

**MINUTES OF THE MEETING  
OF THE  
DEVELOPMENT REVIEW COMMITTEE  
August 3, 2022**

A meeting of the Development Review Committee was held on, August 3, 2022 at 1:00 p.m. in the Old Jail Building, located at 514 W. Liberty Street, Louisville, Kentucky.

**Committee Members present were:**

Rich Carlson, Chair  
Patti Clare, Vice Chair  
Jeff Brown  
Suzanne Cheek  
Glenn Price

**Staff Members present were:**

Joe Reverman, Assistant Director, Planning & Design Services  
Brian Davis, Planning Manager  
Julia Williams, Planning Supervisor  
Jay Lockett, Planner II  
Molly Clark, Planner I  
Laura Ferguson, Legal Counsel  
Pamela M. Brashear, Management Assistant

**Others present:**

Mark Dutrow, Engineer II  
Tony Kelly, MSD  
Beth Stuber, Transportation

The following matters were considered:

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**APPROVAL OF MINUTES**

**JULY 20, 2022 DRC MEETING MINUTES**

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

**RESOLVED**, that the Development Review Committee does hereby **APPROVE** the minutes of its meeting conducted on July 20, 2022.

**The vote was as follows:**

**YES: Commissioners Brown, Clare, Price and Carlson**  
**ABSTAINING: Commissioner Cheek**

**DEVELOPMENT REVIEW COMMITTEE**  
**August 3, 2022**

**NEW BUSINESS**

**CASE NO. 22- AMEND-0006**

Request:	Binding Element Amendment
Project Name:	Signature Point Fence
Location:	14101-14611 Harkaway Ave
Owner:	Clayton Properties Group
Applicant:	Elite Homes
Representative:	Curtis Mucci
Jurisdiction:	Louisville Metro
Council District:	11- Kevin Kramer
Case Manager:	Jay Lockett, AICP, Planner II

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

**Agency Testimony:**

00:04:55 Jay Lockett discussed the case summary, standard of review and staff analysis from the staff report.

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

Curtis, Mucci, Elite Homes, 16218 Shelbyville Road, Louisville, Ky. 40245

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

Curtis Mucci gave a short explanation for the amendment and submitted a letter into the record. He is available for questions (see recording for detailed presentation).

**Deliberation**

Development Review Committee deliberation.

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

**Modification of Binding Elements**

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

**CASE NO. 22- AMEND-0006**

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

**WHEREAS**, relevant natural resources are being protected according to the approved development plan. This proposal does not alter any natural resources; and

**WHEREAS**, vehicular and pedestrian transportation are not being impacted by this request; and

**WHEREAS**, there are no open space requirements associated with this request; and

**WHEREAS**, adequate drainage facilities are being provided per MSD requirements and the most recent approved development plan; and

**WHEREAS**, the Louisville Metro Development Review Committee finds the site meets all required setback regulations, and there are no new landscaping requirements triggered as part of this proposal; and

**WHEREAS**, the Louisville Metro Development Review Committee further finds the proposal conforms to the Comprehensive Plan and the Land Development Code.

**RESOLVED**, that the Louisville Metro Development Review Committee does hereby **APPROVE** the modification of the binding elements:

1. The development shall be in accordance with the approved district development plan and agreed upon binding elements unless amended pursuant to the Zoning District Regulations. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission 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. The signature entrance shall be submitted to the Planning Commission staff for review and approval prior to recording the record plat.
4. Lighting shall be maintained on the property in accordance with Chapter 4 Part 1.3 of the land development code.

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#### CASE NO. 22- AMEND-0006

5. Outdoor lighting in driving areas and parking lot illumination shall be either standard residential coach style lighting or of a type that directs light down and away from surrounding residential properties, which later type lighting fixtures shall have a 90-degree cutoff and height of the light standard shall be set so that no light source is visible from residential areas off-site. Building mounted fixtures shall be similar coach lamp style or porch lights with no wattage in excess of 75 watts. Light levels due to lighting on the subject site shall not exceed 0.5-foot candles measures at the property line. The applicant shall obtain certification by a qualified expert in measurement of lighting levels prior to requesting a certificate of occupancy. Such certification shall be maintained on site at all times thereafter.

6. 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.

7. A Tree Preservation Plan (TPP) shall be approved by Planning Commission staff prior to transmittal to the office responsible for permit issuance. No clearing and/or grading activities may take place until a Tree Preservation Plan has been approved. The Tree Preservation Plan shall identify and submit for approval by designated DPDS staff, a plan showing the location of Tree Preservation Areas on site (exclusive of areas dedicated as public right-of-way) prior to beginning any construction procedure (i.e., clearing, grading, demolition). All construction shall be conducted in accordance with the approved Tree Preservation Plan. A partial plan may be submitted to delineate clearing necessary for preliminary site investigation. All Tree Preservation Plans must be prepared in accordance with the standards set forth by DPDS.

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

a. The development plan must receive full construction approval from Louisville Metro Department of Public Works and the Metropolitan Sewer District.

b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.

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 major subdivision record plat creating the lots and roadways as shown on the approved district development plan shall be recorded prior to issuance of any building permits.

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e. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.

9. 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.

10. If a building permit is not issued within two years of the date of approval of the plan or rezoning, whichever is later, the property shall not be used in any manner unless a revised district development plan is approved or an extension is granted by the Planning Commission.

11. 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.

12. If work is required within the easements causing removal or damage of landscape materials, the property owner shall be responsible for replacement of materials according to the approved landscape plan.

13. The dumpster/compactor(s) shall not be emptied between the hours of 10 p.m. and 7 a.m.

14. The materials and design of proposed structures shall be substantially the same as depicted in the photos/rendering as presented at the 12/14/16 Development Review Committee hearing.

15. The developer shall, at its expense, construct a 4-foot black aluminum fence consistent with the fencing exhibit presented at the August 3, 2022 Development Review Committee along the shared property line between the Signature Point development and Christian Academy of Louisville, being approximately 1,600 linear feet. The fence shall be perpetually maintained by the developer or its successors (Condominium Council, homeowners Association, etc) Gates may be required to properly maintain common areas and landscaping between Signature Point and

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Christian Academy of Louisville where the fence is not on the property line. Any gate installed for such purpose must remain locked in said common areas with keys provided only to the maintenance company, Signature Point Homeowners Association and Christian Academy of Louisville.

16. Developer shall reserve for Kentucky Department of Transportation acquisition up until December 31, 2007 the undeveloped land shown on the District Development Plan as presented at the October 17, 2002 Planning Commission meeting. Developer shall not file for any development plan approval, and KDOT shall have the right, but not the obligation, to acquire said land, Developer stating its intention in these signed binding elements to reach an agreed upon price with KDOT for the land, said land being further reserved in accordance with the District Development Plan by the developer for future KDOT improvements in the I-64/I-265 interchange.

17. Developer shall provide detention on site unless MSD decides that detention is not necessary or agrees to accept payment of the regional facility fee in lieu of detention or unless detention can be provided and reserved on future KDOT right-of-way as approved by MSD and KDOT.

18. Before this Developer seeks a certificate of occupancy for its first building, if the road improvements previously required in Docket 9-28-01 and 9-20-01LW have not been made along U.S. 60 and South English Station Road as required by those two projects, then this Developer shall be responsible for making those South English Station Road and U.S. 60 road improvements, if any yet to be made. Provided, however, that the Planning Commission shall use its best efforts (with the assistance of the Public Works Department) to assist this Developer in obtaining reimbursement from the developers of the referenced projects for the costs of the road improvements previously imposed upon the developers in the referenced cases, prior to Public Works approval of construction plans for either of those two projects. Such improvements shall be made prior to issuance of the first certificate of occupancy.

19. In addition to the third (center turn) lane across the frontage of the development which this Developer is obligated to construct by virtue of a note on the approved district development plan, Developer shall also be responsible for constructing the third (center turn) lane from its property line north (in front of Christian Academy) along South English Station Road to the point along South English Station Road where the two lanes become three lanes in front of the Landis Lakes subdivision. Said improvements shall be completed prior to requesting the first certificate of occupancy for the development.

20. A noise study and mitigation measures, if any, as identified by the study shall be required prior to building permits for any residential structure within 250 feet of driving lanes along I-64 or I-265.

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21. All new street name signs shall comply with the manual on Uniform Traffic Control Devices (MUTCD). The address number shall be displayed on a structure prior to requesting a certificate of occupancy for that structure.

22. At the time the developer turns control of the homeowner's association over to the homeowners, the developer shall provide sufficient funds to ensure there is no less than \$3,000 cash in the homeowner's association account. The subdivision performance bond may be required by the Planning Commission to fulfill this funding requirement.

23. Prior to the recording of the record plat, copies of the recorded documents listed below shall be filed with the Planning Commission:

a. Articles of Incorporation filed with the Secretary of State and recorded in the office of the Clerk of Jefferson County and the Certificate of Incorporation of the Homeowners Association.

b. A deed of restriction in a form approved by Counsel to the Planning Commission addressing (responsibilities for the maintenance of common areas and open space, maintenance of noise barriers, maintenance of WPAs, TPAs) and other issues required by these binding elements / conditions of approval.

c. Bylaws of the Homeowner's Association in a form approved by the Counsel for the Planning Commission.

**The vote was as follows:**

**YES: Commissioners Brown, Cheek, Clare, Price and Carlson**



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

**CASE NO. 21-DDP-0033**

Request:	Revised Detailed District Development Plan with Waivers
Project Name:	7727 St Andrews Church Rd
Location:	7727 St Andrews Church Rd
Owner:	Montez Malone
Applicant:	Vitality Development LLC
Representative:	Montez Malone
Jurisdiction:	Louisville Metro
Council District:	25- Amy Holton Stewart
Case Manager:	Jay Lockett, AICP, Planner II

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

**Agency Testimony:**

00:10:18 Jay Lockett discussed the case summary, standard of review and staff analysis from the staff report.

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

Montez Malone, 5923 Grandol Meadow Court, Louisville, Ky. 40258

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

Montez Malone stated there will be adequate planting on the side and the building was pushed back. It will meet all requirements (see recording for detailed presentation).

**The following spoke neither for nor against the request:**

Councilwoman Amy Holton Stewart

**Summary of testimony of those neither for nor against:**

Councilwoman Amy Holton Stewart stated Cardinal Oaks Dr. is a private road and is maintained by the citizens. Will the owner of the proposal be responsible for maintenance as well? The residents don't want their private drive used as part of the plan (see recording for detailed presentation).

**The following spoke in opposition to this request:**

Kathy Watkins, 3008 Knollview Court, Louisville, Ky. 40214

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Terry Stinnett, 3014 Brookway Court, Louisville, Ky. 40214  
Mona Miller, 3115 Parkside Court, Louisville, Ky. 40214  
Margaret Brown, 3031 Fordhaven Road, Louisville, Ky. 40214  
Ann Ramser, 307 East Kenwood Drive, Louisville, Ky. 40214

**Summary of testimony of those in opposition:**

Kathy Watkins discussed the following: area is peaceful and quiet; streets and sidewalks are privately maintained; there will be increase in street and pedestrian traffic; additional trash and thefts; increase in noise and crime; existing wildlife will be lost; located in valley so lots of flooding and standing water; freshwater springs; and there's a collection of signatures for opposition (see recording for detailed presentation).

Terry Stinnett had the following questions: Where is the construction entrance? Where will the dumpsters be placed? Will the applicant help with driveway and repairs? What types of landscaping will be provided? The property is too small for the proposal (see recording for detailed presentation).

Mona Miller said traffic will be worse and the springs will be in danger of flooding if not taken care of properly (see recording for detailed presentation).

Margaret Brown discussed the creek and runoff issues as well as there being some undeveloped hills which can cause mud slides (see recording for detailed presentation).

Ann Ramser said binding element 2D is a strike-through on the staff report. If it has never been complied with, it should revert back to R-4 as the binding elements run with the land. There needs to be a cohesive look and one landlord.

Ann Ramser said she doesn't agree with the staff report and waivers and there needs to be proof notices were sent out because it's not on Accela (see recording for detailed presentation).

Tony Kelly, MSD, said they are aware of the flooding and require a 50% reduction of the 100-year storm in this water shed. The situation will not be made worse. A Geotechnical Engineer will have to address the spring at the construction phase (see recording for detailed presentation).

**Rebuttal:**

Montez Malone said the plan is to construct 1 single building with 1 landlord. The dumpsters will be outsourced and all standards will be met. There is a plan to enter into

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a maintenance agreement, on a probated basis. Flooding issues will be overseen by MSD (see recording for detailed presentation).

Commissioner Brown said he thought proof of the rights to use an easement was required or if the applicant is proposing changes to an easement that might not be under her/his control, proof would have to be provided as a part of the application. Maybe it can be done as a binding element.

Laura Ferguson, Legal Counsel, said it's in the existing and prior binding element. The applicant will have to enter into an access easement agreement with the residents before obtaining permits (see recording for detailed presentation). Commissioner Brown added, the state would issue an encroachment permit for direct access to St. Andrews if this property had no other access available (see recording for detailed presentation).

**Deliberation**

Development Review Committee deliberation.

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

**Waivers**

**1. (22-WAIVER-0115) of Land Development Code section 10.2.4.A to reduce the 25-foot and 15-foot buffers along the western property line to 9.5 feet.**

**WHEREAS**, the waiver will not adversely affect adjacent property owners as the applicant will provide all required plantings and screening within the buffer area; and

**WHEREAS**, the waiver will not violate specific guidelines of Plan 2040 as the applicant will provide adequate screening and buffering; and

**WHEREAS**, the Louisville Metro Development Review Committee finds the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the encroachment is minimal and all required screening and planting will be provided; and

**WHEREAS**, the Louisville Metro Development Review Committee further finds the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant, as the adjacent site is an institutional use and does not have residential dwellings.

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**2. (22-WAIVER-0116) of Land Development Code section 10.2.4.B to permit a required property perimeter buffer to overlap a drainage easement and detention basin by more than 50%**

**WHEREAS**, the waiver will not adversely affect adjacent property owners as the applicant will provide all required plantings and screening within the buffer area; and

**WHEREAS**, the waiver will not violate specific guidelines of Plan 2040 as the applicant will provide adequate screening and buffering; and

**WHEREAS**, the Louisville Metro Development Review Committee finds the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the encroachment is minimal and all required screening and planting will be provided; and

**WHEREAS**, the Louisville Metro Development Review Committee further finds the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant, as the drainage easement is existing and the detention basin is needed to insure proper drainage and runoff control on site and ensure that additional runoff is not placed onto adjacent properties.

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

**RESOLVED**, that the Louisville Metro Development Review Committee does hereby **APPROVE** the following waivers: 1. (22-WAIVER-0115) of Land Development Code section 10.2.4.A to reduce the 25-foot and 15-foot buffers along the western property line to 9.5 feet and 2. (22-WAIVER-0116) of Land Development Code section 10.2.4.B to permit a required property perimeter buffer to overlap a drainage easement and detention basin by more than 50%.

**The vote was as follows:**

**YES: Commissioners Brown, Cheeks, Clare, Price and Carlson**

**Revised Detailed District Development Plan and Binding Elements**

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

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**WHEREAS**, there are no significant natural features on the subject site; and

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

**WHEREAS**, open space requirements of the Land Development Code, including recreational open space requirements, are being met on the subject site; and

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

**WHEREAS**, the Louisville Metro Development Review Committee finds the overall site design and land uses are compatible with the existing and future development of the area. 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 Louisville Metro Development Review Committee further finds the development plan conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code.

**RESOLVED**, that the Louisville Metro Development Review Committee does hereby **APPROVE** the Revised Detailed 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 designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. 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.
  - 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.

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Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.

d. An access easement shall be secured to serve the development from Cardinal Oaks Drive. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services.

e. The materials and design of proposed structures shall be substantially the same as depicted in the elevation as presented at the August 3, 2022 Development Review Committee meeting. A copy of the approved elevation is available in the case file on record in the offices of the Louisville Metro Planning Commission.

3. 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.

4. 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.

5. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.

**The vote was as follows:**

**YES: Commissioners Brown, Cheek, Clare, Price and Carlson**

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**NEW BUSINESS**

**CASE NO. 21-DDP-0055**

Request:	Revised General District Development Plan
Project Name:	Hurstbourne Station
Location:	7300 Hurstbourne Pkwy
Owner:	Hurstbourne Corporate Group
Applicant:	Hurstbourne Corporate Group
Representative:	Wyatt, Tarrant and Combs
Jurisdiction:	Louisville Metro
Council District:	2- Barbara Shanklin
Case Manager:	Jay Lockett, AICP, Planner II

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

**Agency Testimony:**

01:00:27 Jay Lockett discussed the case summary, standard of review and staff analysis from the staff report.

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

Jonathan Baker, Wyatt, Tarrant and Combs, 400 West Market Street, Suite 2000, Louisville, Ky. 40202  
Kent Gootee, Mindel, Scott and Associates, 5151 Jefferson Boulevard, Louisville, Ky. 40219

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

Jon Baker stated the previous plan was not supported by staff. The applicant is now working with staff.

Jon Baker gave a power point presentation discussing changes to the plan (see recording for detailed presentation).

Kent Gootee discussed the access easement (see recording for detailed presentation).

**Deliberation**

Development Review Committee deliberation.

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**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.**

**Revised General District Development Plan with revisions to Binding Elements**

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

**WHEREAS**, there are no significant natural or cultural resources on the subject site. Provisions for tree canopy will be reviewed along with each detailed development plan; and

**WHEREAS**, provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community have been provided; and

**WHEREAS**, open space is not required of the proposal. Open space requirements will be evaluated along with detailed development plans for each site; and

**WHEREAS**, the Metropolitan Sewer District will ensure the provision of adequate drainage facilities on the subject site in order to prevent drainage problems from occurring on the subject site or within the community; and

**WHEREAS**, the Louisville Metro Development Review Committee finds the overall site design is compatible with existing and projected future development in the area; and

**WHEREAS**, the Louisville Metro Development Review Committee further finds the development plan conforms to applicable guidelines and policies of the Comprehensive Plan. Mobility Goal 2, Policy 2 states that developments should coordinate use of rights-of-way with community design policies. Ensure accessible rights-of-way to accommodate mobility needs of all transportation network users. Mobility Goal 2, Policy 3 states that developments should provide adequate street stubs for future roadway connections in new development and redevelopment that support access and contribute to appropriate development of adjacent lands. Goal 2, Policy 6 states that development should ensure that the internal circulation pattern for streets within a development be designed with an appropriate functional hierarchy of streets and appropriate linkages with existing and future development. Mobility Goal 3, Policy 5 states that we should evaluate developments for their impact on the transportation network (including the street, pedestrian, transit, freight movement and bike facilities and services) and air quality. Mobility Goal 3, Policy 10 states that development should ensure that necessary



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improvements occur in accordance with long-range transportation plans and level of mobility criteria for all modes of travel. The proposed network will provide for safe and efficient transportation around and through the subject site for all transportation modes.

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

1. The development shall be in accordance with the approved general district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. Prior to development (includes clearing and grading) of each site or phase of this project, the applicant, developer, or property owner shall obtain approval of a detailed district development plan in accordance with Chapter 11, Part 6. Each plan shall be in adequate detail and subject to additional binding elements.
3. 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, alteration permit or demolition permit) is requested:
  - a. The development plan must receive full construction approval from Develop Louisville, Louisville Metro Public Works and the Metropolitan Sewer District.
  - b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
  - 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 defined access easement creating the private roadway network 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. A copy of the recorded

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instrument shall be submitted to the Division of Planning and Design Services prior to obtaining a building permit.

e. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.

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 audible beyond the property line.

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 property owner shall provide a cross over access easement if the property to the west is ever developed for a nonresidential use. A copy of the signed easement agreement shall be provided to Planning Commission staff upon request.

9. No idling of trucks shall take place within 200 feet of residential development. No overnight idling of trucks shall be permitted on-site.

10. Truck transfer or freight terminal uses. A detailed district development plan for a truck transfer or freight terminal use having loading/unloading doors in a building of 400,000 square feet or greater square feet on an individual lot shall require approval of the Planning Commission and the Louisville Metro Council base on the criteria stated in LDC 11.4.7.E.2.

11. Residential uses. Subject to the exceptions shown in the second sentence below, (i) a residential use having a density greater than permitted in Residential Single-Family District R-4 and (ii) any multi-family use shall require approval of the Planning Commission and the Louisville Metro Council based on the criteria stated in the LDC 11.4.7.E.2. A nursing home, home for the infirm or aged, rehabilitation home, or other

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**CASE NO. 21-DDP-0055**

healthcare residential facility or retirement community shall not require approval of the Louisville Metro Council.

**The vote was as follows:**

**YES: Commissioners Brown, Cheek, Clare, Price and Carlson**

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**NEW BUSINESS**

**CASE NO. 22-WAIVER-0060**

Request:	Building Façade Waiver, Sidewalk Waiver, VUA/LBA Screening Waiver
Project Name:	UPS Flight Simulator Facility Addition
Location:	819 Lotus Ave
Owner:	BT Property, LLC
Applicant:	BT Property, LLC
Representative:	Luckett & Farley
Jurisdiction:	Louisville Metro
Council District:	21 – Nicole George
Case Manager:	Molly Clark, Planner II

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

**Agency Testimony:**

01:18:40 Molly Clark discussed the case summary, standard of review and staff analysis from the staff report.

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

Matt Gullo, Luckett and Farley, 737 South 3<sup>rd</sup> Street, Louisville, Ky. 40202  
Shawn Knight, UPS, 4101 (inaudible), Louisville, Ky. 40229

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

Matt Gullo gave a power point presentation stating the addition is part of an existing facility. The previous approved facility required the same waivers, which were approved. The master plan has changed (see recording for detailed presentation).

Shawn Knight said UPS doesn't have a date set for Phase 3, but that can change with current markets (see recording for detailed presentation).

**Deliberation**

Development Review Committee deliberation.

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

**DEVELOPMENT REVIEW COMMITTEE**

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**NEW BUSINESS**

**CASE NO. 22-WAIVER-0060**

**Waivers:**

**1. Waiver from section 5.8.1.B of the Land Development Code to not provide the required sidewalks along Lotus Avenue. (22-WAIVER-0060)**

**WHEREAS**, the waiver will not adversely affect the adjacent property owners since the adjacent lots are all owned by UPS apart from the apartment complex next door. Many areas of UPS are a secured facility and not open to the public; and

**WHEREAS**, Community Form Goal 2 Policy 7 encourages activity centers to include a mixture of compatible land uses in order to reduce traffic congestion by requiring fewer trips, support and enhance alternative modes of travel, and encourage vitality and a sense of place. Community Form Goal 2 Policy 16 encourages activity centers to be easily accessible by bicycle, car, transit, and for pedestrians and people with disabilities. Large activity centers should be considered for designation as transit nodes. The proposed addition is accessed internally and it not open to the public. Mobility Goal 3 Policy 9 states that when existing transportation facilities and services are inadequate and public funds are not available to rectify the situation, the developer may be asked to make improvements, roughly proportional to the projected impact of the proposed development, to eliminate present inadequacies if such improvements would be the only means by which the development would be considered appropriate at the proposed location. UPS has provided a master plan of different phases showing how pedestrian connectivity will work on the entire site. This site is not open to the public and the site has an excessive frontage along Lotus Ave.; and

**WHEREAS**, the parcel where the addition is being built has an excessive and long frontage along Lotus Ave and Orange Ave. The flight simulator is not open to the public and there is only one main entrance that has an existing pedestrian connection going into an existing parking lot. An employee key FOB is needed to enter the building; and

**WHEREAS**, the Louisville Metro Development Review Committee finds strict application of the provision of the regulation would create an unnecessary hardship on the applicant because this area is intended to be an industrial campus of UPS. All the UPS buildings are secured and not open to the public. The entire area is related to an area wide rezoning for UPS and the Airport. This particular parcel that the addition is being built has excessive frontage on Lotus Ave.; and

**WHEREAS**, the Louisville Metro Development Review Committee further finds Sidewalks do not exist in the area currently. The parcel the proposed addition is being built on and the surrounding EZ-1 parcels are all owned by UPS and are part of a

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master plan for the UPS campus showing some pedestrian connections. Again, all buildings in this area are secured with employee access only.

**2. Waiver from section 10.2.11 of the Land Development Code to not provide the 3 ft continuous screen along Lotus Avenue. (22-WAIVER-0093)**

**WHEREAS**, the waiver will not adversely affect adjacent property owners since UPS owns all the property directly next to the proposed flight simulator facility addition. The applicant is still providing type A trees every 50 ft.; and

**WHEREAS**, Community Form Goal 1, Policy 4 calls for the proposal to ensure new development and redevelopment are compatible with the scale and site design of nearby existing development and with the desired pattern of development within the Form District. Quality design and building materials should be promoted to enhance compatibility of development and redevelopment projects. Economic Development goal 2 policy 3 calls to Encourage design elements that address the urban heat island effect and energy efficiency, such as the planting and preservation of trees, cool roofs and green infrastructure, for new development. Livability Goal 1 Goal 5 calls to encourage development that recognizes and incorporates the unique characteristics of identified general landscape types and native plant communities (e.g., upland hardwood forest) throughout Louisville Metro. Livability Goal 1 Goal 6 calls to encourage the natural process of landscape succession by adding to and connecting a system of natural corridors that can provide habitat areas and allow for migration. The applicant is proposing to continue the line of trees along Lotus Avenue and adding trees where it is currently vacant with no tree canopy; and

**WHEREAS**, the Louisville Metro Development Review Committee finds the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since the applicant is still providing the required type A tree every 50 ft along lotus avenue; and

**WHEREAS**, the Louisville Metro Development Review Committee further finds the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant because they applicant is still providing the required trees along Lotus Ave. The site is also located next to other UPS property where screening from other UPS lots is unnecessary.

**3. Waiver from section 5.6.1.B.1 of the Land Development Code for the proposed building facades to not employ variation of material along no less than 60 percent of their façade length. (22- WAIVER-0094)**

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#### CASE NO. 22-WAIVER-0060

**WHEREAS**, the requested waiver will not adversely affect adjacent property owners because the property next door and across the street are all owned by UPS. The Building is also not open to the public.; and

**WHEREAS**, Community Form Goal 1, Policy 4 calls for the proposal to ensure new development and redevelopment are compatible with the scale and site design of nearby existing development and with the desired pattern of development within the Form District. Quality design and building materials should be promoted to enhance compatibility of development and redevelopment projects. Community Form Goal 1, Policy 12 calls for the proposal to Design parking, loading and delivery areas located adjacent to residential areas to minimize adverse impacts from noise, lights, and other potential impacts. Ensure that parking, loading and delivery is adequate and convenient for motorists and does not negatively impact nearby residents or pedestrians. Parking and circulation areas adjacent to the street shall be screened or buffered. Use landscaping, trees, walls, colonnades or other design features to fill gaps along the street and sidewalk created by surface parking lots. Encourage the placement of parking lots and garage doors behind or beside the building rather than facing the street. The use of alleys for access to parking lots is encouraged, especially in Downtown Louisville, Urban Center Neighborhoods, Traditional Neighborhoods and Traditional Marketplace Corridors. Encourage elimination or reduction of parking minimums in areas readily accessible to transit routes. Community Form Goal 2, Policy 11 calls for ensuring appropriate placement, design and scale of centers in Traditional Neighborhood, Neighborhood and Village Form Districts to ensure compatibility with nearby residences. Community Form Goal 2, Policy 15 calls for parking in activity centers should reflect the area's associated Form District standards to balance safety, traffic, transit, pedestrian, environmental and aesthetic considerations; and

**WHEREAS**, the Louisville Metro Development Review Committee finds the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since the Flight Simulator Facility is not open to the public and does not need to be visible from the public ROW; and

**WHEREAS**, the Louisville Metro Development Review Committee further finds the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant because the flight simulator facility is not open to the public and having the inside of the building visible from the public ROW would cause security concerns.

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

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**RESOLVED**, that the Louisville Metro Development Review Committee does hereby **APPROVE** the following waivers: 1. Waiver from section 5.8.1.B of the Land Development Code to not provide the required sidewalks along Lotus Avenue. (22-WAIVER-0060) **ON CONDITION** that the sidewalk network is addressed during Phase 3 of the site development; 2. Waiver from section 10.2.11 of the Land Development Code to not provide the 3 ft continuous screen along Lotus Avenue. (22-WAIVER-0093) and 3. Waiver from section 5.6.1.B.1 of the Land Development Code for the proposed building facades to not employ variation of material along no less than 60 percent of their façade length. (22- WAIVER-0094).

**The vote was as follows:**


**YES: Commissioners Brown, Cheek, Clare, Price and Carlson**



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**ADJOURNMENT**

The meeting adjourned at approximately 2:37 p.m.



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**Chair**



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**Planning Director**

