Land Development Code regarding noise, other nuisances, etc. Commissioner Smith said the project seems to be close to Minors Lane Elementary school. Ms. St. Germain showed the distance between the proposed project and the school, which has a large parking area in between.

The following spoke in favor of this request:

Patrick Dominik, Sabak Wilson & Lingo, 608 S. Third Street, Louisville, KY 40202

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Summary of testimony of those in favor:

00:08:42 Patrick Dominik, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.)

00:08:55 Mr. Dominik noted that he has been involved with the Renaissance business park for about 13 years, ever since UPS began development. To date, over 6 million square feet of space has been built, and none of those uses have ever had binding elements associated with them. He said EZ-1 zoning does have some restrictions regarding how loading areas relate to single-family residential uses.

The following spoke in opposition to this request:

No one spoke.

Deliberation:

00:17:29 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.

00:18:19 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:

RESOLVED, the Louisville Metro Development Review Committee does hereby **APPROVE** the requested Category 3 Development Plan.

The vote was as follows:

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

NO: No one.

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NEW BUSINESS

CASE NUMBER 18WAIVER1054

Request: Sign Waiver
Project Name: Sign Waiver
Location: 5300 Bardstown Road
Owner(s): Tasch, Tinsley, Bardstown Road Dental
Applicant: Tasch, Tinsley, Bardstown Road Dental
Representative: Jo Bratcher – Signarama Louisville East
Jurisdiction: Louisville Metro
Council District: 22 – Robin Engel

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:

00:19:23 Lacey Gabbard presented the case (see staff report and recording for detailed presentation.)

00:21:24 In response to a question from John Carroll, legal counsel for the Planning Commission, Ms. Gabbard showed a photo of the location of the proposed changing image sign.

00:21:51 In response to a question from Commissioner Carlson, Ms. Gabbard said the residentially-used property is an apartment building. There is a 300-foot buffer.

The following spoke in favor of this request:

Jo Bratcher, 3713 Rouge Way, Louisville, KY 40218

Summary of testimony of those in favor:

00:22:16 Ms. Gabbard handed out photos to the Commissioners on behalf of the applicant.

00:22:37 Jo Bratcher, the applicant, discussed the pictures that were handed out to the Commissioners (see recording for detailed discussion.) She noted that there are already digital signs in the area of the apartment complex.

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00:23:23 In response to a question from Mr. Carroll, Ms. Bratcher confirmed that the changing-image sign is on-premises. It is not advertising any off-premises business. She added that text will conform to the regulations of the Land Development Code.

The following spoke in opposition to this request:

No one spoke.

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

00:24:47 Commissioners' deliberation.

- **Waiver #1** – Waiver of Land Development Code Section 8.2.1.D.6 to allow a changing image sign to be closer than 300 feet to a residentially zoned property that is being used residentially.
- **Waiver #2** – Waiver of Land Development Code Section 8.3.3.B.9 to allow a sign on a designated parkway to not be columnar or monument style

00:25:27 On a motion by Commissioner Carlson, seconded by Commissioner Smith, the following resolution, based on the Standard of Review and Staff Analysis, and evidence and testimony heard today, was adopted:

(Waiver #1) WHEREAS, the Louisville Metro Development Review Committee finds that the waiver will not adversely affect adjacent property owners as the nearest homes have an oblique view of the sign and are located across Bardstown Road, a major arterial; and

WHEREAS, the Committee further finds that the waiver will not violate specific guidelines of Cornerstone 2020 as Cornerstone 2020. Guideline 3 Policy 28 describes signs as compatible with the form district pattern and contributing to the visual quality of their surroundings. Promote signs of a size and height adequate for effective communication and conducive to motor vehicle safety. Encourage signs that are integrated with or attached to structures wherever feasible; limit freestanding signs to monument style signs unless such design would unreasonably compromise sign effectiveness. Give careful attention to signs in historic districts, parkways, scenic

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corridors, design review districts and other areas of special concern. These guidelines are not violated because changing image signs are permitted in this location and the sign is located across Bardstown Road from the nearest affected residential properties; and

WHEREAS, the Committee further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the pole structure for this sign is already existing. Additionally, there is no feasible location along the Bardstown Road frontage where a changing image sign could be placed that is not within 300 feet of a residential property; and

WHEREAS, the Committee further finds that the strict application of the provisions of the regulations would deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant as there is no location along Bardstown Road where a changing image sign could be placed that is not within 300 feet of residential properties, and the pole sign is already in place; and

(Waiver #2) WHEREAS, the Committee further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the pole structure is already existing, and other pole signs exist in this area; and

WHEREAS, the Committee further finds that the strict application of the provisions of the regulations would deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant as the pole structure is already existing and the applicant is only proposing to replace one of the signs with a changing image sign; now, therefore be it

RESOLVED, that the Louisville Metro Development Review Committee does hereby **APPROVE** the requested Waiver of Land Development Code Section 8.2.1.D.6 to allow a changing image sign to be closer than 300 feet to a residentially zoned property that is being used residentially, AND the requested Waiver of Land Development Code Section 8.3.3.B.9 to allow a sign on a designated parkway to not be columnar or monument style.

The vote was as follows:

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

NO: No one.

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NEW BUSINESS

CASE NUMBER 18DEVPLAN1173

Request: Revised District Development Plan with a Landscape Waiver
Project Name: Blankenbaker Commerce Center Lot 9
Location: 2501 Technology Drive
Owner: LS Development
Applicant: LS Development
Representative: John Talbott – Bardenwerper, Talbott & Roberts PLLC
Jurisdiction: City of Jeffersontown
Council District: 11 – Kevin Kramer

Case Manager: Jay Lockett, AICP, Planner I

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

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

Agency Testimony:

00:26:48 Jay Lockett presented the case (see staff report and recording for detailed presentation.) This will be a recommendation to the City of Jeffersontown for both requests.

The following spoke in favor of this request:

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

Kirk Swenson, 2501 Technology Drive, Louisville, KY 40299

Charles Keys, 3005 Taylor Boulevard, Louisville, KY 40208

Summary of testimony of those in favor:

00:29:52 John Talbott, the applicant's representative, presented the applicant's case (see recording for detailed presentation.) He explained why the applicant needs a couple of additional parking spaces.

The following spoke in opposition to this request:

No one spoke.

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Deliberation:

00:31:26 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 of Land Development Code (Jeffersontown) section 10.2.4 to allow parking and a retaining wall to encroach into the required 15' PEC Landscape Buffer Area.

00:31:52 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 adjacent property owners since there will still be adequate buffering and plantings along the perimeter of the site, and the new parking will be graded in such a way as to keep storm water controlled on the subject site; and

WHEREAS, the Committee further finds that the waiver will not violate specific guidelines of Cornerstone 2020 because: Guideline 3, Policy 9 of Cornerstone 2020 calls for protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigation when appropriate. Guideline 3, Policies 21 and 22 call for appropriate transitions between uses that are substantially different in scale and intensity or density, and mitigation of the impact caused when incompatible developments occur adjacent to one another through the use of landscaped buffer yards, vegetative berms and setback requirements to address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances. Guideline 3, Policy 24 states that parking, loading and delivery areas located adjacent to residential areas should be designed to minimize impacts from noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered. Guideline 13, Policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. Guideline 13, Policy 6 calls for screening and buffering to mitigate adjacent incompatible uses. The surrounding uses are compatible, and all required [plantings will still be provided on the subject site; and

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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 all other required buffers will be provided on the subject site, and all required plantings will be provided; and

WHEREAS, the Committee further finds that the applicant has agreed to plant 2 new type A trees on the subject site to compensate for the encroachment; now, therefore be it

RESOLVED, the Louisville Metro Development Review Committee does hereby **RECOMMEND** to the City of Jeffersontown that the requested **Waiver** of Land Development Code (Jeffersontown) section 10.2.4 to allow parking and a retaining wall to encroach into the required 15' PEC Landscape Buffer Area be **APPROVED**.

The vote was as follows:

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

NO: No one.

Revised Detailed District Development Plan with Revisions to Binding Elements

00:32:44 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; and

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

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

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

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drainage facilities on the subject site in order to prevent drainage problems from occurring on the subject site or within the community; and

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

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

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

1. The development shall be in accordance with the approved district development plan and agreed upon binding elements unless amended pursuant to the Zoning District Regulations. No further development shall occur without prior approval from the Planning Commission, except for land uses permitted in the established zoning district.
2. The development shall not exceed 22,090 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. No portion of the sign, including the leading edge of the sign frame, shall be closer than 25 feet to front property line. The sign shall not exceed 30 square feet in area per side and 5 feet in height. No sign shall have more than two sides.
4. No outdoor advertising signs (billboards), small free-standing (temporary) 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 so that no light source is visible off-site. Lighting levels attributable to the fixtures located on the subject site shall not exceed two foot candles at the property line.

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7a. Construction fencing shall be erected at the edge of the area of development prior to any grading or construction to protect the existing tree stands and their 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.

7b. The applicant shall submit a plan for approval by the Planning Commission staff landscape architect showing trees/tree masses to be preserved prior to beginning any construction procedure (i.e. clearing, grading, demolition). Any modification of the tree preservation plan requested by the applicant may be approved by the Planning Commission staff landscape architect if the changes are in keeping with the intent of the approved tree preservation plan. The plan shall exhibit the following information:

- a. Proposed site plan (showing buildings, edges of pavement, property/lot lines, easements, existing topography, and other significant site features (LOJIC topographic information is acceptable).
- b. Preliminary drainage considerations (retention/detention, ditches/large swales, etc.).
- c. Location of all existing trees/tree masses existing on the site as shown by aerial photo or LOJIC maps.
- d. Location of construction fencing for each tree/tree mass designated to be preserved.

8. Before any permit (including but not limited to building, parking lot, change of use or alteration permit) is requested:

- a. The development plan must receive full construction approval from the Develop Louisville and the Metropolitan Sewer District.
- b. 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.

9. 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.

10. A certificate of occupancy must be received from the appropriate code

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

11. There shall be no outdoor music (live, piped, radio or amplified), outdoor entertainment, or outdoor PA system permitted on the site.
12. The property owner/developer shall provide copies of these binding elements to tenants, contractors and other parties engaged in development of this project, and shall inform them of the content of these binding elements. Further, the property owner/developer shall require contractors to similarly notify all of their sub-contractors whose duties relate to the binding elements. The property owner/developer shall ensure their compliance with the binding elements.
13. If work is required within the easement causing removal or damage of landscape materials, the property owner will be responsible for replacement of materials according to the approved landscape plan.

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 1:35 p.m.

Chairman

Division Director