

**MINUTES OF THE MEETING
OF THE
DEVELOPMENT REVIEW COMMITTEE
June 16, 2021**

A meeting of the Louisville Metro Development Review Committee was held on Wednesday, June 16, 2021 at 1:00 p.m. via Cisco Webex Video Teleconferencing.

Committee Members present were:

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

Staff Members present were:

Emily Liu, Director, Planning and Design Services
Brian Davis, Planning and Design Manager
Julia Williams, AICP, Planning Supervisor
Molly Clark, Planner I
Laura Ferguson, Legal Counsel
Beth Stuber, Engineering Supervisor
Pamela M. Brashear, Management Assistant

Others present:

Tony Kelly, MSD

The following matters were considered:

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APPROVAL OF MINUTES

JUNE 2, 2021 DRC MEETING MINUTES

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

RESOLVED, that the Development Review Committee does hereby **APPROVE** the minutes of its meeting conducted on June 2, 2021.

The vote was as follows:

YES: Commissioners Brown, Clare and Seitz

ABSTAINING: Commissioners Mims and Carlson

DEVELOPMENT REVIEW COMMITTEE

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OLD BUSINESS

CASE NO. 20-CAT2-0035

Project Name: CVS Pharmacy
Location: 7845 & 7847 Preston Hwy
Owner(s): The Nance Realty Group
Applicant: David Norris & John Rhodes, Foresite Group
Jurisdiction: Louisville Metro
Council District: 24 – Madonna Flood
Case Manager: Molly Clark, Planner I

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. 5th Street.)

Agency Testimony:

00:05:12 Molly Clark discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Kevin Young, Land Design and Development, 503 Washburn Avenue, Louisville, Ky. 40222

Richard Smart, 811 West Aldean Avenue, Chicago, Il. 60657

Summary of testimony of those in favor:

Kevin Young gave a power point presentation discussing the changes requested at the previous meetings.

Richard Smart discussed the materials and elevations. Chair Carlson said he is concerned about the Preston Hwy. view (will be visible). Mr. Smart said he moved the window and canopy to the middle. Commissioner Seitz originally made that suggestion.

Commissioner Mims said landscaping will help screen the back of the building. Commissioner Mims asked if there will be a retaining wall. Mr. Young said that area is state right-of-way. Mr. Smart said they can provide trees around the dumpsters and add some greenery on the other side where cars pull into the drive-through.

Chair Carlson asked if the entrance should be at the corner rather than alongside Outer Loop. Mr. Smart said there are 2 access points. Commissioner Clare asked if a waiver is needed for not providing an entrance on the corner. Molly Clark answered, the LDC states, in the alternative principle buildings an entrance shall be oriented toward a focal point and mentions having the entrance at the street corner.

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Mr. Smart agreed to the following: work on the wall regarding a 'welcome sign'; adding greenery to screen the back of the building; and additional greenery around the dumpsters and drive-through lane.

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.

On a motion by Commissioner Mims, seconded by Commissioner Seitz, the following resolution was adopted.

- 1. Waiver from table 10.3.1 from the Land Development Code to only provide a 5-foot parkway buffer instead of the required 30-foot buffer (21-Waiver-0029).**

WHEREAS, the waiver will not adversely affect adjacent property owners; and

WHEREAS, Guideline 1, policy 4 states that new development and redevelopment are compatible with the scale and site design of nearby existing development. This development is providing some landscaping that the other corner lots in the intersection have provided. The same guideline and policy also states that quality design and building materials should be promoted to enhance compatibility of development and redevelopment projects. This proposed development does enhance compatibility, specifically for the Outer Loop designated parkway. Guideline 34, policy 15 states that parking in activity centers should reflect the area's associated Form District standards to balance safety, traffic, transit, pedestrian, environmental and aesthetic considerations. This site is providing enough environmental and aesthetic considerations. Guideline 41, policy 7 encourages natural features to be integrated within the prescribed pattern of development. The proposed development provides natural features along Preston Hwy.; 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. The applicant is proposing future development on the residual tract where the since demolitions shopping center used to be; and

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WHEREAS, the Louisville Metro Development Review Committee further finds the applicant has incorporated other design measures that exceed the minimums of the form district or compensated for non-compliance. The applicant is proposing future development for the residual lot and is working with a lot with limited space. They are mitigating the reduction in the parkway buffer.

- 2. Waiver from 5.5.2.A.1 from the Land Development Code to not provide consistent building design and materials on each façade facing a public street. (21-Waiver-0030)**

WHEREAS, the waiver will not adversely affect adjacent property owners; and

WHEREAS, Guideline 1, policy 4 states that redevelopment should be compatible with the scale and site design of nearby existing development. The guideline also states that quality design and building materials should be promoted to enhance compatibility of development; and

WHEREAS, the Louisville Metro Development Review Committee finds the extent of waiver of the regulation is the minimum necessary to afford relief to the applicant; and

WHEREAS, the Louisville Metro Development Review Committee further finds the applicant has incorporated other design measure that compensates for non-compliance.

- 3. Waiver from 5.6.1.C.1 and 5.6.1.B.1 from the Land Development Code for the proposed building to not provide 50% minimum of clear windows and doors and to not provide the 60% minimum of variation of detail facing a public street (21-Waiver-0030).**

WHEREAS, the requested waiver will not adversely affect adjacent property owners; 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; and

WHEREAS, the Louisville Metro Development Review Committee further finds the applicant has incorporated other design measures that exceed the minimums of the form district or has compensated for non-compliance with the requirements to be waived.

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CASE NO. 20-CAT2-0035

On a motion by Commissioner Mims, seconded by Commissioner Seitz, the following resolution based on the Standard of Review and Staff Analysis and testimony heard today and at previous meetings was adopted.

RESOLVED, that the Louisville Metro Development Review Committee does hereby **APPROVE** the Category2 Plan and the following waivers: Waiver from table 10.3.1 from the Land Development Code to only provide a 5-foot parkway buffer instead of the required 30-foot buffer (21-Waiver-0029); Waiver from 5.5.2.A.1 from the Land Development Code to not provide consistent building design and materials on each façade facing a public street. (21-Waiver-0030); and a Waiver from 5.6.1.C.1 and 5.6.1.B.1 from the Land Development Code for the proposed building to not provide 50% minimum of clear windows and doors and to not provide the 60% minimum of variation of detail facing a public street (21-Waiver-0030), **SUBJECT** to the following Conditions of Approval:

1. Landscaping on the north and west side shall be installed to screen the north façade and northwest corner of the building.
2. The applicant shall work with the Transportation Cabinet for installing a wall to mitigate the sloped sidewalk and shall work with the council member or representative for signage on the wall.

The vote was as follows:

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

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NEW BUSINESS

CASE NO. 21-MPLAT-0067

Request: An Amendment to a Record Plat
Project Name: Minor Subdivision Plat
Location: 3416 and 3422 Tarragon Road
Owner: Brentwood Property Design & Investment
Applicant: Brentwood Property Design & Investment
Representative: John Miller, Miller/ Wihry MWGLLC
Jurisdiction: Louisville Metro
Council District: 2 – Barbara Shanklin
Case Manager: Julia Williams, AICP, Planning Supervisor

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. 5th Street.)

Agency Testimony:

01:09:42 Julia Williams discussed the case summary, standard of review and staff analysis from the staff report.

Commissioner Brown asked if reducing the size of the open space lot impact the major subdivision approval or does it still meet the requirements. Ms. Williams said major subdivisions don't have open space requirements. Also, was there a homeowner's association that could have been notified of this change? Ms. Williams said there is no homeowner's association for this subdivision.

Commissioner Mims asked if the density is affected. Ms. Williams said no, the zoning classification is R-7.

Commissioner Clare asked if the drainage swales will be looked at by MSD. Ms. Williams said MSD has reviewed and determined that homes can be built outside the flood plain.

The following spoke in favor of this request:

Clarissa Deluna Villaflore, 11200 Cherry Lane, Louisville, Ky.

Summary of testimony of those in favor:

Clarissa Deluna Villaflore said she intends on building single-family homes. The open space will not be built on and will be passed onto the homeowner's association (when formed). The roads will be built out after the homes are finished.

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CASE NO. 21-MPLAT-0067

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.

Record Plat Amendment to create 3 lots from 2 lots in the Cherokee Acres Subdivision in Plat Book 53, Page 5

On a motion by Commissioner Brown, seconded by Commissioner Seitz, 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 Record Plat Amendment to create 3 lots from 2 lots in the Cherokee Acres Subdivision in Plat Book 53, Page 5.

The vote was as follows:

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

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NEW BUSINESS

CASE NO. 21-PARKWAIVER-0006

Request: Parking Waiver
Project Name: KFC
Location: 5603 Preston Hwy
Owner: Indian Trail Legacy Center LLC
Applicant: JRS Restaurant Corp.
Representative: Marv Blomquist
Jurisdiction: Louisville Metro
Council District: 2- Barbara Shanklin
Case Manager: Molly Clark, Planner I

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. 5th Street.)

Agency Testimony:

01:24:20 Molly Clark discussed the case summary, standard of review and staff analysis from the staff report.

Commissioner Mims said the parking study doesn't support the case. Also, why doesn't the applicant have a joint parking agreement? Ms. Clark explained that the new parking regulations has these type of cases (2A fast food restaurants) requiring waivers. The applicant is still below the maximum allowed under the old regulations (53 spaces) as well.

Ms. Williams asked if the parking study took COVID-19 into consideration. Beth Stuber said she allowed them to double the parking because of COVID-19.

Chair Carlson asked for the seating capacity (inside and outside).

The following spoke in favor of this request:

Marv Blomquist, Blomquist Design Group, 10529, Suite D, Timberwood Circle, Louisville, Ky. 40223

Summary of testimony of those in favor:

Marv Blomquist said the parking will decrease from 40 to 31 spaces. The parking spaces in front of the building along Preston Hwy. will be eliminated and a 10-foot landscape buffer area will be put in place (required). There is a crossover access agreement in place. The old Land Development Code allowed for 23 to 56 parking

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spaces and the new code, only 6 to 11 spaces. A restaurant can't operate with only 11 parking spaces. The parking waiver is justified.

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.

A Parking Waiver from table 9.1.3B of the Land Development Code to allow proposed parking lot to exceed the maximum parking spaces from 11 spaces to 31 spaces (20 space increase)

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, the parking waiver is in compliance with the Comprehensive plan since the current minimum and maximums that were recently changed have shown to not be consistent with what is actually needed for fast food restaurants. By providing 31 spaces, the applicant is providing enough spaces for employees and customers as well as making significant improvements to the site by decreasing impervious area and providing all the landscaping plantings and screening required. They are also providing spaces to accommodate online pick up orders and delivery drivers; and

WHEREAS, the applicant conducted a parking study using existing fast food restaurants that were located on arterial or collector level roads. The need for parking matches what the parking study showed as the maximum number of parking spaces used during peak hours; and

WHEREAS, the Louisville Metro Development Review Committee finds the requirements found in Table 9.1.3B do not allow for the provision of parking needed to accommodate the parking spaces needs of the proposed use. A parking study was performed for similar facilities that demonstrated a higher parking need than allowed by the Land Development Code; and

WHEREAS, the Louisville Metro Development Review Committee further finds the requested increase is the minimum needed to do so because the parking study done on other fast food restaurants on arterial or collector level roads shows that at least 11

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spaces were used during peak hours during lunch. The applicant is proposing 31 spaces. The other restaurants in the study have 24-37 total spaces per fast food restaurant. The applicant is also providing spaces to accommodate online pick up orders and delivery drivers.

RESOLVED, that the Louisville Metro Development Review Committee does hereby **APPROVE** the Parking Waiver from table 9.1.3B of the Land Development Code to allow proposed parking lot to exceed the maximum parking spaces from 11 spaces to 31 spaces (20 space increase).

The vote was as follows:

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

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NEW BUSINESS

CASE NO. 21-DDP-0041

Request:	Revised Detailed District Development Plan with a waiver
Project Name:	920 Dandridge Ave
Location:	920 Dandridge Avenue, 900-904 Charles Street
Owner:	Douglas Peters and Stephen Duncan
Applicant:	Douglas Peters and Stephen Duncan
Representative:	LJB Inc.
Jurisdiction:	Louisville Metro
Council District:	10- Pat Mulvihill
Case Manager:	Molly Clark, Planner I

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. 5th Street.)

Agency Testimony:

01:45:25 Molly Clark discussed the case summary, standard of review and staff analysis from the staff report. Commissioner Clare asked if there's precedent for not providing landscaping in between the 2 shotgun homes. Ms. Clark said there's usually walkways in between the homes, not plantings (usually shaded as well).

The following spoke in favor of this request:

Karl Lentz, LJB, 4010 Dupont Circle, Suite 478, Louisville, Ky. 40207
Nick LaFerriere, 906 Charles Street, Louisville, Ky. 40204

Summary of testimony of those in favor:

Karl Lentz gave a power point presentation. The waiver is to eliminate the fence screening between the houses. The plantings have been adjusted to be in compliance. The house designs will work well with the neighborhood. Commissioner Mims asked if parking would be provided on Charles St. while building the parking lot. Mr. Lentz said yes.

Nick LaFerriere said he agrees with not providing shrubbery between his house and the subject site as well as the fence being 6 feet tall, instead of 8 feet.

Deliberation

Development Review Committee deliberation.

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NEW BUSINESS

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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.

Waiver from table 10.2.4 of the Land Development Code to reduce the required screening between R-6 and C-1 properties from 8 feet to 6 feet and eliminate a portion of the screen requirements between the existing and proposed house on 904 and 906 Charles Street.

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, the waiver will not adversely affect adjacent property owners as adequate screening and buffering will be provided around the subject site; and

WHEREAS, Plan 2040 calls for protection of residential areas, roadway corridors and public spaces from visual intrusions and mitigation when appropriate, appropriate transitions between uses that are substantially different in scale and intensity or density, and to mitigate the impact caused when incompatible developments occur adjacent to one another through the use of landscaped buffer yards, vegetative berms and setback requirements to address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances, that parking, loading and delivery areas located adjacent to residential areas should be designed to minimize noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered and ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. The intent of landscape buffer areas is to create suitable transitions where varying forms of development adjoin, to minimize the negative impacts resulting from adjoining incompatible land uses, to decrease storm water runoff volumes and velocities associated with impervious surfaces, and to filter airborne and waterborne pollutants. The applicant has indicated that all plantings will meet that is required by Chapter 10 of the Land Development Code. The waiver will not violate specific guidelines of the Comprehensive Plan. Adequate screening and buffering will be provided around the subject site; 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 all plantings will be provided on the subject site. Screening will also be provided but only 2 feet less than the required 8 feet; and

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WHEREAS, the Louisville Metro Development Review Committee further finds the strict application would deprive the applicant of the reasonable use of the land. The owner has agreed to provide all required plantings for the buffer. The plantings will be clustered near the buffer area with final locations to be shown on the landscape plan.

RESOLVED, that the Louisville Metro Development Review Committee does hereby **APPROVE** the Waiver from table 10.2.4 of the Land Development Code to reduce the required screening between R-6 and C-1 properties from 8 feet to 6 feet and eliminate a portion of the screen requirements between the existing and proposed house on 904 and 906 Charles Street.

The vote was as follows:

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

Revised Detailed District Development plan with an amendment 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 do not appear to be any environmental constraints or historic resources on the subject site. Tree canopy requirements along with all other landscaping requirements of the Land Development Code will be provided 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 preliminarily approved the plan; and

WHEREAS, 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

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

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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 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 Louisville Metro Department of Inspections, Permits and Licenses, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
 - c. The 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 minor subdivision plat to be approved by Louisville Metro Planning and Design Services prior to receiving construction permit approval.

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4. Prior to any site disturbance permit being issued and prior to any clearing, grading or issuance of a site disturbance permit, a site inspection shall be conducted by PDS staff to ensure proper placement of required tree protection fencing in accordance with the approved Tree Preservation Plan.

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. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the June 16th, 2021 Development Review Committee

The vote was as follows:

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

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ADJOURNMENT

The meeting adjourned at approximately 3:11 p.m.

DocuSigned by:

Chair

DocuSigned by:

Planning Director