

**MINUTES OF THE MEETING
OF THE
DEVELOPMENT REVIEW COMMITTEE
August 3, 2016**

A meeting of the Development Review Committee was held on August 3, 2016 at 1:00 p.m. in the Old Jail Building, located at 514 W. Liberty Street, Louisville, Kentucky.

Committee Members present were:

David Tomes, Chairman
Rob Peterson, Vice Chairman
Jeff Brown
Robert Kirchdorfer
Emma Smith

Committee Members absent were:

No one

Staff Members present were:

Emily Liu, Director, Planning and Design Services
Joseph Reverman, Assistant Director
Brian Mabry, Planning & Design Supervisor
Ross Allen, Planner I
Joel P. Dock, Planner II
Julia Williams, Planning & Design Supervisor
Becky Gorman, Metro Historic Preservation Specialist
John Carroll, Legal Counsel
Tammy Markert, Transportation Planning
Pat Barry, MSD representative
Chris Cestaro, Management Assistant

The following matters were considered:

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APPROVAL OF MINUTES

Approval of the minutes of the July 20, 2016 Development Review Committee meeting

00:07:10 On a motion by Commissioner Peterson, seconded by Commissioner Smith, the following resolution was adopted.

RESOLVED, that the Development Review Committee does hereby **APPROVE** the minutes of its meeting conducted on July 20, 2016.

The vote was as follows:

YES: Commissioners Brown, Kirchdorfer, Peterson, and Smith.

NO: No one.

NOT PRESENT: No one.

ABSTAINING: Commissioner Tomes.

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NEW BUSINESS

CASE 16DEVPLAN1135

Request: Revised Detailed District Development Plan and Waivers
Project Name: International Airport
Location: 5808 Johnsontown Road
Owner(s): Riverport Distribution Center, LLC
Applicant: Scott Taylor, International Airport Centers
Representative: Ann Richard, Land Design & Development Inc.
Jurisdiction: Louisville Metro
Council District: 14 – Cindi Fowler

Case Manager: Laura Mattingly, 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.)

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.

Agency Testimony:

00:08:37 Brian Mabry presented the case on behalf of Laura Mattingly and showed the site plan (see staff report and recording for detailed presentation.)

00:11:37 Mr. Mabry corrected a slight (10-foot) error in the staff report regarding square footage; the correct amount is 370,798 square feet of total building area.

00:13:12 Mr. Mabry read the requested amendments to binding elements into the record (see recording.)

00:14:10 He said there was one note added to the plan by Transportation Planning's comments (#15 of the General Binding Elements. The note reads:

Old Johnsontown Road improvements along property frontage are required to provide 12 feet from centerline pavement widening (minimum 2-foot widening) and 6-8 foot shoulders per Metro Public Works.

The following spoke in favor of the request:

Ann Richard, Land Design & Development Inc, 503 Washburn Avenue, Louisville, KY 40222

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Summary of testimony of those in favor:

00:15:25 Ann Richard, Land Design & Development, discussed the project history and the landscape buffer area (see recording for detailed presentation.)

00:18:16 In response to a question from Commissioner Brown, Mr. Mabry said staff can approve a landscape plan which includes an amenity area.

The following spoke in opposition to the request:

No one spoke.

The following spoke neither for nor against the request:

No one spoke.

- **Revised Detailed District Development Plan review for office/warehouse**
- **Waiver #1 - Waiver of LDC Section 5.12.2.A.1 to allow the proposed amenity area to be less than 10% of the total building square footage.**
- **Waiver #2 - Waiver of LDC Section 5.5.4.B.1 to allow drive lanes and parking to encroach into required 50 foot Landscape Buffer Area and to not provide the 6' berm and continuous screening.**

00:19:51 On a motion by Commissioner Brown, seconded by Commissioner Peterson, the following resolution was adopted:

(RDDDP) WHEREAS, the Louisville Metro Development Review Committee finds that LOJIC does not indicate any environmental constraints on the site except for the floodplain on portions of the eastern edge of the 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 have been provided through the proposed vehicular access and the addition of sidewalks proposed along Johnsontown Road and within the development. Transportation has given their preliminary approvals; and

WHEREAS, the Committee further finds that, while the proposed amenity area does not meet the Land Development Code requirement, the applicant is providing 1,950 square

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feet of amenity area, equaling 11% of the office area, which appears to be appropriate for the development; and

WHEREAS, the Committee further finds that the Metropolitan Sewer District has approved the preliminary development plan and will ensure the provisions 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 land uses are compatible with the existing and future development of the area, as warehouse uses are prevalent in the area; and

WHEREAS, the Committee further finds that this development conforms to the Land Development Code and the Comprehensive Plan with the exception of the Landscape Buffer Area and amenity area requirements for which relief is being sought; and

(Waiver #1) WHEREAS, the Committee further finds that this waiver will not adversely affect adjacent property owners as the amenity area is a requirement that serves only the employees of the development; and

WHEREAS, the Committee further finds that the waiver will not violate specific guidelines of Cornerstone 2020. Guideline 4, Policy 3 encourages open space created by new development that helps meet the needs of the community and Guideline 4, Policy 7 calls for the for the continuous maintenance of that open space. These guidelines are not violated as the amenity area is still being provided and will be maintained; just at a smaller scale that the developer feels is more appropriate for this development; and

WHEREAS, the Committee further finds that the extent of this waiver of the regulation is the minimum necessary to afford relief to the applicant as the applicant is providing an amenity area that is 11% of the office area and is more appropriate considering the needed size of the warehouse; 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 land and create an unnecessary hardship as the warehouse is large in relation to the number of employees on site therefore providing the amenity area based on the building size would be in excess of what is needed. It would be a hardship to accommodate such a large amenity area when much of the site is needed for the building; and

(Waiver #2) WHEREAS, the Committee further finds that this waiver will not adversely affect adjacent property owners as the R-1 zoned property surrounding the subject site

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is owned by Louisville Metro for flood mitigation purposes and it is highly unlikely that it would ever be developed as it has significant environmental constraints; and

WHEREAS, the Committee further finds that the waiver will not violate specific guidelines of Cornerstone 2020. Guideline 3, policy 9 of Cornerstone 2020 calls for the protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigate when appropriate. Guideline 3, policies 21 and 22 calls for 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. Guideline 3, policy 24 states that parking, loading and delivery areas located adjacent to residential areas should be designed to minimize the impacts from noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered. Guideline 13, policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. Guideline 13, Policy 6 calls for screening and buffering to mitigate adjacent incompatible uses. The 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 air borne and water borne pollutants. The waiver will not violate specific guidelines of Cornerstone 2020 as the property surrounding the subject site is highly unlikely to ever be developed and is heavily wooded, serving as a buffer to nearby residences; and

WHEREAS, the Committee further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the required 6' berm and continuous screen would be unnecessary and redundant given the context of the abutting property; as the parking and maneuvering encroachments into the 50' LBA will be minimal; and, as the proposal will nevertheless meet the intent of this particular regulation; 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 Landscape Buffer Area and screening would be redundant and the space is needed to accommodate the size of the warehouse and associated Vehicle Use Area; and

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WHEREAS, the Committee finds that, based the staff report and on the evidence and testimony presented today, that all of the applicable Guidelines of Cornerstone 2020 and the Comprehensive Plan are being met; now, therefore be it

RESOLVED, the Louisville Metro Development Review Committee does hereby **APPROVE** the Revised Detailed District Development Plan; the requested Waiver of LDC Section 5.12.2.A.1 to allow the proposed amenity area to be less than 10% of the total building square footage; the requested Waiver of LDC Section 5.5.4.B.1 to allow drive lanes and parking to encroach into required 50 foot Landscape Buffer Area and to not provide the 6' berm and continuous screening; approve the changes in binding elements on page 9 in the staff report.

The vote was as follows:

YES: Commissioners Brown, Kirchdorfer, Peterson, Smith and Tomes.

NO: No one.

NOT PRESENT: No one.

ABSTAINING: No one.

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NEW BUSINESS

CASE NO. 16DEVPLAN1137

Request: Waivers associated with parking expansion
Project Name: MFDH Parking Expansion
Location: 9200 Leesgate Road
Owner: D. Paul Finn, BFW Partnership of KY
Applicant: William Becknell, MFDH Properties, LLC
Representative: Clifford Ashburner, Dinsmore & Shohl, LLP
Jurisdiction: City of Hurstbourne
Council District: 18 – Marilyn Parker

Case Manager: Laura Mattingly, 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.)

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.

Agency Testimony:

00:21:15 Brian Mabry presented the case on behalf of Laura Mattingly and showed the site plan (see staff report and recording for detailed presentation.)

00:25:20 In response to a question from Commissioner Brown, Mr. Mabry said that, during intake, the request was originally filed as a Category 3; subsequently, it was determined that a Category 2B was needed instead.

The following spoke in favor of this request:

Clifford Ashburner, Dinsmore & Shohl, 101 South Fifth Street Suite 2500, Louisville, KY 40202

Ashley Bartley, Qk4, 1046 East Chestnut Street, Louisville, KY 40204

Summary of testimony of those in favor:

00:26:24 Clifford Ashburner, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.)

00:31:42 Ashley Bartley discussed drainage and underground detention.

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CASE NO. 16DEVPLAN1137

The following spoke in opposition to this request:

Richard McCord, 9101 Nottingham Parkway, Louisville, KY 40222

Kathy Linares, 711 Nottingham Parkway, Louisville, KY 40222

Summary of testimony of those in opposition:

00:34:28 Richard McCord submitted a letter of opposition into the record (a copy was distributed to each Committee member by Mr. Mabry.) See recording for Mr. McCord's presentation. He said his main objection is having the road behind his property removed, and using that to "make a massive barrier". He said the office has used the road for overflow parking. He expressed concerns about that whole corner being developed. Mr. McCord also discussed comments he received from the City of Louisville about whether or not that road is public or private.

00:46:25 Kathy Linares expressed concern about no appropriate buffers being provided for the neighbors; also, no buffering being provided along Leesgate. She discussed the existing driveway and a possible 7 feet that could allow the applicant to do fencing, landscaping, etc.

The following spoke neither for nor against the proposal:

No one spoke.

Rebuttal:

00:49:24 Mr. Ashburner said he has found no records of a public road being on this property or the subject road being closed; also, staff did not find any road closure in their review of the property. Regarding buffering along Leesgate, he said there is approximately double the amount of required landscaping material planned there.

00:53:00 In response to a question from Commissioner Tomes, Mr. Ashburner and Ms. Bartley discussed parking space length and traffic flow, particularly with the first row.

00:57:11 After some discussion, Mr. Ashburner said eliminating the first four spaces would offer some maneuvering room and save one mature tree.

00:57:54 In response to a question from Commissioner Kirchdorfer, Mr. Ashburner described discussions he/the applicant has had with Mr. McCord and other adjoining property owners. He also discussed proposed lighting (low, bollard-style lighting.)

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NEW BUSINESS

CASE NO. 16DEVPLAN1137

01:03:08 **Commissioners' deliberation.**

01:07:06 In response to a question from Commission Kirchdorfer, Mr. Mabry resumed the podium to point out and discuss buffer limitation.

01:11:43 On a motion by Commissioner Brown, seconded by Commissioner Kirchdorfer, the following resolution was adopted:

RESOLVED, the Louisville Metro Development Review Committee does hereby **CONTINUE this case to the August 17, 2016 Development Review Committee meeting** so that the applicant can resolve issues with the buffering and the existing drive lane.

The vote was as follows:

YES: Commissioners Brown, Kirchdorfer, Peterson, Smith, and Tomes.

NO: No one.

NOT PRESENT: No one.

ABSTAINING: No one.

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NEW BUSINESS

CASE NO. 16DEVPLAN1130

Request: A Community Facility Review for the construction of an MSD CSO Basin.
Project Name: Portland CSO Basin
Location: 901 North 26th Street
Owner: Jeff Mosley, representing Louisville Metro Government
Applicant: Bob Woosley – Heritage Engineering, Inc.
Representative: Bob Woosley – Heritage Engineering, Inc.
Jurisdiction: Louisville Metro
Council District: 5 – Cheri Bryant Hamilton

Case Manager: Ross Allen, 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.)

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.

Agency Testimony:

01:11:36 Ross Allen presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.) He noted that MSD has had two public meetings about this project.

The following spoke in favor of this request:

Bob Woosley, Heritage Engineering, Inc., 642 South Fourth Street Suite 100, Louisville, KY 40202

Summary of testimony of those in favor:

01:19:01 Bob Woosley, the applicant's representative, presented the applicant's case (see recording for detailed presentation) and briefly explained how the basin would work.

01:25:53 Mr. Woosley addressed some questions that had arisen about odor mitigation.

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NEW BUSINESS

CASE NO. 16DEVPLAN1130

The following spoke in opposition to this request:

No one spoke.

The following spoke neither for nor against the proposal:

No one spoke.

01:28:10 On a motion by Commissioner Brown, seconded by Commissioner Peterson, the following resolution was adopted:

WHEREAS, the Louisville Metro Development Review Committee finds that, based the staff report, the applicant's justification and the evidence and testimony presented today, that all of the applicable Guidelines of Cornerstone 2020 and the Comprehensive Plan are being met; now, therefore be it

RESOLVED, the Louisville Metro Development Review Committee does hereby **APPROVE** the requested construction of a new Combined Sewer Overflow (CSO) Storage Basin on property located at 901 North 26th Street.

The vote was as follows:

YES: Commissioners Brown, Kirchdorfer, Peterson, Smith, and Tomes.

NO: No one.

NOT PRESENT: No one.

ABSTAINING: No one.

****The Committee went into recess for 10 minutes.****

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NEW BUSINESS

CASE NO. 16DEVPLAN1115

Request: Revised District Development Plan and revision to Binding Element #13
Project Name: Westport Road Apartments
Location: 8211 Old Westport Road
Owner: Arlington West Port LLC
Applicant: Arlington Properties, LLC
Representative: William Bardenwerper, Bardenwerper Talbott & Roberts PLLC
Gresham Smith & Partners
Jurisdiction: Louisville Metro
Council District: 7 – Angela Leet

Case Manager: Julia Williams, RLA, 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.)

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.

Agency Testimony:

01:29:38 Julia Williams presented the case and showed the site plan. She added that there is evidence in the applicant’s justifications from the change in zoning that the preservation of the historic home on the site was an integral part of the justification for the change in zoning.

01:33:44 Becky Gorman, Historic Preservation Specialist, gave background about the house and the National Register (see recording for detailed presentation.) She added that the original plan called for preservation/renovation and adaptive re-use of the house. She said that moving the house could damage the structure and make it lose its National Historic Register status.

01:39:39 In response to a question from John Carroll, Legal Counsel for the Planning Commission, Ms. Williams said that the removal of the historic home was the only change being proposed to the development plan at this time. In response to a question from Commissioner Brown, Ms. Williams added that an access drive had been adjusted in 2015.

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NEW BUSINESS

CASE NO. 16DEVPLAN1115

The following spoke in favor of this request:

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

Amin Omidy, Gresham Smith & Partners, 101 South Fifth Street, Louisville, KY 40202

Summary of testimony of those in favor:

01:40:11 William Bardenwerper presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.)

01:47:15 Amin Omidy, an applicant's representative, discussed topography constraints.

01:49:47 In response to a question from Commissioner Kirchdorfer, Mr. Bardenwerper said the applicant was not specific about the planned adaptive re-use for the historic home.

The following spoke in opposition to this request:

Brainerd Palmer-Ball, 8207 Old Westport Road, Louisville, KY

Summary of testimony of those in opposition:

01:51:46 Brainerd Palmer-Ball, an adjoining resident, said the "context" of the historic home has already been lost because there are 200+ apartment units on the site now. He said the house is "buried" by the apartment buildings. He said he was present at the public hearing, when the rezoning was approved for this site, and recalled that the developer made a point to emphasize the importance of the home and its preservation. He said that large developments like this one have "ruined the quality of life" along Westport Road, especially due to bad traffic issues. He described how most of the trees had been taken down around the house and the springhouse. He is concerned that, if the home is moved, it would not survive intact and it would lose its National Historic Register status.

The following spoke neither for nor against the proposal:

William Fred Booker

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CASE NO. 16DEVPLAN1115

Summary of testimony of those neither for nor against:

02:02:03 William Fred Booker said he did not have anything to add but agreed with most of what Mr. Palmer-Ball had stated.

Rebuttal

02:02:58 Mr. Bardenwerper resumed the podium for rebuttal (see recording for detailed presentation.)

02:05:47 Mr. Carroll asked, if the home were moved to a new site, if it would be restored there. Mr. Bardenwerper said he thought that the architect would like to keep the “farmhouse” look, rather than restore it to the “log cabin” that is underneath that.

02:07:09 Commissioners’ deliberation.

02:11:19 Mr. Bardenwerper announced that he was withdrawing the request.

No vote or other action was taken.

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NEW BUSINESS

CASE NO. 16PARK1005

Request:	Parking Waiver to exceed the maximum
Project Name:	PLS Check Cash, 4721 Dixie Highway
Location:	4721 Dixie Highway
Owner:	VRE Dixie Highway, LLC
Applicant:	Vertical Construction Company
Representative:	BTM Engineering, Inc.
Jurisdiction:	Louisville Metro
Council District:	3 – Mary Woolridge 12 – Rick Blackwell

Case Manager: **Joel P. Dock, 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.)

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.

Agency Testimony:

02:12:49 Joel Dock presented the case and showed the site plan (see staff report and recording for detailed presentation.)

02:17:10 In response to a question from Commissioner Brown, Mr. Dock described the parking and the unrestricted access to Rockford Lane. He said the applicant is improving the site and the parking situation.

02:18:30 In response to a question from Commissioner Kirchdorfer, Mr. Dock discussed proposed sidewalks on the plan (proposed along Dixie, with no sidewalk proposed along the south side of Rockford Lane.)

The following spoke in favor of this request:

Christopher Brown, BTM Engineering, 3001 Taylor Springs Drive, Louisville, KY 40220

Summary of testimony of those in favor:

02:20:31 Christopher Brown, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.)

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CASE NO. 16PARK1005

The following spoke in opposition to this request:

Councilperson Rick Blackwell, 6712 Marion, Louisville, KY

Summary of testimony of those in opposition:

02:25:08 Councilperson Rick Blackwell discussed the Dixie neighborhood plan and the proliferation of open parking lots. He said the allowed parking should be “ample” and does not need an extension.

The following spoke neither for nor against the proposal:

No one spoke.

Rebuttal:

02:27:59 Mr. Brown said the parking study was done during a non-peak weekday and a peak day, and discussed the results of the study.

Discussion:

02:29:14 Commissioners’ deliberation.

02:31:11 Commissioner Smith asked about landscaping. In response to a question from Commissioner Brown, Mr. Brown discussed peak demand traffic.

02:36:23 On a motion by Commissioner Peterson, seconded by Commissioner Smith, the following resolution was adopted:

WHEREAS, the Louisville Metro Development Review Committee finds that the requested Parking Waiver is in compliance with the Comprehensive Plan. Guideline 7 Policy 10 states that parking requirements should take into account the density and relative proximity of residences to businesses in the market area, the availability and use of alternative modes of transportation, and the character and pattern of the form district. Additional considerations including hours of operation and opportunities for shared parking may be factored on a site by site basis. On-site parking standards should reflect the availability of on-street and public parking. A parking study provided by the applicant demonstrates the need for this specific use, check cashing facility, to offer the number of spaces requested due to the parking needs of employees on a maximum shift and peak hour customer demand, specifically for pay-day on Friday. The subject site does not have on-street parking available and sidewalks along the abutting

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Rockford lane are restricted to the North side which limits pedestrian access from residential areas; and

WHEREAS, the Committee further finds that the applicant has proposed to redesign the site in compliance with the regulations of the Land Development Code and in accordance with applicable guidelines of the Comprehensive Plan. The applicant has reduced the number of existing spaces on-site resulting in a redevelopment of the site that is to the benefit of surrounding uses with respect to landscaping, accessibility, and pedestrian connection to Dixie Highway; and

WHEREAS, the Committee further finds that the requirements found in Table 9.1.2 do not accurately depict the parking needs of the proposed use and the requested reduction will accommodate the parking demand to be generated by the proposed use as the parking study demonstrates a need for the number of spaces requested based on the number of employees on a maximum shift and peak hour demand of similar facilities throughout Jefferson County. The parking requirements of Table 9.1.2 are based on square footage and the number of employees on maximum shift alone exceeds those requirements. Once peak parking demand is incorporated, a demand for 8-10 additional spaces is needed beyond the 15 employee spaces; and

WHEREAS, the Committee further finds that this request is the minimum number of spaces that is needed on site to accommodate for employees and customers, specifically during peak hours of demand; and

WHEREAS, the Committee finds that, based the staff report and on the evidence and testimony presented today, that all of the applicable Guidelines of Cornerstone 2020 and the Comprehensive Plan are being met; now, therefore be it

RESOLVED, the Louisville Metro Development Review Committee does hereby **APPROVE** the requested parking waiver to exceed the maximum required parking by eleven spaces, for a total of twenty-three spaces.

The vote was as follows:

YES: Commissioners Brown, Kirchdorfer, Peterson, Smith, and Tomes.

NO: No one.

NOT PRESENT: No one.

ABSTAINING: No one.

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NEW BUSINESS

CASE NO. 16WAIVER1026

Request:	Sidewalk Waiver
Project Name:	Brookfield Subdivision
Location:	Rockcrest Way
Owner:	Brookfield Development, LLC
Applicant:	Brookfield Development, LLC
Representative:	Mindel Scott & Associates, Inc.
Jurisdiction:	Louisville Metro
Council District:	19 – Julie Denton

Case Manager: **Joel P. Dock, 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.)

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.

Agency Testimony:

02:37:53 Joel Dock presented the case and showed the site plan (see staff report and recording for detailed presentation.) Mr. Dock added that he had received one letter of opposition from a Rockcrest resident.

02:41:10 Mr. Dock said that, between the writing/publishing of the staff report and today's meeting, new information was presented which could now appear to justify the waiver.

The following spoke in favor of this request:

Kathy Linares, David Mindel, and Vic Peek - Mindel Scott & Associates, 5151 Jefferson Boulevard, Louisville, KY 40219

Summary of testimony of those in favor:

02:42:04 Kathy Linares, Mindel Scott & Associates, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.) She especially pointed out conflicts with existing utilities and topographical features.

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CASE NO. 16WAIVER1026

02:56:03 Ms. Linares discussed crosswalks. She pointed out a particular sidewalk and said the applicant is willing to construct a crossing ramp at an intersection (see recording) and crosswalks, whichever is required or requested.

02:57:23 In response to a question from Commissioner Peterson, Ms. Linares said there is only one other area in the subdivision that does not have a sidewalk. David Mindel, also an applicant's representative, said there may be a few cul-de-sacs that do not have sidewalks.

02:58:09 Vic Peek, an applicant's representative from Mindel Scott & Associates, discussed utility placement in more detail. Ms. Linares discussed tree planting location/s.

The following spoke in opposition to this request:

No one spoke.

The following spoke neither for nor against the proposal:

No one spoke.

03:00:19 Commissioners' deliberation.

03:01:10 In response to a question from Commissioner Smith, Ms. Linares said she is not aware of any walking paths in the subdivision. Using aerial photos, Mr. Mindel described how this plan ties in to other subdivisions.

03:06:32 On a motion by Commissioner Peterson, seconded by Commissioner Smith, the following resolution was adopted:

WHEREAS, the Louisville Metro Development Review Committee finds that the proposed waiver conforms to the Comprehensive Plan and the intent of the Land Development Code. There are no homes fronting this portion of Rockcrest Way and this request is only to eliminate the sidewalk on the east side; since there is an existing sidewalk on the west side which provides a pedestrian connection along this road and since there are existing utilities which conflict with the provision of the sidewalk. The applicant proposes, as an alternative, to plant additional trees to assist in reducing the urban heat island, and therefore this request conforms to the Comprehensive Plan and the intent of the Land Development Code; and

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WHEREAS, the Committee further finds that this stretch of Rockcrest Way is bordered by open space with no residential lots fronting on it other than at the street intersections and the area is impacted by several existing utility lines that as installed impede the construction of the sidewalk. The applicant proposes, as an alternative, to plant an additional 75 trees to assist in reducing the urban heat island, possibly in coordination with Trees Louisville or in a location(s) recommended by the City's urban forester and for all of these reasons this request is in keeping with the Comprehensive Plan and LDC; and

WHEREAS, the Commission further finds that granting the waiver will not adversely impact adjacent property owners, since no residential lots directly abut this stretch of Rockcrest Way and since a sidewalk shall be constructed on the east side of the road providing a continuous pedestrian connection; and

WHEREAS, the Committee further finds that, during the construction of infrastructure and specifically the underground electric supply, rock was found to be close to the surface. The placement of the 3 phase electric and the associated electric vault, manhole and resulted in a berm to cover these items which now negatively impact the provision of a sidewalk in this location. It is an unnecessary hardship when no residential lots abut the frontage, when a sidewalk is provided on the other side of the road and especially when the planting of additional trees where we have a deficit of tree canopy may be more beneficial to the community; and

WHEREAS, the Committee finds that, based the applicant's justification and on the evidence and testimony presented today, that all of the applicable Guidelines of Cornerstone 2020 and the Comprehensive Plan are being met; now, therefore be it

RESOLVED, the Louisville Metro Development Review Committee does hereby **APPROVE** the requested Sidewalk Waiver to omit the sidewalk requirement along East side right-of-way of Rockcrest Way between Rockcrest View Lane and Green Crest Circle; and **ON CONDITION** that the applicant will provide 75 trees, either on site or off-site, per staff's recommendation.

The vote was as follows:

YES: Commissioners Kirchdorfer, Peterson, Smith, and Tomes.

NO: No one.

NOT PRESENT: No one.

ABSTAINING: Commissioner Brown.

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NEW BUSINESS

CASE NO. 16DEVPLAN1057

Request: Revised Detailed District Development Plan for a 3-story medical office
Project Name: Chamberlain Pointe
Location: 4640 Chamberlain Lane
Owner: Julep Holdings, LLC
Applicant: Julep Holdings, LLC
Representative: William Bardenwerper, Bardenwerper, Talbott & Roberts PLLC
Jurisdiction: Louisville Metro
Council District: 17 – Glen Stuckel

Case Manager: Joel Dock, 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.)

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.

Agency Testimony:

03:09:49 Joel Dock presented the case and showed the site plan (see staff report and recording for detailed presentation.)

03:15:42 Mr. Dock read a revised binding element into the record:
“The development shall not exceed 155,199 square feet of gross floor area.”

The following spoke in favor of this request:

William Bardenwerper, Bardenwerper Talbott & Roberts PLLC, 1000 North Hurstbourne Parkway, Louisville, KY 40222

Summary of testimony of those in favor:

03:17:04 William Bardenwerper, the applicant’s representative, presented the applicant’s case and showed a Power Point presentation (see recording for detailed presentation.)

The following spoke in opposition to this request:

No one spoke.

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The following spoke neither for nor against the proposal:

No one spoke.

03:21:50 On a motion by Commissioner Brown, seconded by Commissioner Peterson, the following resolution was adopted:

WHEREAS, the Louisville Metro Development Review Committee finds that the proposed development is in a location of mixed commercial and office uses abutting Brownsboro Road and the Gene Snyder Expressway. Scenic views from the Gene Snyder expressway will be mitigated with a 50' landscape buffer area and an architectural style along the façade facing the expressway that compliments the overall development of the area; and

WHEREAS, the Committee further finds that provisions for safe and efficient vehicular and pedestrian transportation within the development and the community is provided through a pedestrian connection to the public sidewalk and an internal network of walks and amenities, as well as unified circulation preserved through the recording of a cross access agreement prior to building permits. Crosswalks and pedestrian connection to the public sidewalk are provided, as well as bike racks for the proposed medical office expansion; and

WHEREAS, the Committee further finds that the development site provides landscape buffer areas and outdoor amenities for the enjoyment of patrons and the public; and

WHEREAS, the Committee further finds that the Metropolitan Sewer District has approved the preliminary development plan and will ensure the provisions 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 as the development is in a location of mixed commercial and office uses abutting Brownsboro Road and the Gene Snyder Expressway. The architectural style of the proposed building compliments surrounding developments in both scale and design; 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 (LDC), with the exception of those requirements that have been previously waived or variances granted. Guideline 2, Policy 5 encourages a

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mixture of compatible commercial uses in order to reduce trips and provide a sense of place. The proposed development incorporates a mixture of commercial and office uses that can be accessed with a single trip to the site; including, banks, convenience store, gas, restaurants, retail, and medical offices; and

WHEREAS, the Committee finds that, based the staff report and on the evidence and testimony presented today, that all of the applicable Guidelines of Cornerstone 2020 and the Comprehensive Plan are being met; now, therefore be it

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

Proposed Binding Elements 9-21-05, 9-18-95, 9-110-77

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/alternations not so referred shall not be valid.

2. The site shall be developed with the following square footages and uses:

~~A. Building A. 114,798 square feet of retail, office and restaurant~~

~~B. Building B. 5,875 square feet of bank~~

~~C. Building C. 1,250 square feet of bank~~

~~D. Building D. 3,750 square feet of convenience store~~

~~E. Building E. 12,000 square feet of retail~~

~~TOTAL: 137,673 SQUARE FEET.~~

A. Building A. 84,352 square feet of office

B. Building B. 27,140 square feet of retail, office, and restaurant

C. Building C. 21,200 square feet of retail, office, and restaurant

D. Building D. 5,507 square feet of bank

E. Building E. 1,250 square feet of bank

F. Building F. 3,750 square feet of convenience store & gas

G. Building G. 12,000 square feet of office

TOTAL: 155,199 SQUARE FEET

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3. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site, except for those permitted by the Land Development Code, EXCEPT THAT pennants may be affixed to parking lot lighting poles provided they do not advertise a product or service sold on site or state a brand name. Prior to the display of pennants the planning commission general counsel must determine that the pennants are permitted by the LDC.
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, 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.
6. 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.
7. 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.

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8. 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.
9. The materials and design of proposed structures shall be substantially the same as depicted in the renderings presented at the November 15, 2005 and December 1, 2005 Planning Commission meetings, **and the Development Review Committee meeting on August 3, 2016.**
10. The façade elevations shall be in accordance with applicable forms district standards and shall be approved by PDS staff prior to construction permit approval.
11. The applicant shall provide documentation showing that the development complies with all the regulations from Chapter 4, Part 1, Section 3, Lighting, prior to the issuance of a construction permit. These regulations include the following items:
 - a. Mounting Height Limit – 16 feet.
 - b. Luminaire Shielding – 100% cut-off at 90 degrees.
 - c. Canopy Lighting Level – 50 FC maximum. d. Light Trespass – 0.3 FC maximum.
12. The address number shall be displayed on a structure prior to requesting a certificate of occupancy for that structure.
13. **Outdoor Activity.** No loading, trash pickup (i.e., dumpster loading and unloading, pallet or trash removal from the site), trash compacting audible beyond a residential property line, or outdoor construction or maintenance, parking lot cleaning or sweeping (except snow and ice), or drive-through window operation shall occur on the property between the hours of 10 PM and 7 AM.
14. **Deliveries.** No deliveries shall be made to or on the site between the hours of 10 PM and 7 AM.

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15. **Delivery Truck Parking On-Site.** (a) No delivery trucks shall be allowed to park on the property within 180 feet of the Old Brownsboro Gardens property line between the hours of 10 PM and 7 AM.

(b) The property owner shall post signs at appropriate locations on the rear of the shopping center building prohibiting delivery truck parking as described in (a).
16. **Vehicle Noise.** No vehicle shall be allowed to park on the property at any time between the hours of 10 PM and 7 AM with its engine running or sound system operating if the engine or sound system is audible beyond a residential property line.
17. **Freestanding Shopping Center Identification Sign.** The freestanding shopping center identification sign shown as being located in the right-of-way adjacent to KY 22 shall not be erected until the right-of-way comes under the same ownership as the shopping center.
18. **Fence.** The main component of the fence to be placed along the boundary of the site adjacent to Old Brownsboro Gardens shall be wood, unless the Old Brownsboro Gardens Homeowners Association expresses to Applicant its preference for a vinyl fence product in lieu of wood. Any such preference shall be stated in writing with copy to the Department of Planning and Design Services.
19. Signs on the west (Snyder Freeway) side and the south (rear) side of the main shopping center building prohibited; one exception. (a) No attached sign on the western side of the main shopping center building shall face Snyder Freeway.
(b) Except for the signs on the south (rear) side of the main shopping center building referred to in Binding Element No. 15, the rear of the main shopping center building (facing Old Brownsboro Gardens) shall have no attached sign.
20. **Regarding the 14 parking spaces shown on the original "Humphrey Tract" which have been deleted on the approved general/detailed district development plan; landscaping and shopping center ID sign.** (a) 14 parking spaces all shown as partially located within the state right-of-way on the original general/detailed district development plan filed with the zone change application on April 5, 2005 may be approved by DPDS staff; staff approval of a revised plan showing parking spaces (and landscaping and a shopping center ID sign) may be granted upon proof of acquisition of the title of this right-of-way from the Commonwealth of Kentucky ("Commonwealth").

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- (b) Until acquisition of right-of-way and approval of the revised general/detailed district development plan referred to in (a) above the development square footage shall be reduced to the extent of the 14 parking spaces. "Shell" building permits may be issued for construction of the development as is attributable to the 14 parking spaces prior to acquisition of the right-of-way provided no occupancy of the space attributable to the 14 parking spaces occurs until the 14 parking spaces are available for use.
21. **Temporary limitation on occupancy of 4000 SF general office space.** (a) The property owner/developer shall not request a certificate of occupancy for 4,000 square feet of general office space as shown on the approved general/detailed district development plan for Planning Commission Docket No. 9-21-05 on file with Louisville Metro Planning and Design Services until government funding for the construction of roadway improvements on KY 22 between Chamberlain Lane and HWY 1694 has been included in the Six Year Plan in accordance with Kentucky Transportation Cabinet plans.
- (b) Prior to the approval of government funding referred to in (a) above, "shell" building permits may be issued for the construction of the 4,000 square feet of general office space.
22. **Shopping Center Identification Signs** (a) "Monument Sign – 1" and "Monument Sign – 2" may be internally lit to the extent of the portion of the sign cabinet relating to the shopping center name. The remainder of these signs shall be externally lit. (b) The shopping center identification sign/gas sign "Monument Sign – 3" at Brownsboro Road and Chamberlain Lane may be internally lit.
23. **"Changeable copy signs/reader board signs."** Changeable copy signs/reader board signs shall not be permitted within the 30 foot buffer along Brownsboro Road.
24. **"Changing Image Signs."** Changing Image signs shall not be permitted within the 30 foot buffer along Brownsboro Road.
25. **Height of the berm adjacent to Ky. 22.** The height of the berm shall be measured from the grade of Ky. 22 (rather than measured from the grade of the parking lot).

The vote was as follows:

YES: Commissioners Brown, Kirchdorfer, Peterson, Smith, and Tomes.

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NO: No one.

NOT PRESENT: No one.

ABSTAINING: No one.

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NEW BUSINESS

CASE NO. 16DEVPLAN1114

Request:	Detailed District Development Plan for a 264-unit multi-family development
Project Name:	The Madison by Fenley
Location:	4805 Olympia Park Plaza
Owner:	Springdale Venture, LLC
Applicant:	Springdale Venture, LLC
Representative:	William Bardenwerper, Bardenwerper Talbott & Roberts PLLC
Jurisdiction:	Louisville Metro
Council District:	16 – Kelly Downard

Case Manager: **Joel Dock, 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.)

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.

Agency Testimony:

03:22:52 Joel Dock presented the case and showed the site plan (see staff report and recording for detailed presentation.) He discussed the noise buffer requirement; he said staff has received the applicant's noise study and also communication from the architect on the site.

The following spoke in favor of this request:

William Bardenwerper, Bardenwerper Talbott & Roberts PLLC, 1000 North Hurstbourne Parkway, Louisville, KY 40222

Summary of testimony of those in favor:

03:28:37 William Bardenwerper, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.)

03:40:34 Mr. Dock said one binding element was accidentally left off from the staff report. He read that binding element into the record (binding element #8.)

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The following spoke in opposition to this request:

No one spoke.

The following spoke neither for nor against the proposal:

No one spoke.

03:43:16 On a motion by Commissioner Brown, seconded by Commissioner Peterson, the following resolution was adopted:

(Waiver) **WHEREAS**, the Louisville Metro Development Review Committee finds that the waiver will not adversely affect adjacent property owners as the planting and screening requirements of chapter 10 of the Land Development Code will be met; and

WHEREAS, the Committee further finds that the waiver will not violate specific guidelines of Cornerstone 2020. Guideline 3, policy 9 calls for the protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigate when appropriate. Guideline 3, policies 21 and 22 calls for 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. 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 air borne and water borne pollutants. The proposed reduction in the landscape buffer area provides the necessary space for parking facilities, drive lanes, and residential units while also considering the scale and design of surrounding uses. All required plantings and screening will be provided to mitigate visual intrusions of the structures upon the Gene Snyder Expressway. Noise from the expressway will be mitigated using an appropriate selection of building materials that will also not be a detriment to passers-by on the expressway; and

WHEREAS, the Committee further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the site has been designed to accommodate residential uses with their associated parking infrastructure in a compatible manner to surrounding uses while providing the required plantings that would be required if the buffer remained at 50 feet; and

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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 multi-family development has been designed specifically to fit this site within the scale and design of surrounding uses and the desires of the applicant; and

(Revised Detailed District Development Plan) **WHEREAS**, the Committee further finds the proposed development is in a location of mixed office, residential, hotel, and commercial facilities. There does not appear to be any natural resources to be conserved on-site. Scenic views from the Gene Snyder Expressway will be preserved by meeting the planting requirements of the Chapter of the Louisville Metro Land Development Code; and

WHEREAS, the Committee further finds that provisions for safe and efficient vehicular and pedestrian transportation within the development and the community are provided through an internal network of walks and drives connecting parking areas, residential buildings, and amenities spaces. A private easement will be granted and constructed to serve the development site and existing and future adjacent uses; and

WHEREAS, the Committee further finds that the development site provides landscape and common areas for the enjoyment of residents and their guests while also exceeding the amount of required open space and meeting the planting requirements of Chapter 10 of the Louisville Metro land Development Code; and

WHEREAS, the Committee further finds that the Metropolitan Sewer District has approved the preliminary development plan and will ensure the provisions 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 as the development is in a location of mixed residential, commercial and office uses abutting The architectural style of the proposed building compliments surrounding developments in both scale and design; 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 (LDC) as Guideline 3, Policies 1, 2, 3, 7, & 10 encourage compatibility of all new development within the context of the surrounding area and a variety of housing options appropriate for the development area and the community. These policies also encourage compatibility between residential development and the adverse impacts from noise or transit corridors. The proposed development provides four types of housing ranging from studio apartments to three bedroom units in close

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proximity to commercial activities and services while being designed to complement and benefit the style of surrounding facilities. Noise from the Gene Snyder expressway will be mitigated using building materials designed to insulate the residential units from the adverse impact of this major transit corridor; and

WHEREAS, the Committee further finds that, based the staff report, the applicant's justification, and the evidence and testimony presented today, that all of the applicable Guidelines of Cornerstone 2020 and the Comprehensive Plan are being met; now, therefore be it

RESOLVED, the Louisville Metro Development Review Committee does hereby **APPROVE** the requested Revised Detailed District Development Plan and a landscape buffer area Waiver from Section 5.7.1.E of the Land Development Code to reduce the required 50' Gene Snyder Expressway buffer to 30 feet, **SUBJECT** to the following binding elements:

All binding elements from the approved General Development Plan are applicable to this 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. The development shall not exceed 288,967 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, alteration permit or demolition permit) is requested:

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- a. The development plan must receive full construction approval from Louisville Metro Department of Codes and Regulations Construction Permits and Transportation Planning Review and the Metropolitan Sewer District.
 - b. A minor plat shall be recorded creating the lots 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 the approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
 - 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.
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. 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 shall contribute \$80.00 per unit towards future signal upgrades to be provided at the signalized intersections of KY 22 and North Hurstbourne; KY 22 and Summitt Plaza; KY 22 and Interstate 265 southbound on-ramp; KY 22 and Norton Healthcare Boulevard; and KY 22 and Chamberlain Lane. The contribution shall be required prior to construction approval. *(Added at the August 3, 2016 DRC meeting.)*

The vote was as follows:

YES: Commissioners Brown, Kirchdorfer, Peterson, Smith, and Tomes.

NO: No one.

NOT PRESENT: No one.

ABSTAINING: No one.

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ADJOURNMENT

The meeting adjourned at approximately 4:55 p.m.

Chair

Planning Director