

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO DEVELOPMENT REVIEW COMMITTEE MEETING
July 14, 2021**

A meeting of the Louisville Metro Development Review Committee was held on Wednesday, July 14, 2021 at 1:00 p.m. via Cisco Webex Video Teleconferencing.

Commissioners present:

Rich Carlson, Chair
Jim Mims, Vice Chair
Jeff Brown
Pat Seitz

Commissioners absent:

Patti Clare

Staff members present:

Emily Liu, Director, Planning & Design Services
Joe Reverman, Assistant Director, Planning & Design Services
Brian Davis, Planning Manager
Joe Haberman, Planning Supervisor
Dante St. Germain, Planner II
Molly Clark, Planner I
Beth Jones, Planner II
Travis Fiechter Legal Counsel
Chris Cestaro, Management Assistant (minutes)

Other staff present:

Beth Stuber, Transportation
Tony Kelly - MSD

The following matters were considered

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APPROVAL OF MINUTES

Minutes of the June 30, 2021 Development Review Committee meeting.

00:04:19 On a motion by Commissioner Brown, seconded by Commissioner Seitz, the following resolution was adopted:

RESOLVED, that the Louisville Metro Development Review Committee does hereby **APPROVE** the minutes of its meeting conducted on June 30, 2021.

The vote was as follows:

YES: Commissioners Mims, Brown, Seitz, and Carlson.

NO: No one.

NOT PRESENT: Commissioner Clare.

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NEW BUSINESS

CASE NUMBER 21-WAIVER-0023

Request: Driveway Waiver
Project Name: 1126 Cecil Avenue
Location: 1126 Cecil Avenue
Owner: Amanda Peer
Applicant: Amanda Peer
Representative: Amanda Peer
Jurisdiction: Louisville Metro
Council District: 1 - Jessica Green
Case Manager: Molly Clark, 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:

00:05:24 Molly Clark presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.)

The following spoke in favor of the proposal:

Amanda Peer, 1126 Cecil Avenue, Louisville, KY

Summary of testimony of those in support:

00:10:31 Amanda Peer, the applicant, said the driveway would stop at the back deck.

00:11:20 In response to questions from Commissioners Seitz and Carlson, Ms. Peer discussed why she does not want to use the alley behind the home instead of the access from Cecil Avenue (see recording for detailed discussion.) No garage or parking structure is planned.

00:14:11 In response to a question from Commissioner Mims, Ms. Clark pointed out the location of the fencing and alley in relation to the property. Commissioner Brown discussed precedent for this type of encroachment permit to allow driveway access.

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00:15:39 Joe Reverman, Assistant Director of Planning & Design Services, said that, even if the Planning Commission approved this waiver, the Director of Public Works could potentially deny the encroachment permit. There is a provision for this in the Land Development Code. Mr. Reverman suggested going out to the site and looking at the maneuvering capability in the alley.

00:20:08 Beth Stuber, with Metro Transportation, said this request came in as an Encroachment Permit application with a curb cut on Cecil Avenue.

00:21:58 Ms. Peer noted that, after the Encroachment Permit was denied, she was advised by Public Works staff to apply for this waiver today.

The following spoke in opposition to the proposal:

No one spoke.

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.

00:23:01 On a motion by Commissioner Brown, seconded by Commissioner Mims, the following resolution, based on the Standard of Review and Staff Analysis, and evidence and testimony heard today, was adopted:

RESOLVED, the Louisville Metro Development Review Committee does hereby **CONTINUE** this case to a date uncertain to assess the alley to see if the property is accessible.

The vote was as follows:

YES: Commissioners Mims, Brown, Seitz, and Carlson.

NO: No one.

NOT PRESENT: Commissioner Clare.

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NEW BUSINESS

CASE NUMBER 21-WAIVER-0063

Request: Parkway Setback Waiver
Project Name: 17601 Three Girls Way
Location: 17601 Three Girls Way
Owner: Shawn Wilson
Applicant: Shawn Wilson
Representative: Shawn Wilson
Jurisdiction: Louisville Metro
Council District: 20 - Stuart Benson
Case Manager: Molly Clark, 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:

00:25:53 Molly Clark presented the case and showed a Power Point presentation (See staff report and recording for detailed presentation.)

00:28:37 Commissioner Carlson asked how much of the pole barn will be encroaching into the setback. Ms. Clark said the barn will encroach about 12 feet in the front and about 7 feet in the rear.

The following spoke in support of the proposal:

Shawn Wilson, 17601 Three Girls Way, Louisville, KY 40223

Summary of testimony of those in support:

00:29:18 In response to a question from Commissioner Brown, Shawn Wilson, the applicant, discussed the grading issues on the property that prevented moving the proposed barn out of the buffer area.

00:30:29 Commissioner Carlson and Mr. Wilson discussed the size of the proposed pole barn relative to Mr. Wilson's needs.

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00:32:36 Commissioner Mims discussed the possibility of grading the site and creating a concrete pad. Mr. Wilson said the pole barn will be on a pad. If the structure is moved any further to the right, the land starts to fall away substantially and would then require a foundation wall across the back and down the right side (see recording for detailed discussion.)

The following spoke in opposition:

No one spoke.

Deliberation:

00:34:33 Commissioners' 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.

00:36:20 On a motion by Commissioner Brown, seconded by Commissioner Seitz, 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 the proposed pole barn will be placed behind the proposed single-family house and will only be slightly encroaching into the 75 FT parkway setback; and

WHEREAS, the Committee further finds that Plan 2040 calls for protection of residential areas, roadway corridors and public spaces from visual intrusions and mitigation when appropriate, appropriate transitions between uses that are substantially different in scale and intensity or density, and to mitigate 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, that parking, loading and delivery areas located adjacent to residential areas should be designed to minimize noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered and ensuring appropriate landscape design standards for different land uses

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within urbanized, suburban, and rural areas. The intent of landscape buffer areas is to create suitable transitions where varying forms of development adjoin, to minimize the negative impacts resulting from adjoining incompatible land uses, to decrease storm water runoff volumes and velocities associated with impervious surfaces, and to filter airborne and waterborne pollutants. The proposed house and pole barn will still be adequately screened Taylorsville Lake Road; and

WHEREAS, the Committee further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since the driveway leading up to the proposed pole barn does not leave enough from for the pole barn to be out of the parkway setback; and

WHEREAS, the Committee further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant, as it would require the applicant to relocate the proposed driveway; now therefore be it

RESOLVED, the Louisville Metro Development Review Committee does hereby **APPROVE** the requested **Waiver** of 10.3.1 to allow a proposed pole barn to encroach in the 75 FT parkway setback, **ON CONDITION** that the 50-foot parkway buffer is not disturbed, or if it is disturbed, it is restored.

The vote was as follows:

YES: Commissioners Mims, Brown, Seitz, and Carlson.

NO: No one.

NOT PRESENT: Commissioner Clare.

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NEW BUSINESS

CASE NUMBER 21-CAT3-0007

Request: Category 3 Development Plan
Project Name: Proposed Single Family House
Location: 3804 & 3808 Miami Avenue
Owner: Habitat for Humanity of Metro Louisville
Applicant: Emma Whitaker - Habitat for Humanity of Metro Louisville
Representative: Emma Whitaker - Habitat for Humanity of Metro Louisville
Jurisdiction: Louisville Metro
Council District: 5 - Donna Purvis
Case Manager: Molly Clark, 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:

00:37:19 Due to technical difficulties, this case was heard after Case No. 21-WAIVER-0076.

00:52:57 Molly Clark presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.)

00:55:02 In response to a question from Commissioner Mims, Ms. Clark said this case is related to the Portland Ordinance.

00:55:24 In response to a question from Commissioner Brown, Ms. Clark said that Portland Now did not comment, but she did receive an inquiry about the sale of the land from a citizen.

The following spoke in support of the proposal:

Emma Whitaker, Habitat for Humanity, 1620 Bank Street, Louisville, KY 40203

Summary of testimony of those in support:

00:56:04 Emma Whitaker said she had no additional comments but was available for questions.

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The following spoke in opposition to the proposal:

No one spoke.

Deliberation:

00:57:10 Commissioners' 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.

00:58:20 On a motion by Commissioner Brown, seconded by Commissioner Seitz, the following resolution, based on the staff report and evidence 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 Mims, Brown, Seitz, and Carlson.

NO: No one.

NOT PRESENT: Commissioner Clare.

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NEW BUSINESS

CASE NUMBER 21-WAIVER-0076

Request: Sign Waiver
Project Name: Freestanding Sign with Changing Image Panel
Location: 1606 W. Chestnut
Owner: Baptized Pentecostal Church of Holiness
Applicant: Baptized Pentecostal Church of Holiness
Representative: Baptized Pentecostal Church of Holiness
Jurisdiction: Louisville Metro
Council District: 4 - Jecorey Arthur
Case Manager: Beth Jones, AICP, Planner II

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

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

Agency Testimony:

00:37:52 Beth Jones presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.) She noted that the applicant has agreed to turn off the changing image portion of the sign between the hours of 8:00 p.m. and 7:00 p.m.

00:41:04 Commissioner Mims and Ms. Jones discussed the visibility of the sign, and the amount of light that will be coming out from the sign. She noted that a sign like this must have an opaque background.

00:42:52 In response to a question from Joe Reverman, Assistant Director of Planning & Design Services, Ms. Jones used an aerial photo to point out the location of the sign on the site. In response to another question from Mr. Reverman, Ms. Jones said there is a document on file showing the proposed sign in this exact location.

00:44:06 In response to question from Commissioner Carlson, Ms. Jones said that these signs are required by the LDC to have an auto-dimming feature; also, there is a Condition of Approval for this request stating that the sign will be off between the hours of 8:00 pm and 7:00 am.

The following spoke in support of the proposal:

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Walter Jones, 300 Locust Creek Boulevard, Louisville, KY 40245

Vickie Talley, 1112 Wind Song Way, Louisville, KY 40207

Summary of testimony of those in support:

00:45:38 Walter Jones, the applicant, and Commissioner Carlson discussed the previously-mentioned Conditions of Approval (off between dusk to dawn; also, that the refresh rate does not exceed one change per minute.) Mr. Jones agreed to these conditions.

00:48:45 Vickie Talley said the applicant will set a timer on the sign to ensure it is off from dusk to dawn.

00:49:14 In response to a question from Commissioner Mims, Ms. Jones said notice was provided to people across the street (that is a Metro-owned property.) She added that notice was sent to first and second-tier properties, and that she had not received any comments, either for or against.

The following spoke in opposition to the proposal:

No one spoke.

Deliberation:

00:50:40 Commissioners' 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.

00:51:46 On a motion by Commissioner Brown, seconded by Commissioner Seitz, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

WHEREAS, the Development Review Committee finds that the waiver will not adversely affect adjacent property owners in that negative effects on the nearest residential uses, across W. Chestnut, will be mitigated by the applicant's agreement to turn off the changing image portion of the sign between 8:00pm and 7:00am; and

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WHEREAS, the Committee further finds that the waiver does not violate guidelines of Plan 2040, which requires that: appropriateness must be evaluated in the context of the compatibility of the proposed use or uses with surrounding uses (Community Form 1.2.4); impacts on quality of life must be considered (Community Form 16); and adverse visual intrusions must be considered when there are impacts to residential areas (Community Form 20); 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 in that the applicant is requesting less changing image sign area than would normally be permitted; and

WHEREAS, the Committee further finds that the applicant has agreed to limit the hours of operation of the changing image sign between 8:00pm and 7:00am; now, therefore be it

RESOLVED, the Louisville Metro Development Review Committee does hereby **APPROVE** the requested waiver to permit a changing image sign to be within 300ft of a residential zone (LDC 8.2.1.D.6) **ON CONDITION** that the changing-image portion of the sign is turned off between dusk to dawn; and **ON CONDITION** that the refresh rate is not more than once per minute; and **ON CONDITION** that the sign's auto-dimming function is equipped and operating.

The vote was as follows:

YES: Commissioners Mims, Brown, Seitz, and Carlson.

NO: No one.

NOT PRESENT: Commissioner Clare.

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NEW BUSINESS

CASE NUMBER 21-DDP-0044

Request: Revised Detailed District Development Plan with Binding Elements and Design Waiver
Project Name: Peters Dental
Location: 9220 Preston Highway
Owner: Camileo LLC
Applicant: Camileo LLC
Representative: Land Design & Development
Jurisdiction: Louisville Metro
Council District: 24 - Madonna Flood
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:

00:59:11 Dante St. Germain presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.)

01:05:08 In response to questions from Commissioner Mims, Ms. St. Germain discussed architectural features that could satisfy the requirements and eliminate the need for the waiver.

01:06:12 Commissioner Carlson asked about an email he had sent Ms. St. Germain asking about dimensions of the fronts of the buildings on the adjacent commercial properties. Ms. St. Germain said she had forwarded that email to the applicant and that they can answer those questions.

01:06:49 Commissioner Brown asked about a recommended landscape buffer between this site and the historic property next door. Ms. St. Germain said the site plan does not show any landscaping at this stage. There is not a proposed binding element to provide landscaping between those two buildings. The location of the proposed new building and the existing historic building were discussed.

01:08:11 In response to questions from Joe Reverman, Assistant Director of Planning & Design Services, Ms. St. Germain discussed the transcript of the rezoning

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on this property. The emphasis of that discussion was that any new building should complement the historic nature of the existing building. Commissioner Carlson said he was present for that rezoning and does remember this case. He said the concern then was that any new project along this stretch of Preston Highway between Southpark and the Meijer's store should have a residential appearance to it (see recording for detailed discussion.)

01:12:36 Commissioner Mims asked Commissioner Carlson some questions about projects in the surrounding area that came up during the rezoning for this property (see recording.)

The following spoke in support of the proposal:

Derek Triplett, Land Design & Development, 503 Washburn Avenue, Louisville, KY 40222

John Bohn Jr., 2601 Kings Highway (representing Camileo LLC)

Mike Pluta, 2919 White Plains Road, Louisville, KY 40218

John Bohn Sr., Clear Mortgage LLC, 9220 Preston Highway (occupant of current building on the site)

Summary of testimony of those in support:

01:14:45 Derek Triplett, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.) He also provided the distances from Preston Highway of various properties nearby or adjacent to the subject site.

01:23:27 In response to questions from Commissioner Mims, Mr. Triplett said consideration had been given to rotating the building. He and Commissioner Mims discussed the issue (see recording.)

01:25:27 In response to a question from Commissioner Brown, Mr. Triplett said proposed hours of operation in binding element #11 would be from 7:00 a.m. to 09:00 p.m.

01:26:49 In response to a question from Commissioner Mims, Mr. Triplett discussed signage, but added that signage is not shown on the development plan at this stage.

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01:27:35 Commissioner Carlson, Mr. Triplett, and Mr. Reverman discussed some aspects of the proposed hours of operation; and also binding element #3, which states that new structures should maintain a residential appearance. Mr. Triplett said staff has proposed a strikethrough of the part about “new structures” since that only applied to the previous plan (see recording for discussion.) More discussion took place regarding the site design and how the proposed structure and parking lot affects the view of the existing structure.

01:38:11 John Bohn, an applicant’s representative, said he currently operates the businesses on this property. Regarding concerns about the proposed building blocking the existing building on the lot, he said the existing building is not visible from the road. He said adding this new building would allow better visibility of the historic property.

01:39:32 Both Commissioners Mims and Carlson discussed what they viewed as problematic design issues. The “historic” nature of the existing house was examined.

01:44:32 Mike Pluta, an applicant’s representative, said an alternate design had been presented this morning. He said the plan being presented right now coincides with other dental offices. He discussed in detail how the exterior elevations correspond to functions going on inside (see recording.) Mr. Pluta and Mr. Triplett noted that part of the building will be a leased professional office space. Mr. Bohn and Commissioner Carlson discussed uses here, both present and future.

01:53:13 Commissioner Mims asked if there is an alternative that would make the faux doors facing Preston were operable; with a sidewalk wrapping from the parking area over to those doors.

The following spoke in opposition:

No one spoke.

Deliberation

01:54:20 Commissioners’ deliberation.

01:55:13 The Commission came out of deliberation to hear John Bohn Sr., a current occupant of the building on the site, who discussed the proposal and emphasized the importance of neighborhood serving uses (see recording.)

01:57:20 The Commission resumed and concluded its deliberation.

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01:59:11 On a motion by Commissioner Brown, seconded by Commissioner Mims, the following resolution was adopted:

RESOLVED, the Louisville Metro Development Review Committee does hereby **CONTINUE** this case to the **August 4, 2021** Development Review Committee meeting to give the applicant an opportunity to consider the comments made at today's meeting, including concerns about the residential character of the structure, and comments from Preservation.

The vote was as follows:

YES: Commissioners Mims, Brown, Seitz, and Carlson.

NO: No one.

ABSENT: Commissioner Clare.

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ADJOURNMENT

The meeting adjourned at approximately 3:05 p.m.

Chairman

Division Director