

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO DEVELOPMENT REVIEW COMMITTEE MEETING
November 20, 2019**

A meeting of the Louisville Metro Development Review Committee was held on November 20, 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
Jeff Brown
Jim Mims

Commissioners absent:

No one

Staff members present:

Emily Liu, Director, Planning & Design Services
Joe Reverman, Assistant Director, Planning & Design Services
Brian Davis, Planning & Design Manager
Julia Williams, Planning Supervisor
Beth Jones, Planner II
Lacey Gabbard, Planner I
Jay Lockett, Planner I
Laura Ferguson, Legal Counsel
Beth Stuber, Transportation
Chris Cestaro, Management Assistant

The following matters were considered

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APPROVAL OF MINUTES

November 6, 2019 DRC Meeting Minutes

00:03:30 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 **APPROVE** the minutes of its meeting conducted on November 6, 2019.

The vote was as follows:

YES: Commissioners Carlson, Brown, and Tomes.

ABSTAIN: Commissioner Mims.

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NEW BUSINESS

CASE NUMBER 19-AMEND-0002

Request: Binding Element Amendment
Project Name: Mortenson Family Dental
Location: 3701 Hopewell Road
Owner: John K. Gutterman
Applicant: Karla Hill - Smart LED Signs & Lighting
Representative: Tanner Nichols - Frost Brown Todd, LLC
Jurisdiction: Louisville Metro
Council District: 20 – Stuart Benson

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:

00:04:17 Beth Jones presented the case (see staff report and recording for detailed presentation.) She noted that, since this case was heard at the November 6, 2019 DRC meeting, re-notice was sent to the original speakers at the original zone change hearing in 1990. She said she spoke to the one person who responded, and explained the request to him. She said the respondent appeared to have no issues with this request and did not offer any additional comments. She distributed copies of one e-mail comment she received on Monday.

00:08:42 In response to a question from Jim Mims, Ms. Jones discussed regulations regarding changing image signs and distance from the Gene Snyder.

00:11:00 Ms. Jones emphasized that, even under current regulations, there would not be another changing image signs permitted on this site. Regulations would limit those to one per site.

The following spoke in favor of this request:

Tanner Nichols, Frost Brown Todd, 400 West Market Street Suite 3200, Louisville, KY 40202

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Karla Hill, Smart LED Signs & Lighting, 11441 Blankenbaker Access Drive, Louisville, KY 40299

Summary of testimony of those in favor:

00:11:13 Tanner Nichols, the applicant's representative, presented the applicant's case (see recording for detailed presentation.) He noted that one citizen commenter said they were objecting to the sign because they thought it would be a dangerous distraction. Karla Hill, another applicant's representative, did a search of accident reports for that location from 2008-present. There is only one record of one accident during that time.

00:15:10 In response to a question from Joe Reverman, Assistant Director for Planning & Design Services, Ms. Jones gave some clarification regarding the conversation about the Snyder Freeway sign ordinance/regulations. She and Mr. Nichols noted that the sign is 60 square feet, not the 80 square feet noted in the ordinance.

The following spoke in opposition to this request:

No one spoke.

00:17:56 Commissioners' discussion.

00:18:41 Emily Liu, Director of Planning & Design Services, asked the applicant how frequently the sign changes. Karla Hill said once every 20 seconds. Ms. Liu added that it is the property owners' responsibility to read and comply with binding elements, which run with the land.

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.

00:19:58 On a motion by Commissioner Carlson, seconded by Commissioner Mims, the following resolution, based on the Standard of Review and Staff Analysis, and evidence and testimony heard today, was adopted:

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WHEREAS, the Louisville Metro Development Review Committee finds that no apparent natural resources exist on the subject site, which is already developed; and

WHEREAS, the Committee further finds that no changes to existing vehicular or pedestrian circulation are associated with this request; and

WHEREAS, the Committee further finds that no open space requirements are associated with the amendment request; and

WHEREAS, the Committee further finds that no changes in existing drainage facilities on the subject site are associated with this request; and

WHEREAS, the Committee further finds that while the existing signs on the site do not comply with the Binding Elements, they do comply with current LDC regulations; and

WHEREAS, the Committee further finds that the requested binding element modification conforms to applicable guidelines and policies of the Plan 2040 and to requirements of the Land Development Code. The intent of the Binding Element is to bring existing signs on the site, all of which are permitted under current LDC standards, into compliance with the Binding Elements for the site; now, therefore be it

RESOLVED, the Louisville Metro Development Review Committee does hereby **APPROVE** the requested Amendment to binding element #14, to read as follows:

14. The buildings, including 42" high entrance wall, shall be constructed using the architectural design features shown on the rendering submitted to the LD&T Committee on June 28, 2001. Building materials, including the rear façade, shall be brick and stone or masonry-type material or a combination thereof using earth-tone-type colors. No backlit awnings shall be permitted.

The vote was as follows:

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

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NEW BUSINESS

CASE NUMBER 19-AMEND-0003

Request: Binding Element Amendment
Project Name: Highview Center
Location: 7207 Fegenbush Lane
Owner: RBS LLC
Applicant: Karla Hill - Smart LED Signs & Lighting
Jurisdiction: Louisville Metro
Council District: 23 – James Peden

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:

00:20:35 Beth Jones presented the case and handed out pictures of the existing sign and the proposed sign, and showed photos of the site and surrounding area (see staff report and recording for detailed presentation.)

She noted that Binding Element #3 is proposed to be deleted in its entirety. It currently reads as follows:

3. The only permitted freestanding sign shall be a monument style sign and 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 0 feet to front property line. The sign shall not exceed 45 square feet in area per side and 7 feet in height. No sign shall have more than two sides.

00:27:17 She added that all of the attendees/speakers at the original zone change meeting were notified for this meeting.

00:27:51 In response to a question from Commissioner Carlson, Ms. Jones confirmed that the District Councilman is opposed to this change, mainly to the changing image portion of the sign.

00:28:14 In response to some questions from Commissioner Carlson, he and Ms. Jones discussed whether this sign location is closer than 300 feet to residentially-zoned

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property. Mr. Reverman added some information about regulations in Planned Development Districts (see recording for detailed discussion.)

00:31:18 In response to a question from Commissioner Tomes, Ms. Jones said the 300-foot measurement is made to a residentially-zoned district.

00:32:41 In response to a question from Commissioner Brown, Ms. Jones confirmed that there is nothing in the current binding element prohibiting the LED, it's just the overall size that may be the apparent violation. She said the applicant is proposing a sign that is 12 feet high and 72 square feet. Sign regulations allow a sign there to be 12 feet high and 100 square feet. They discussed the height of the current sign.

The following spoke in favor of this request:

Karla Hill, Smart LED Signs & Lighting, 11441 Blankenbaker Access Drive, Louisville, KY 40299

Summary of testimony of those in favor:

00:34:27 Karla Hill, the applicant's representative, presented the applicant's case (see recording for detailed presentation.)

00:36:38 In response to questions from Commissioners Carlson and Mims, the 300-foot distance measurement was discussed (see recording.)

00:38:43 In response to questions from Commissioner Brown, Ms. Hill said the external illumination will be eliminated, would have internal illumination, and would comply with LDC regulations regarding rate of change, auto dimming, etc. Commissioners Brown and Carlson noted that they are concerned about distractions at this corner.

The following spoke in opposition to this request:

John Torsky, representing Councilmember James Peden, 601 West Jefferson Street, Louisville, KY 40202

Summary of testimony of those in opposition:

00:40:05 John Torsky, representing Councilmember James Peden, spoke in opposition and handed out some items to the Committee members. He said he and Councilmember Peden still have not seen what is being proposed. He said the

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Councilmember is opposed to removing binding elements. He said the applicant's letter, included in their packet, states that there are no other monument-style signs in the neighborhood. Mr. Torsky said Google Maps shows photos showing monument-style signs on nearby properties. Regarding the changing image, Mr. Torsky said it would be difficult to place the sign anywhere that was not in the sightline of any residence. He noted that the intersection of Fegenbush, Von Mill and Norland (sp) is dangerous. Numerous crashes occur here. No further distractions should be permitted. He said Councilman Peden would be glad to introduce legislation clearly defining the 300-foot rule.

00:44:56 Mr. Reverman said that the intent of this binding element is not only to restrict the size, style and location of signage, but it also allows the Planning Commission to see what is being proposed at this site.

Rebuttal:

00:46:07 Ms. Hill said the binding element that the applicant is requesting to have removed would not stop any reviews. Binding element #7 is the one that requests the review from the Planning Commission, not binding element #3. She said the only thing the applicant is requesting, regarding binding element #3, is the removal of the restriction to monument-style signage. She reiterated that there is no LED sign being requested today; only the square footage and the height are being discussed today. She noted that an LED sign is already permitted here.

00:47:20 Mr. Reverman and Ms. Hill discussed binding elements #3 and #7 (see recording for detailed discussion.)

00:50:13 Commissioners' discussion.

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.

00:58:12 A motion by Commissioner Brown, seconded by Commissioner Mims, was proposed to **APPROVE** the request.

The vote was as follows:

YES: Commissioners Brown, Mims, and Tomes.

NO: Commissioner Carlson.

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***NOTE: Because the vote was not unanimous, this case will be placed on the December 5, 2019 Planning Commission public hearing agenda to be heard by the full Commission.**

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NEW BUSINESS

CASE NUMBER 19-DDP-0019

Request: Revised General District Development Plan; Revised Detailed District Development Plan with revisions to binding elements; and a waiver
Project Name: Blankenbaker Station II Lots 11, 12, 14, 15A and 15B
Location: 2211 Tucker Station Road
Owner/Applicant: Hosts Development
Representative: Kent Gootee - Mindel Scott & Associates
Jurisdiction: Louisville Metro
Council District: 20 – Stuart Benson

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:

00:59:19 Jay Lockett presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.)

01:04:43 Commissioner Brown asked about future connection/s to adjacent sites. Mr. Lockett said the applicant can address this more directly. Lot 13, which Commissioner Brown was referencing, is a part of Blankenbaker Station. There should be plans to connect to that site.

The following spoke in favor of this request:

Kent Gootee, Mindel Scott & Associates, 5151 Jefferson Boulevard, Louisville, KY 40219

Greg Oakley, 13307 Magisterial Drive, Louisville, KY 40223 (available to answer questions if needed)

Andrew Watson, 13307 Magisterial Drive, Louisville, KY 40223 (available to answer questions if needed)

Summary of testimony of those in favor:

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01:06:21 Kent Gootee, the applicant's representative, presented the applicant's case. He pointed out Lot 13 on the site plan, which LG&E has purchased. LG&E does have access to Tucker Station Road and Schutte Station; however, that is not part of the development plan being presented today. (See recording for detailed presentation.)

The following spoke in opposition to this request:

No one spoke.

The following spoke neither for nor against this request ("Other"):

Steve Porter, 2406 Tucker Station Road, Louisville, KY 40299

Summary of testimony of those neither for nor against:

01:10:28 Steve Porter, representing an adjacent property owner (David Kaelin), said the main concern is Lot 13, which borders Tucker Station Road and Schutte Station Place (see recording for Mr. Porter's detailed presentation.) On the site plan, Mr. Porter said that, under the "Public Works" notes, there is a statement that reads, "No connection is anticipated to adjacent Lot 13, as a future secure LG&E facility is proposed." He said he and his client object to that language because that could mean that LG&E would connect onto Tucker Station Road and not Schutte Station Place. He said this could violate binding element #34, which reads, "No driveways shall be allowed that access Tucker Station Road between Plantside Drive and Rehl Road."

01:12:53 Mr. Porter suggested that the second sentence of the aforementioned Public Works notes be changed to read, "A connection to adjacent Lot 13 is anticipated from Schutte Station Place as required by binding element #34 in the binding elements approved under Docket No. 14489."

01:14:20 In response to a question from Commissioner Brown, Mr. Porter and Mr. Luckett discussed private versus public access easements. Mr. Luckett said his understanding of the note on the plan was specifically referencing cross access for 592 between the properties; it wasn't really addressing access to roads for individual properties. (See recording for detailed discussion.)

01:16:16 Mr. Gootee explained access and cross-access, specifically referencing Lot 13.

01:17:51 In response to questions from Mr. Reverman and Commissioner Tomes regarding Public Works Note #14 on the site plan, Commissioner Brown recommended striking the last sentence on that note in order to improve clarity. Mr. Gootee said he

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could take out that note altogether, since Lot 13 is not part of the development plan. Commissioners Brown and Tomes agreed.

01:19:02 Commissioners' discussion.

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

(19-WAIVER-0086) Waiver from 10.2.4 to omit the 15 foot PEC property perimeter buffer in the areas where shared access easements are proposed.

01:20:35 On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Development Review Committee finds that the waiver will not adversely affect adjacent property owners since the properties are being developed together with unified circulation between sites; and

WHEREAS, the Committee further finds that the waiver will not violate the Comprehensive Plan, as it will allow for a unified circulation system between the individual sites within the development. Adequate screening and buffering will still be provided around the subject site, especially where adjacent to 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 since all other screening and buffering will be provided on the subject site; and

WHEREAS, the Committee further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land, as the sites could not be developed with the proposed efficient traffic circulation system; now, therefore be it

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RESOLVED, the Louisville Metro Development Review Committee does hereby **APPROVE** the requested Waiver from 10.2.4 to omit the 15 foot PEC property perimeter buffer in the areas where shared access easements are proposed.

The vote was as follows:

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

Revised General District Development Plan including release of binding elements associated with 15ZONE1028 for portion of lot 12 and adoption of binding elements that were associated with 9-67- 05 as revised under docket 14489 to that portion.

01:21:24 On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution, based on the staff report and evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Development Review Committee finds that there are some areas of steep slopes and several karst features and sinkholes on the subject site as indicated on the development plan. Disturbance of the slopes is minimized. Appropriate construction methods will be used to build over karst features, where applicable. 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 and the Kentucky Transportation Cabinet have approved the preliminary development plan; and

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

WHEREAS, the Committee further finds that the Metropolitan Sewer District has approved the preliminary development plan and will ensure the provision of adequate drainage facilities on the subject site in order to prevent drainage problems from occurring on the subject site or within the community; and

WHEREAS, the Committee further finds that the overall site design and land uses are compatible with the existing and future development of the area. Appropriate landscape

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buffering and screening will be provided to screen adjacent properties and roadways. 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 **APPROVE** the requested **Revised General District Development Plan** including release of binding elements associated with 15ZONE1028 for portion of lot 12 and adoption of binding elements associated with 9-67- 05 as revised under docket 14489 to that portion; and **SUBJECT** to the following binding elements:

Existing Binding Elements to be release for portion of Lot 12

- ~~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. The development shall not exceed 48,000 square feet of gross floor area.~~
- ~~3. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.~~
- ~~4. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.~~
- ~~5. Before any permit (including but not limited to building, parking lot, change of use, site disturbance) is requested:
 - ~~a. The development plan must receive full construction approval from Develop Louisville, Louisville Metro Public Works and the Metropolitan Sewer District.~~~~

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- ~~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.~~
 - ~~c. 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; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.~~
 - ~~d. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.~~
 - ~~e. Applicant agrees to submit detailed building elevations for the proposed structures to staff for approval.~~
- ~~6. 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.~~
- ~~7. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.~~

~~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.~~

- ~~8. The façade elevations shall be in accordance with applicable form district standards and shall be approved by PDS staff prior to construction permit approval.~~
- ~~9. No idling of trucks shall take place within 200 feet of single-family residences. No overnight idling of trucks shall be permitted on-site.~~

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- ~~10. There is no direct access to the site from Tucker Station Road. Access will come via an extension of Schutte Station Place.~~
- ~~11. The lighting shall be fully shielded; shall utilize flat lenses, and shall be pointed to the ground.~~

Detailed Plan Binding Elements for all lots

All general plan binding elements approved under docket 14489 are applicable to the 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 Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. A minor subdivision plat or legal instrument shall be recorded (creating the lot lines as shown on the development plan
 - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - d. A reciprocal access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be created

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between the adjoining property owners and recorded. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services prior to obtaining a building permit.

4. Final elevations/renderings shall be submitted for review and approval by Planning Commission staff. A copy of the approved rendering shall be available in the case file on record in the offices of the Louisville Metro Planning Commission.
5. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
6. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of 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.
7. A geotechnical report shall be conducted for the site and the results shall be submitted to Public Works and MSD for review prior to construction plan approval for any development that impacts sinkholes. Construction methods and precautions recommended in the report shall be applied to construction within the development.
8. No idling of trucks shall take place within 200 feet of single-family residences. No overnight idling of trucks shall be permitted on-site.

The vote was as follows:

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

Revised Detailed District Development Plan with replacement of existing binding elements for a portion of lot 12.

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01:22:12 On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Development Review Committee finds that there are some areas of steep slopes and several karst features and sinkholes on the subject site as indicated on the development plan. Disturbance of the slopes is minimized. Appropriate construction methods will be used to build over karst features, where applicable. 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 and the Kentucky Transportation Cabinet have approved the preliminary development plan; and

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

WHEREAS, the Committee further finds that the Metropolitan Sewer District has approved the preliminary development plan and will ensure the provision of adequate drainage facilities on the subject site in order to prevent drainage problems from occurring on the subject site or within the community; and

WHEREAS, the Committee further finds that the overall site design and land uses are compatible with the existing and future development of the area. Appropriate landscape buffering and screening will be provided to screen adjacent properties and roadways. 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 **APPROVE** the requested Revised Detailed District Development Plan with replacement of existing binding elements for a portion of lot 12, **ON CONDITION** that the second sentence is removed from the "Public Works" Note #14 on the proposed site plan that specified access to a future Lot #13, and **SUBJECT** to the following binding elements:

Detailed Plan Binding Elements for all lots

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All general plan binding elements approved under docket 14489 are applicable to the site in addition to the following:

9. 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.
10. 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.
11. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit is requested:
 - a. The development plan must receive full construction approval from Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. A minor subdivision plat or legal instrument shall be recorded (creating the lot lines as shown on the development plan
 - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - d. A reciprocal access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be created between the adjoining property owners and recorded. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services prior to obtaining a building permit.
12. Final elevations/renderings shall be submitted for review and approval by Planning Commission staff. A copy of the approved rendering shall be available in the case file on record in the offices of the Louisville Metro Planning Commission.
13. 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

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implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.

14. 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.
15. A geotechnical report shall be conducted for the site and the results shall be submitted to Public Works and MSD for review prior to construction plan approval for any development that impacts sinkholes. Construction methods and precautions recommended in the report shall be applied to construction within the development.
16. No idling of trucks shall take place within 200 feet of single-family residences. No overnight idling of trucks shall be permitted on-site.

The vote was as follows:

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

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NEW BUSINESS

CASE NUMBER 19-DDP-0054

Request: Detailed District Development Plan
Project Name: Apex Center
Location: 11750 Interchange Drive
Owner/Applicant: FDR, LLC
Representative: Kent Gootee - Mindel Scott & Associates
Jurisdiction: Louisville Metro
Council District: 13 – Mark Fox

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:

01:22:57 Jay Lockett presented the case (see staff report and recording for detailed presentation.)

The following spoke in favor of this request:

Kent Gootee, Mindel Scott & Associates, 5151 Jefferson Boulevard, Louisville, KY 40219

Summary of testimony of those in favor:

01:25:39 Kent Gootee, the applicant's representative, presented the applicant's case (see recording for detailed presentation.)

01:29:59 Joe Reverman, Assistant Director for Planning & Design Services, noted that this is not something the Planning Commission can override Transportation Planning on. Transportation Planning must approve the access points.

01:30:54 In response to a question from Commissioner Carlson, Mr. Gootee discussed the alignment of one entrance across from the other (Antonia Way.)

01:32:09 In response to a question from Commissioner Carlson, Mr. Gootee explained what kind of landscaping and buffering the applicant had in mind for the

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landscape buffer area along the back side (between the site and the 3-story apartments.) He also discussed drainage. Commissioner Carlson suggested some “substantial” evergreen landscaping there. Mr. Gootee said trees will be planted there and could be supplemented with evergreens.

01:36:19 Commissioner Mims and Commissioner Brown discussed the access point/s off Southpoint Drive with Mr. Gootee (see recording for detailed discussion.)

01:40:05 In response to a question from Commissioner Tomes, Mr. Gootee discussed the configuration of the building with regards to the proposed access points and lot circulation. He and Commissioner Carlson discussed the building and site design. Commissioner Brown suggested eliminating the Antonia Way access.

The following spoke in opposition to this request:

No one spoke.

01:44:54 Commissioners’ discussion.

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.

01:45:37 On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution was adopted:

RESOLVED, that the Louisville Metro Development Review Committee does hereby **CONTINUE** this case to the December 4, 2019 DRC meeting to give the applicant a chance to revise the site plan to relocate the Antonia Way entrance, and to submit this revised plan to staff by 2:00 Monday, November 25, 2019 to allow staff adequate time for review.

The vote was as follows:

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

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NEW BUSINESS

CASE NUMBER 19-DDP-0017

Request: Revised Detailed District Development Plan with Landscape Waivers
Project Name: O'Reilly Auto Parts
Location: 5911 Bardstown Road
Owner/Applicant: Dennis Littrell – Corridor Holdings LLC
Representative: Mike Hill – Land Design & Development, Inc.
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:

01:46:15 Lacey Gabbard presented the case. She noted one error in the staff report: a binding element was numbered incorrectly (see staff report and recording for her detailed presentation.)

The following spoke in favor of this request:

Mike Hill, Land Design & Development, 503 Washburn Avenue, Louisville, KY 40222

Mike Leonard, Hogan Real Estate, 9300 Shelbyville Road, Louisville, KY 40222

Summary of testimony of those in favor:

01:49:17 Mike Hill, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.)

02:03:56 Joe Reverman, Assistant Director with Planning & Design Services, asked if the house on the adjacent lot to the south was still there. Mr. Hill said there is no house on that lot, it has been removed.

02:04:32 Mr. Reverman also asked about renderings that had been shown as part of Mr. Hill's presentation today. A binding element in the staff report states that

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renderings shall be submitted to staff. Mr. Hill said he also had questions about that binding element – is it still necessary? Mr. Reverman and Ms. Gabbard discussed standard binding element language. Ms. Gabbard said she was going to suggest that the applicant re-submit renderings anyway because the legend was hard to read. However, all renderings are now approved by staff.

02:06:08 Commissioner Mims expressed concern about “preserving more robust access” to the back property. This limits ability to develop it in the future. In response to a question from Commissioner Mims, Mr. Hill explained why the building wasn’t shifted to allow for a wider driveway and also avoid the landscape waiver request due to the overhead power lines that prevent tree planting (see recording.) Mr. Hill also answered Commissioner Mims’ questions about how much tree canopy will be preserved.

02:09:02 Emily Liu, Director of Planning & Design Services, explained what the new proposed tree canopy requirements will be, although this legislation has not yet been passed by Metro Council. She asked Mr. Hill if there are any trees on the site that the applicant can preserve. Mr. Hill said there is some vegetation within the sewer and drainage easement that they will try not to disturb. Ms. Liu asked about some areas in the back. Mr. Hill said that if any trees in the back can be preserved, the applicant will preserve them. He said the applicant is not proposing a waiver of any of the plantings along the back, and the full 25-foot landscape buffer area has been provided. Some grading in the back will need to be done to make the detention basin.

The following spoke in opposition to this request:

No one spoke.

02:10:39 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.

Waivers:

1. **Waiver** of Land Development Code section 10.2.4.A to reduce the 25 foot landscape buffer area adjacent to the R-4 zoned property to the south to 8 feet (19-WAIVER-0005)

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2. **Waiver** of Land Development Code section 10.2.4.A to permit the proposed pavement and dumpster enclosure to encroach into the 25 foot landscape buffer area adjacent to the R-6 zoned property to the east (19-WAIVER-0005)
3. **Waiver** of Land Development Code section 10.2.4.B.3 to permit more than a 50% overlap of the north property line variable landscape buffer area and the proposed 15 foot sewer and drainage easement. Existing plantings within the LBA will be preserved where possible, but required LBA plantings are requested to be waived (19-WAIVER-0005)

02:11:27 On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

(Waiver #1) WHEREAS, the Louisville Metro Development Review Committee finds that the waiver will not adversely affect adjacent property owners since, according to PVA, the property to the south is over 3 acres of vacant residential land. Additionally, the currently proposed plan only proposes to develop an approximately 250 foot deep portion of the subject site, so the waiver request does not extend the entire perimeter of the neighboring property to the south; and

WHEREAS, the Committee further finds that the waiver will not violate specific guidelines of Plan 2040. Land Use & Development Goal 1, Policy 9 ensures an appropriate transition between uses that are substantially different in scale and intensity or density of development. The transition may be achieved through methods such as landscaped buffer yards, vegetative berms, compatible building design and materials, height restrictions and setback requirements. Land Use & Development Goal 1, Policy 10 calls to mitigate the impacts caused when incompatible developments unavoidably occur adjacent to one another. Buffers should be used between uses that are substantially different in intensity or density.

According to the applicant, buffers will be provided as well as the required trees and screening. Additionally, there is a future/proposed 35 foot access easement along the south property line which provides additional space between the development and the adjoining property; 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 there is a proposed 35 foot access easement that runs along the southern property line; and

WHEREAS, the Committee further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create

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an unnecessary hardship on the applicant because, according to the applicant, including the full LBA would not provide sufficient developable land area and the subject site could not be developed; and

(Waiver #2) WHEREAS, the Committee further finds that the waiver will not adversely affect adjacent property owners since the property to the east of the subject site is currently vacant and is not proposed to be developed at this time; and

WHEREAS, the Committee further finds that the waiver will not violate specific guidelines of Plan 2040. Land Use & Development Goal 1, Policy 10 calls for mitigation of the impacts caused when incompatible developments unavoidably occur adjacent to one another. Buffers should be used between uses that are substantially different in intensity or density. Buffers should be variable in design and may include landscaping, vegetative berms and/or walls and should 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. Land Use & Development Goal 1, Policy 9 ensures an appropriate transition between uses that are substantially different in scale and intensity or density of development. The transition may be achieved through methods such as landscaped buffer yards, vegetative berms, compatible building design and materials, height restrictions and setback requirements.

The applicant is requesting a waiver to allow the proposed dumpster to encroach into the 25 foot LBA on the east side of the property by approximately 5 feet. The property to the east of the subject site is not proposed to be developed at this time. Additionally, the proposed plan indicates that all required LBA plantings will be provided; 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 applicant proposes to provide all required plantings and only encroach into the LBA by approximately 5 feet on the eastern property line; and

WHEREAS, the Committee further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant since the applicant proposes to provide all required plantings, and the dumpster is only proposed to encroach approximately 5 feet into the LBA; and

(Waiver #3) WHEREAS, the Committee further finds that the waiver will not adversely affect adjacent property owners since the existing use of the property to the north of the

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subject site is religious/exempt (a church), and the existing church structure is located over 100 feet away from the subject site's north property line; and

WHEREAS, the Committee further finds that the waiver will not violate specific guidelines of Plan 2040. Land Use & Development Goal 1, Policy 10 calls for mitigation of the impacts caused when incompatible developments unavoidably occur adjacent to one another. Buffers should be used between uses that are substantially different in intensity or density. Buffers should be variable in design and may include landscaping, vegetative berms and/or walls and should 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. Land Use & Development Goal 1, Policy 9 ensures an appropriate transition between uses that are substantially different in scale and intensity or density of development. The transition may be achieved through methods such as landscaped buffer yards, vegetative berms, compatible building design and materials, height restrictions and setback requirements.

The applicant is requesting to waive the required LBA plantings but preserve existing plantings and landscaping. There appears to be existing landscaping that will provide a visual buffer between the subject site and the property to the north; 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 15 foot sewer and drainage easement is existing and there appear to be existing plantings that the applicant is proposing to preserve; and

WHEREAS, the Committee further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant since the 15 foot sewer and drainage easement is existing and there appear to be existing plantings that the applicant is proposing to preserve; now, therefore be it

RESOLVED, that the Louisville Metro Development Review Committee does hereby **APPROVE** the requested **Waiver** of Land Development Code section 10.2.4.A to reduce the 25 foot landscape buffer area adjacent to the R-4 zoned property to the south to 8 feet (19-WAIVER-0005); **AND** the requested **Waiver** of Land Development Code section 10.2.4.A to permit the proposed pavement and dumpster enclosure to encroach into the 25 foot landscape buffer area adjacent to the R-6 zoned property to the east (19-WAIVER-0005); **AND** the requested **Waiver** of Land Development Code section 10.2.4.B.3 to permit more than a 50% overlap of the north property line variable landscape buffer area and the proposed 15 foot sewer and drainage easement. Existing

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plantings within the LBA will be preserved where possible, but required LBA plantings are requested to be waived (19-WAIVER-0005).

The vote was as follows:

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

Revised Detailed District Development Plan and Binding Element Amendments

02:12:43 On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

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. Public Works' has provided preliminary plan approval; and

WHEREAS, the Committee further finds that the proposed plan does not require an Outdoor Amenity Area; and

WHEREAS, the Committee further finds that the Metropolitan Sewer District has approved the preliminary development plan and will ensure the provision of adequate drainage facilities on the subject site in order to prevent drainage problems from occurring on the subject site or within the community; and

WHEREAS, the Committee further finds that the overall site design and land uses are compatible with the existing and future development of the area. 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

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RESOLVED, the Louisville Metro Development Review Committee does hereby **APPROVE** the requested Revised Detailed District Development Plan and Binding Element Amendments, **SUBJECT** to the following binding elements:

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. 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.
3. 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.
4. Before any permit (including but not limited to building, parking lot, change of use, site disturbance) is requested:
 - a. The development plan must receive full construction approval from Louisville Metro Department of Inspections, Permits and Licenses, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. The 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.
 - c. A minor subdivision plat or legal instrument shall be recorded creating the lot lines as shown on the development plan. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.

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- d. Final elevations/renderings shall be submitted for review and approval by Planning Commission staff. A copy of the approved rendering shall be available in the case file on record in the offices of the Louisville Metro Planning Commission.

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

- 6. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of 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.

- 7. Owners/developers shall fund the installation of traffic calming devices per the MUTCD (Manual of Uniform Traffic Control Devices) and Metro Public Works' requirements if warranted on Street A in the future.

The vote was as follows:

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

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NEW BUSINESS

CASE NUMBER 19-DDP-0041

Request: District Development Plan with Sidewalk Waivers
Project Name: Dafco Expansion
Location: 6851 Cane Run Road
Owner/Applicant: Jeff Milucky,- Dameron Alloy Foundries
Representatives: Todd Wagner – Koetter Construction
Patrick Warnement – The Kleingers Group
Jurisdiction: Louisville Metro
Council District: 12 – Rick Blackwell

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:

02:13:36 Lacey Gabbard presented the case (see staff report and recording for detailed presentation.)

02:15:33 Commissioner Brown said the applicant submitted a justification statement which stated that there are no other sidewalks in the area; however, the Louisville Loop appears to be on the other side of Cane Run Road. Ms. Gabbard said that is confirmed.

02:15:59 Commissioner Carlson asked about a binding element regarding a TARC stop. Where will the stop go? Ms. Gabbard said the applicant can say if they and TARC have discussed a specific location.

The following spoke in favor of this request:

Patrick Warnement, The Kleingers Group, 1100 Envoy Circle, Louisville, KY 40299

Courtney Gilmore, Koetter Construction, 7393 Pete Andres Rd, Floyds Knobs, IN 47119

Summary of testimony of those in favor:

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02:16:51 Patrick Warnement, the applicant's representative, said the applicant has agreed to do a fee-in-lieu. He said the applicant will coordinate with TARC to agree on a location for the stop.

02:17:35 In response to a question from Commissioner Brown, Joe Reverman, Assistant Director of Planning & Design Services, and Ms. Gabbard about the sidewalk waiver and the pedestrian connection waiver (see recording for detailed discussion.) The TARC stop and access to and from it was also discussed. Mr. Warnement said there is also a large drainage ditch across the frontage, which could complicate the location of a sidewalk/TARC stop, etc.

02:20:29 Commissioner Mims and Mr. Warnement discussed the drainage ditch and its relation to a sidewalk and TARC stop.

The following spoke in opposition to this request:

No one spoke.

02:22:32 Commissioners' deliberation.

02:22:48 Commissioner Brown asked, if the sidewalk waiver is no longer on the table because the applicant agreed to accept the fee-in-lieu, does that mean the pedestrian connection isn't required from the public sidewalk to the building entrance? Mr. Reverman said the Committee could still require it.

02:23:18 Courtney Gilmore, Koetter Construction, said that, as Ms. Gabbard stated earlier, the applicant **IS** still requesting the waiver of the sidewalk along Cane Run Road instead of the fee-in-lieu; however, the applicant is willing to pay the fee-in-lieu if the waiver is denied.

02:24:00 Resume 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.

Waivers

1. **Waiver** of Land Development Code section 5.8.1.B to not provide the sidewalk along Cane Run Road (19-WAIVER-0060)

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2. **Waiver** of Land Development Code section 5.9.2.A.1 to not provide the pedestrian access from Cane Run Road to the building entrance (19-WAIVER-0060)

02:26:24 On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution, based on the evidence and testimony heard today, was adopted:

RESOLVED, that the Louisville Metro Development Review Committee does hereby **DENY** the requested **Waiver** of Land Development Code section 5.8.1.B to not provide the sidewalk along Cane Run Road (19-WAIVER-0060) **AND** the requested **Waiver** of Land Development Code section 5.9.2.A.1 to not provide the pedestrian access from Cane Run Road to the building entrance (19-WAIVER-0060).

The vote was as follows:

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

District Development Plan and Binding Elements

02:27:03 On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

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. Kentucky Transportation Cabinet approval is required prior to MSD construction plan approval; and

WHEREAS, the Committee further finds that there are no open space requirements pertinent to the current proposal. Future multi- family development proposed on the subject site will be required to meet Land Development Code requirements; and

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WHEREAS, the Committee further finds that the Metropolitan Sewer District has approved the preliminary development plan and will ensure the provision of adequate drainage facilities on the subject site in order to prevent drainage problems from occurring on the subject site or within the community; and

WHEREAS, the Committee further finds that the overall site design and land uses are compatible with the existing and future development of the area. Appropriate landscape buffering and screening will be provided to screen adjacent properties and roadways. 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 **APPROVE** the requested District Development Plan, **SUBJECT** to the following 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 for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
3. Construction fencing shall be erected 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.
4. Before any permit (including but not limited to building, parking lot, change of use, or site disturbance is requested:
 - a. The development plan must receive full construction approval from Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.

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- b. Encroachment permits must be obtained from the Kentucky Transportation Cabinet.
 - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - d. Final elevations/renderings shall be submitted for review and approval by Planning Commission staff. A copy of the approved rendering shall be available in the case file on record in the offices of the Louisville Metro Planning Commission.
5. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
6. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system permitted on the site).
7. 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.
8. The Developer / Property Owner shall install a concrete boarding pad (5X10), with a 5' wide connector to a bench pad (3X12) and then notify TARC when the construction is complete. TARC will then install a standard bench. In addition, the Developer / Property Owner shall clean the stop as needed. The developer shall coordinate with TARC on stop location prior to construction.

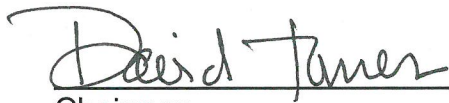
The vote was as follows:

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

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ADJOURNMENT

The meeting adjourned at approximately 3:32 p.m.



Chairman



Division Director