

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO DEVELOPMENT REVIEW COMMITTEE MEETING
November 16, 2022**

A meeting of the Louisville Metro Development Review Committee was held on Wednesday, November 16, 2022 at 1:00 p.m. at the Old Jail Courtroom, located at 514 West Jefferson Street, Louisville, KY 40202 and also via Cisco Webex Video Teleconferencing.

Commissioners present:

Rich Carlson, Chair
Patti Clare, Vice Chair
Jeff Brown
Glenn Price
Michelle Pennix

Commissioners absent:

Suzanne Cheek

Staff members present:

Brian Davis, Assistant Director, Planning & Design Services
Julia Williams, Planning & Design Supervisor
Chris French, Planning & Design Supervisor
Molly Clark, Planner II
Dante St. Germain, Planner II
Jay Lockett, Planner II
Clara Schweiger, Planner I
Travis Fiechter, Legal Counsel
Laura Ferguson, Legal Counsel
Sean McDowell, Management Assistant
Chris Cestaro, Management Assistant (minutes)

Other staff present:

Beth Stuber, Transportation
Tony Kelly, MSD

The following matters were considered

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APPROVAL OF MINUTES

Minutes of the November 2, 2022 Development Review Committee meeting.

00:03:32 On motion by Commissioner Brown, seconded by Commissioner Price, the following resolution was adopted:

RESOLVED, that the Louisville Metro Development Review Committee does hereby **APPROVE** the minutes of its meeting conducted on November 2, 2022.

The vote was as follows:

YES: Commissioners Clare, Brown, Price, and Carlson.

ABSTAIN: Commissioner Pennix.

ABSENT: Commissioner Cheek.

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NEW BUSINESS

CASE NUMBER 22-WAIVER-0160

NOTE: This case was taken out of order. It was heard first because it will be CONTINUED to the November 30, 2022 DRC meeting.

Request:	CONTINUED TO NOV 30th 2022 DRC... Building Design Waiver
Project Name:	Klondike Lane Retail
Location:	3606 ½ Klondike Lane
Owner:	Alvarado Raul Magallanes Garcia Floric Magallanes
Applicant:	Charles Podgursky
Representative:	Charles Podgursky
Jurisdiction:	Louisville Metro
Council District:	26 – Brent Ackerson
Case Manager:	Molly Clark, Planner II

Agency Testimony:

00:04:54 Brian Davis, Assistant Director of Planning & Design Services, said the applicant has requested that this case be continued.

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

00:05:47 On a motion by Commissioner Brown, seconded by Commissioner Clare, the following resolution was adopted:

RESOLVED, the Louisville Metro Development Review Committee does hereby **CONTINUE** this case to the November 30, 2022 Development Review Committee meeting.

The vote was as follows:

YES: Commissioners Clare, Brown, Price, Pennix, and Carlson.

AABSENT: Commissioner Cheek.

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NEW BUSINESS

CASE NUMBER 22-DDP-0048

Project Name: Glenmary Club
Location: 10200 Glenmary Farm Drive
Owner: AL CAT LLC/Valley Station Towne Center LLC
Applicant: Chris Thieneman
Representative: Dentons Bingham Greenebaum LLP
Jurisdiction: Louisville Metro
Council District: 22 – Robin Engel
Case Manager: Chris French, Planning & Design Supervisor

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

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

Agency Testimony:

00:07:26 Chris French noted that this case was CONTINUED from the November 2, 2022 DRC meeting. On November 7, 2022, The Board of Zoning Adjustment approved the Conditional Use Permit for a private proprietary club, and added some Conditions of Approval (see minutes from the BOZA meeting conducted on November 7, 2022.) He presented the case and responded to questions from the Committee members (see staff report and recording for detailed presentation.)

The following spoke in favor of the proposal:

Jeff McKenzie, Dentons Bingham Greenebaum LLP, 3500 PNC Tower, Louisville, KY 40202

Chris Thieneman, 2606 Alia Circle, Louisville, KY 40222

Derek Triplett, Land Design & Development, 503 Washburn Ave # 101, Louisville, KY 40222

Summary of testimony of those in favor:

00:09:47 Jeff McKenzie discussed the BOZA meeting and confirmed that there were no changes to the development plan. He responded to questions from the

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Commissioners regarding parking and potential seating (see recording for detailed discussion.)

00:12:37 Derek Triplett, an applicant's representative, and Mr. McKenzie answered questions from Commissioners Carlson and Brown regarding the outside perimeter of the building, seating capacity, and parking (see recording for detailed discussion.)

The following spoke in opposition to the proposal:

Don Cox, 500 W. Jefferson Street, Louisville, KY 40202

Summary of testimony of those in opposition to the proposal:

00:18:48 Don Cox, the opposition's representative, also discussed on-street parking concerns, noise from the pickleball court, and requested a binding element requiring proof of membership for any wedding/event attendees (see recording for detailed presentation.)

00:26:55 In response to a question from Commissioner Carlson, Mr. Cox said he had informed the applicant's attorney of the opposition's binding element requests but had not discussed them with him.

Rebuttal:

00:28:36 Jeff McKenzie addressed Mr. Cox's concerns during rebuttal. He said Mr. Cox's proposed binding element restrictions were already discussed at the BOZA meeting. He reiterated that this is a "membership only" club and the use has been agreed to with Conditions of Approval by BOZA. He responded to questions from the Commissioners regarding lighting on the pickleball court, parking, seating, and hours of operation (see recording for detailed presentation.)

00:34:35 Commissioner deliberation.

00:35:30 The Commissioners discussed a suggested binding element from Commissioner Brown which read::

"The applicant would ensure any on-street parking associated with this use does not obstruct any public right-of-way."

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See recording for detailed discussion. It was decided to not include this as a binding element.

00:37:30 Mr. French reviewed what was discussed in previous meetings and also at the BOZA meeting on November 7, 2022 and how the parking and noise issues could be handled going forward (see recording for detailed discussion.)

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

00:42:58 On a motion by Commissioner Brown seconded by Commissioner Price, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Development Review Committee finds that the proposed development includes the reuse of existing development on the site. New development proposed on the property will not negatively impact natural resources because this development is located away from natural resource areas; and

WHEREAS, the Committee further finds that provisions for safe and efficient vehicular and pedestrian transportation will be provided using existing access points for both vehicles and pedestrians. These areas will be improved based on review and approval by Transportation Planning; and

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

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

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

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WHEREAS, the Committee further finds that the development plan conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code; now, therefore be it

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

All binding elements from the approved General District Development Plan in case #9-67-88 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. Prior to any permit application being submitted (including but not limited to building, parking lot, change of use, or site disturbance permit):
 - a. The development plan must receive full construction approval from Louisville Metro Department of Codes and Regulations, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 of the Land Development Code prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
3. A certificate of occupancy must be received from the appropriate building 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

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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. Lighting will not be provided at the pickleball court.

The vote was as follows:

YES: Commissioners Clare, Brown, Price, Pennix, and Carlson.

ABSENT: Commissioner Cheek.

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OLD BUSINESS

CASE NUMBER 21-DDP-0121

NOTE: This case was taken out of order. It was heard first because it will be CONTINUED to the November 30, 2022 DRC meeting.

Project Name:	Proposed Grocery Store
Location:	10201 Brownsboro Road
Owner(s):	The Deerfield Co.
Applicant:	Dinsmore & Shohl, LLP
Jurisdiction:	Louisville Metro
Council District:	17 – Markus Winkler
Case Manager:	Molly Clark, Planner II

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

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

Agency Testimony:

00:44:01 Molly Clark said she received emails this morning from interested parties. These were printed out and handed out to the Committee members before she began her presentation. She presented the case, showed a Power Point presentation, and responded to questions from the Commissioners (see staff report and recording for detailed presentation).

The following spoke in favor of the proposal:

Cliff Ashburner, PNC Tower, 101 S 5th St #2500, Louisville, KY 40202

Diane Zimmerman, Diane Zimmerman Traffic Engineering LLC, 12803 High Meadows Pike, Louisville, KY 40059

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

Summary of testimony of those in favor:

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00:49:01 Cliff Ashburner the applicant's representative, presented the applicant's case, showed a Power Point presentation, and responded to questions from the Committee members (see recording for detailed presentation and discussion.)

00:58:37 Diane Zimmerman presented the traffic impact study, including entrances and traffic flow (see recording for detailed presentation.)

01:01:00 Mr. Ashburner resumed and concluded the presentation. Hours of operation and traffic were discussed by the Committee members, Mr. Ashburner, and Ms. Zimmerman; trees and landscaping were discussed by Ann Richard, landscape architect, and Julia Williams, Planning & Design Supervisor (see recording for detailed discussions.)

01:10:54 Commissioner Brown and Mr. Ashburner discussed the sidewalks and signal poles, which did not appear to be within the public right-of-way.

01:12:31 In response to a question from Commissioner Clare, Mr. Ashburner explained how a driver could take a left turn onto Brownsboro Road from the development. Other turning traffic patterns were discussed. In response to a question from Commissioner Pennix, Mr. Ashburner said there are no connections directly between the surrounding residential developments (Worthington Glen) and the site.

The following spoke neither for nor against the proposal ("Other"):

Janet Mattern, 5305 Pacer Lane Unit 103, Louisville, KY 40241

Bridget Wingate, 10303 Trotters Point Unit 301, Louisville, KY 40241

Summary of testimony of those neither for nor against the proposal:

01:17:04 Janet Mattern, representing the Worthington Glen Condo Association, referred to emails sent to the case manager with their concerns (emails are on file.) Concerns include noise pollution, light pollution, safety concerns, and the back of their building, which include tennis & pickleball courts, a swimming pool, and a clubhouse. The proposed freight loading area is right behind their swimming pool, and they are concerned about privacy and buffering. They are currently having problems with drivers cutting through Worthington Glen to get from both Ballardsville Road and Brownsboro Road to avoid the congested intersections (see recording for detailed presentation.)

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01:25:40 Bridget Wingate, the president of the Worthington Glen Condo Association, said the main concern is traffic, particularly turning left, and traffic cut-throughs.

Rebuttal:

01:29:44 Mr. Ashburner delivered rebuttal (see recording for detailed presentation.) He said there will be restrictions on overnight parking in the Publix's lot; there will be security at night; hours of operation will be 7 a.m. to 10:00 p.m.; lighting as addressed in the Land Development Code; and other concerns (see recording for detailed presentation.)

01:40:08 In response to a question from Commissioner Carlson, Mr. Ashburner agreed that there will be a binding element to the effect that the applicant will work with adjacent property owners on their landscaping plan, particularly in respect to the swimming pool area. Mr. Ashburner said yes, and discussed the tree canopy requirements (see recording for detailed presentation.)

Deliberation:

01:41:21 Committee deliberation.

01:41:27 Commissioner Brown expressed concern about not the level of access on the new driveway. Diane Zimmerman discussed the traffic impact studies that were dated December, 2021 and the May 6, 2022. She said the May 6th study was when the State insisted that traffic from Tract 2 be included, and it all needed to be routed out to 1694. The delay Commissioner Brown is seeing is if the entire site is developed with no access to Hickory Forest (see recording for detailed discussion.)

01:45:21 Mr. Ashburner said there is no building being proposed today on Tract 2.

01:46:19 In response to questions from Commissioner Clare, Mr. Ashburner and Commissioner Brown discussed why the access onto Ballardsville a right-only (see recording.)

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.

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Waivers:

(Waiver #1) - Waiver from 5.6.1.C.1 to not provide 50% clear windows and doors to facades facing the right of way. (21-WAIVER-0165)

(Waiver #2) Waiver from 10.2.4.B.3 to allow a landscape buffer to have a utility easements overlap over 50% (22-WAIVER-0210)

01:48:00 On a motion by Commissioner Brown, seconded by Commissioner Clare, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

(Waiver #1) WHEREAS, the Louisville Metro Development Review Committee finds that the requested waiver will not adversely affect adjacent property owners because the applicant is providing all the requiring plantings along Brownsboro Road and Ballardsville Road which will create screening of the facades from the public right of way; and

WHEREAS, the Committee further finds that 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,

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traffic, transit, pedestrian, environmental and aesthetic considerations.

WHEREAS, the Committee further finds that the extent of the waiver of the regulation is not the minimum necessary to afford relief to the applicant since the applicant is providing all the requiring plantings along Brownsboro Road and Ballardsville Road which will create screening of the facades from the public right of way; and

WHEREAS, the Committee further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant because the applicant is providing all the requiring plantings along Brownsboro Road and Ballardsville Road which will create screening of the facades from the public right of way; and

(Waiver #2) WHEREAS, the Committee further finds that the waiver will not adversely affect adjacent property owners since the applicant is proposing to still provide all the required plantings in the landscape buffer areas; and

WHEREAS, the Committee further finds that 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 6 calls to discourage non-residential expansion into existing residential areas unless applicant can demonstrate that any adverse impact on residential uses will be mitigated. Evaluation of impacts may include, but not be limited to, displacement of residents, loss of affordable housing units, traffic, parking, signs, lighting, noise, odor, and stormwater. Appropriate transitions from non-residential to residential uses should depend on the pattern of development of the Form District and may include natural vegetative buffers, landscaping or the use of higher density residential between lower density residential and/or non-residential. Community Form Goal 1, Policy 9 calls to ensure an appropriate transition between uses that are substantially different in scale and intensity or density of development. The transition may be achieved through methods such as landscaped buffer yards, vegetative berms, compatible building design and materials, height restrictions and setback requirements. Community Form Goal 1, Policy 10 calls to mitigate the impacts caused when incompatible developments unavoidably occur adjacent to one another. Buffers should be used between uses that are substantially different in intensity or density. Buffers should be variable in design and may include landscaping, vegetative berms and/or

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walls and should address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances. Residential uses that develop adjacent to agricultural land uses may be required to provide screening and buffering to protect both the farmer and homeowners. 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. Community Form Goal 1, Policy 20 calls to mitigate adverse visual intrusions when there are impacts to residential areas, roadway corridors, and public spaces. 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; and

WHEREAS, the Committee further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since the applicant is still going to provide all the required plantings in the required landscape buffer area; and

WHEREAS, the Committee further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant since the applicant is still going to provide all the required plantings in the landscape buffer area; now, therefore be it

RESOLVED, the Louisville Metro Development Review Committee does hereby **APPROVE** the requested **(Waiver #1)** Waiver from 5.6.1.C.1 to not provide 50% clear windows and doors to facades facing the right of way. (21-WAIVER-0165) **AND** the requested **(Waiver #2)** Waiver from 10.2.4.B.3 to allow a landscape buffer to have a utility easement overlap over 50% (22-WAIVER-0210).

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The vote was as follows:

YES: Commissioners Clare, Brown, Price, Pennix, and Carlson.

ABSENT: Commissioner Cheek.

Revised General and Detailed District Development plan with Proposed General and Detailed Plan Binding Elements

01:49:24 On a motion by Commissioner Brown, seconded by Commissioner Clare, the following resolution, based on the staff report and evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Development Review Committee finds that there do not appear to be any environmental constraints or historic resources on the subject site. Tree canopy requirements of the Land Development Code will be provided on the subject site; and

WHEREAS, the Committee further finds that provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community has been provided, and Metro Public Works and the Kentucky Transportation Cabinet have approved the preliminary development plan; and

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

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

WHEREAS, the Committee further finds that the overall site design and land uses are compatible with the existing and future development of the area. Appropriate landscape buffering and screening will be provided to screen adjacent properties and roadways; and

WHEREAS, the Committee further finds that the development plan conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code; now, therefore be it

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RESOLVED, the Louisville Metro Development Review Committee does hereby **APPROVE** the requested Revised General and Detailed District Development plan with Proposed General and Detailed Plan Binding Elements, **SUBJECT** to the following binding elements:

General Plan 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. 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. 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)
 - a. The development plan must receive full construction approval from Construction Review, 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

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- requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
- d. A reciprocal access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be created between the adjoining property owners and recorded. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services prior to obtaining a building permit.
6. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
7. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
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 property owner shall provide a cross over access easement if the property to the east is ever developed for a nonresidential use. A copy of the signed easement agreement shall be provided to Planning Commission staff upon request.
10. No idling of trucks shall take place within 200 feet of single-family residences. No overnight idling of trucks shall be permitted on-site.

Detailed Plan Binding Elements

All binding elements from the approved General Development Plan are applicable to this site, in addition to the following:

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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. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
3. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
4. Before any permit (including but not limited to building, parking lot, change of use, site disturbance is requested:
 - a. The development plan must receive full construction approval from Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. Encroachment permits must be obtained from the Kentucky Transportation Cabinet.
 - c. The appropriate variance shall be obtained from the Board of Zoning Adjustment to allow the development as shown on the approved district development plan.
 - d. 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.
 - e. A minor subdivision plat creating the lots as shown on the approved district development plan shall be recorded prior to issuance of any building permits.
 - f. A reciprocal access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be created between the adjoining property owners and recorded. A

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- copy of the recorded instrument shall be submitted to the Division of Planning and Design Services prior to obtaining a building permit.
- g. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the November 16, 2022 DRC meeting. A copy of the approved rendering is available in the case file on record in the offices of the Louisville Metro Planning Commission.
5. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
6. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system 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 East 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 residences. No overnight idling of trucks shall be permitted on-site.
10. If transit is added along Brownsboro Road or Ballardsville Road in the future, the Owner/Developer shall dedicate a 5 ft x 25 ft public facilities easement parallel to the roadway right-of-way in the locations shown on the development plan.

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11. A Certificate of Occupancy for any building shall not be requested or issued until the earlier to occur of completion (excluding grass, landscaping and sidewalks) of the KTC/Metro Works KY 22 road improvements project along the subject property's frontages or October 31, 2012.
12. The right-of-way shall be dedicated at the intersection of Brownsboro Road and Ballardsville Road.
13. The applicant shall work with the Worthington Glen Condominium Association regarding the installation of plantings adjacent to the Worthington Glen pool and community center.

The vote was as follows:

YES: Commissioners Clare, Brown, Price, Pennix, and Carlson.

ABSENT: Commissioner Cheek.

DEVELOPMENT REVIEW COMMITTEE MINUTES
November 16, 2022

NEW BUSINESS

CASE NUMBER 21-MPLAT-0180

Project Name:	Minor Subdivision Plat
Location:	1770 Plantside Dr
Owner(s):	Mavtar LLC
Applicant:	Mavtar LLC
Jurisdiction:	Jeffersontown
Council District:	11 – Kevin Kramer
Case Manager:	Julia Williams

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

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

Agency Testimony:

01:59:32 Julia Williams presented the case, showed a Power Point presentation, and responded to questions from the Commissioners (see staff report and recording for detailed presentation).

The following spoke in favor of the proposal:

No one spoke.

The following spoke in opposition to the proposal:

No one spoke.

02:02:58 Commissioner 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.

02:03:09 On a motion by Commissioner Brown seconded by Commissioner Price, the

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NEW BUSINESS

CASE NUMBER 21-MPLAT-0180

following resolution, based on the Staff Finding and evidence and testimony heard today, was adopted:

RESOLVED, the Louisville Metro Development Review Committee does hereby **APPROVE** the requested Record Plat Amendment to create two lots from one lot within the Bluegrass Research & Industrial Park in Plat Book 24, Page 16.

The vote was as follows:

YES: Commissioners Clare, Brown, Price, Pennix, and Carlson.

ABSENT: Commissioner Cheek.

DEVELOPMENT REVIEW COMMITTEE MINUTES

November 2, 2022

NEW BUSINESS

CASE NUMBER 22-CAT3-0013

Project Name: 2nd and Market Hotel
Location: 127, 129, 131, 133, 137, 139 and 141 W Market Street,
123 S 2nd Street
Owner: Truvine Derby City LLC
Applicant: Zyyo LLC
Representative: Land Design & Development
Jurisdiction: Louisville Metro
Council District: 4 – Jecorey Arthur
Case Manager: Jay Luckett, AICP, Planner II

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

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

Agency Testimony:

02:00:00 Jay Luckett presented the case, showed a Power Point presentation, and responded to questions from the Commissioners (see staff report and recording for detailed presentation). The applicant is proposing a hotel on the property. The Downtown Development Review Overlay Committee reviewed the request on November 2, 2022 and approved the proposed design of the structure.

The following spoke in favor of the proposal:

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

Mose Putney, 525 E. Market Street, Louisville, KY 40202

Summary of testimony of those in favor:

02:02:20 Ann Richard presented the applicant's case, showed a Power Point presentation, and responded to questions from the Commissioners (see recording for detailed presentation and discussion). The site is currently vacant and unused. The applicant will be constructing a six-story hotel to occupy this corner. There are no

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proposed drop-offs on either Marker or Second Street. There is a proposed turnaround within the site away from the right-of-way.

02:08:20 Mose Putney spoke in support of the application. Putney explained the façade design and the types of uses that will be incorporated into the hotel.

The following spoke in opposition to the proposal:

No one spoke.

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

02:11:15 On a motion by Commissioner Brown, seconded by Commissioner Clare, the following resolution, based on the staff report and evidence and testimony heard today, was adopted:

RESOLVED, the Louisville Metro Development Review Committee does hereby **APPROVE** the requested Category 3 Plan.

The vote was as follows:

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

DEVELOPMENT REVIEW COMMITTEE MINUTES

November 2, 2022

NEW BUSINESS

CASE NUMBER 22-DDP-0105

Project Name: Bubbas 33 at Southpointe Commons
Location: 10435 Southpointe Boulevard
Owner: Bardstown Capital Corp
Applicant: Bardstown Capital Corp
Representative: Wyatt Tarrant & Combs
Jurisdiction: Louisville Metro
Council District: 22 – Robin Engel
Case Manager: Jay Luckett, AICP, Planner II

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

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

Agency Testimony:

02:12:15 Jay Luckett presented the case, showed a Power Point presentation, and responded to questions from the Commissioners (see staff report and recording for detailed presentation). The applicant is requesting a revision to change the previously approved medical office use to a restaurant. The building location is also flipped from the previously approved plan.

The following spoke in favor of the proposal:

Jon Baker, Wyatt Tarrant & Combs, 400 W. Market Street, Suite 2000, Louisville, KY 40202

Gregory Michalski, 3324 Bon Air Avenue, Louisville, KY 40220

Summary of testimony of those in favor:

02:14:44 Jon Baker presented the applicant's case, showed a Power Point presentation, and responded to questions from the Commissioners (see recording for detailed presentation and discussion). The owner believes will be a great complementary use to the grocery store that was recently approved.

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CASE NUMBER 22-DDP-0105

02:18:10 Commissioner Brown asked for clarification about which elevation faces which direction. Brown stated the building has been designed to provide visual interest internally and externally. Greg Michalski answered Commissioner Price's question about the number of flags on the site (six).

The following spoke in opposition to the proposal:

No one spoke.

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

02:20:44 On a motion by Commissioner Brown, seconded by Commissioner Cheek, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

WHEREAS, the Development Review Committee finds the site does not have any natural or historic resources,

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,

WHEREAS, there are no open space requirements pertinent to the current proposal,

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,

WHEREAS, 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 except where waivers have been approved. Buildings and parking lots will meet all required setbacks, and

WHEREAS, the development plan conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code, therefore be it

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NEW BUSINESS

CASE NUMBER 22-DDP-0105

RESOLVED, the Louisville Metro Development Review Committee does hereby **APPROVE** the requested Revised Detailed District Development plan with 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 review and binding elements. Additional review shall include but not be limited to setbacks, landscape and screening requirements, parking calculation, pedestrian connections, focal point, signage, and building design.
3. 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.
4. Use of the subject site shall be limited to retail, restaurants, bank and movie theater and other uses permitted in the C-2 district. There shall be no other use of the property unless prior approval is obtained from the Planning Commission or the LD&T Committee. Notice of a request to amend this binding element shall be given in accordance with the Planning Commission's policies and procedures. The Planning Commission/LD&T Committee may require a public hearing on the request to amend this binding element.
5. There shall be no direct vehicular access from parking lot to Wingfield Rd until an additional connection to Brentlinger Lane is provided and Wingfield Road *pavement* improvements are made.
6. Signs shall be in accordance with Chapter 8 of the Land Development Code.
7. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.

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NEW BUSINESS

CASE NUMBER 22-DDP-0105

8. 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.

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

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

b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways, but only if any of the developer's improvements encroach into the state right-of-way.

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 road closure approval for a portion of Wingfield Rd, Case # 11641, shall be approved prior to recording a record plat.

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.

f. The façade elevations shall be in accordance with applicable form district standards and shall be approved by PDS staff or DRC Committee prior to construction permit approval.

10. 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 otherwise provided in these binding elements or specifically waived by the Planning Commission.

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11. There shall be no outdoor music (live, piped, radio or amplified) or outdoor PA system audible beyond the boundary of the development site.

12. 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.

13. The materials of proposed structures shall be substantially the same as depicted in the Pattern Book as presented at the March 10, 2022 LD&T meeting.

14. The façade elevations shall be in accordance with applicable form district standards and shall be approved by PDS staff or DRC Committee prior to construction permit approval.

15. No overnight idling of trucks shall be permitted on-site.

16. At the time a building permit is requested, the applicant shall submit a certification statement to the permit issuing agency, from an engineer, or other qualified professional stating that the lighting plan of the proposed development is in compliance with Chapter 4 Part 1.3 of the land development code and shall be maintained thereafter. No building permits shall be issued unless such certification statement is submitted. Lighting shall be maintained on the property in accordance with Chapter 4 Part 1.3 of the land development code.

17. All street name signs shall be installed prior to requesting a certificate of occupancy for any structure. The address number shall be displayed on a structure prior to requesting a certificate of occupancy for that structure.

18. Hours of operation shall be discussed and determined at the detailed plan review and approval.

19. The Developer shall provide an enhanced landscape buffer on the subject property adjacent to the boundaries of the two historic resources (the Wingfield House (JF 147) at 9815 Wingfield Rd. and the L. Bates House (JF 148) at 10005 Wingfield Rd.), which shall contain two times the landscape plantings required by the LDC. The landscaping

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abutting these two properties shall be installed prior to requesting a certificate of occupancy for buildings F, G, H, I, or J.

Transportation Binding Elements

20. Prior to the construction plan's approval, the alignment and cross section of the proposed streets/connections to the south shown on the plan will be further reviewed and shall be revised if required per Transportation and Land Use Study recommendations and/or Metro Public Works. Any revisions will be reviewed and discussed with the developer prior to finalizing the Study recommendations and will maintain the full function and use of the proposed development.

21. Developer shall be responsible for any required utility relocations, final surface overlay, signage, striping and traffic control devices (if warranted), associated with required road improvements by the developer. Construction plans, bond, and KTC permit (only if developer improvements encroach into the state right-of-way) are required by Metro Public Works prior to construction approval and issuance of MPW encroachment permit. Developer shall not request a certificate of occupancy until road improvements are complete.

22. All street signs shall be installed by the Developer and shall conform to the *Manual on Uniform Traffic Control Devices* (MUTCD) requirements. Street signs shall be installed prior to occupancy of the first building in the development and shall be in place at the time of any required bond release. The address number shall be displayed on a structure prior to requesting a certificate of occupancy for that structure.

23. An encroachment permit and bond may be required by Metro Public Works for roadway repairs on Wingfield Road due to damages caused by construction traffic activities.

24. Phase 1 of the development shall consist of buildings A, B, C, D, and E as shown on the development plan presented at the May 20, 2010 Planning Commission Public Hearing ("Development Plan"). Construction approvals for Phase 1, excluding approvals for the relocation of the Teachers Association Building, identified as a 2,500 square foot office building on Tract 2 of the Development Plan (including but not limited to demolition, construction and occupancy), shall not be granted until such time as Kentucky Transportation Cabinet improvements as shown on the Development Plan have been let for construction and bonds have been secured for improvements which have been identified as being the responsibility of the applicant. Prior to requesting a Certificate of Occupancy for Phase 1, all roadway improvements as shown on the

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Development Plan and included in the Traffic Impact Study shall be constructed including the required traffic signal, which must be installed and operational. Phase 2 of the development shall consist of buildings F, G, H, I and J as shown on the Development Plan, and a detailed plan for any portion of Phase 2 shall not be approved until a permanent second access point is provided to connect the development to Brentlinger Lane.

25. At such time as Access Road "A" is constructed to the south property line of the Bates Elementary School property, and until a full secondary connection to Brentlinger Lane is constructed, Developer shall provide a gravel emergency access route through the rear of Cedar Creek Baptist Church or over other existing paved surfaces. Such route shall be located as exhibited on the map presented at the May 20, 2010 public hearing. The final location of this emergency access route shall be subject to the approval of the Fern Creek Fire Protection District (FCFPD), Louisville Metro Police Department, Louisville Metro EMS, and Cedar Creek Baptist Church. No building permit shall be requested until the final location of the emergency access route has been approved by all parties mentioned in this binding element.

The access route shall have an overhead clearance of all obstructions of at least 13 feet, 6 inches, shall be a hard-surface road, a minimum of 12 feet in width with 3 foot earthen shoulders, be capable of supporting a 30-ton fire apparatus, and shall be properly maintained, as determined by FCFPD. If any portion of the access route utilizes a green surface such as grass pavers or grasscrete, the route shall be appropriately marked as required by FCFPD. The emergency access shall include a gate in accordance with Louisville Metro's adopted gate standard and its location shall be determined at a future date. Furthermore, additional fire lane markings may be required for existing for emergency gates.

26. The Developer shall provide two curb cuts (one west of and one east of Access Road "A") onto the south side of SouthPointe Boulevard (Private Portion) for a proposed future development on an assemblage of all the adjoining tracts, subject to an infrastructure and maintenance cost sharing agreement acceptable to Developer. Notwithstanding anything herein to the contrary, access from adjacent properties shall not be required to be provided to SouthPointe Boulevard until such time as there are no restrictions on the issuance of certificates of occupancy for any portion of the SouthPointe Commons development.

27. Final design of roadway layout and typical road cross-sections for both, Southpointe Blvd and access road, will be determined at construction and/or detailed development plan stage, as appropriate, by Metro Public Works and coordination with Metro

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CASE NUMBER 22-DDP-0105

Bicycle/Pedestrian Coordinator. Final design of any on road bike facilities or multiuse path shall be approved by Metro Bicycle/Pedestrian Coordinator.

28. Prior to using Wingfield Rd for school traffic circulation, Wingfield Road section shall be resurfaced from SouthPointe Blvd through its intersection with Access Road "A". Developer shall install a 1 and ½" paving overlay per Metro Public Works requirements.

29. The Developer shall not route construction traffic along Wingfield Road at any portion east of Southpointe Blvd., except as may be required to construct improvements to Bates Elementary School, KRTA building, improvements to Wingfield Road and Access Road "A" from SouthPointe Commons to the south property line of Bates Elementary School.

30. Final design of Access Road "A" may be revised if required per Transportation and Land Use Study recommendations, provided that (1) any revisions of Access Road "A" will be reviewed and discussed with the SouthPointe Commons owner prior to finalizing the Study recommendations and will maintain the full function and use of the proposed development (2) Developer shall not be required to provide more than thirty-four (34) feet of pavement width for Access Road "A."

31. The applicant will work with staff on providing twice as many trees and screening than what is required in the 35' LBA adjacent to the Steven D. Webb property.

32. All property owners within 500 feet of a proposed blasting location shall be notified 30 days before any blasting operations occur, and be offered pre-blast surveys. Any homeowners who opt to have a pre-blast survey conducted shall be provided copies of all materials resulting from that survey including any photos and/or videos. Any blast survey shall be done in a manner consistent with Kentucky blasting regulations.

The vote was as follows:

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

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NEW BUSINESS

CASE NUMBER 22-DDP-0113

Project Name: Happy Hounds Doggy Daycare
Location: 201 Park Place Drive
Owner: 201 Park Place LLC
Applicant: 201 Park Place LLC
Representative: Dinsmore & Shohl
Jurisdiction: Middletown
Council District: 19 – Anthony Piagentini
Case Manager: Dante St. Germain, AICP, Planner II

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

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

Agency Testimony:

02:21:40 Dante St. Germain presented the case, showed a Power Point presentation, and responded to questions from the Commissioners (see staff report and recording for detailed presentation). The applicant is proposing to repurpose an existing structure on the site for a doggie daycare. A Conditional Use Permit for the commercial kennel operation (22-CUP-250) will be before the Board of Zoning Adjustments on November 7, 2022.

The following spoke in favor of the proposal:

Cliff Ashburner, Dinsmore & Shohl, 101 S. Fifth Street, Suite 2500, Louisville, KY 40202

Summary of testimony of those in favor:

02:27:01 Cliff Ashburner presented the applicant's case, showed a Power Point presentation, and responded to questions from the Commissioners (see recording for detailed presentation and discussion).

The following spoke in opposition to the proposal:

No one spoke.

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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.

02:34:42 On a motion by Commissioner Brown, seconded by Commissioner Price, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

WHEREAS, the Development Review Committee finds there are no natural resources or environment assets appear to exist on the site,

WHEREAS, provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community has been provided. Louisville Metro Public Works has provided preliminary approval of the plan,

WHEREAS, no open space provisions are relevant to the proposal,

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,

WHEREAS, the overall site design and land uses would be compatible with the existing and future development of the area. The proposal re-uses existing structures, and

WHEREAS, the development plan conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code, therefore be it

RESOLVED, the Louisville Metro Development Review Committee does hereby **RECOMMENDS** the City of Middletown **APPROVE** the requested Revised Detailed District Development plan with the following binding elements **ON CONDITION** the applicant is granted approval of the conditional use permit by the Board of Zoning Adjustments:

Existing 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

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changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee and to the City of Middletown for review and approval; any changes/additions/alterations not so referred shall not be valid.

2. The development shall not exceed 16,277 square feet of gross floor area.
3. The only permitted freestanding sign shall be located as shown on the approved district development plan. The sign shall not exceed 60 square feet in area per side and 8 feet in height. No sign shall have more than two sides.
4. No outdoor advertising signs (billboards), small free-standing (temporary) signs, pennants, advertising balloons or banners shall be permitted on the site.
5. Outdoor lighting with can-type fixtures shall be directed down and away from surrounding residential properties and shall not illuminate surrounding residential properties.
6. All go-karts will be powered by Honda GX160, 5.5 hp engines or similar engines with properly working mufflers and properly designed enclosures. All go-karts must meet the following criteria: The maximum measured sound level may not exceed 63 dBA at a distance of 50 feet while operating at full throttle. The measurement shall be made in a flat area, with no intervening terrain or structures within 100 feet from either the go-kart or sound meter. The height of the microphone shall be approximately 5 feet above the go-kart. The sound meter used in the measurement shall meet ANSI Type II standards, and be calibrated immediately before the measurement. The applicant shall certify to the Planning Commission and the City of Middletown that this criterion is met initially and upon reasonable demand thereafter. The peak sound level shall not exceed 50 dBA at 1000 feet.
7. Outdoor music (live, piped, radio or amplified), outdoor entertainment, our outdoor PA system permitted on the site shall not exceed the sound levels specified in Binding Element 6, measured at a receptor located at the perimeter of the site.
8. Vehicles shall be limited to a maximum speed not to exceed 18 miles per hour. No racing of motor vehicles shall be allowed. They shall be designed to allow management to shut-off vehicles that violate operating procedures.
9. Operating hours for the public at the commercial kennel shall be between 7:00 a.m. and 12:00 midnight. Operation hours for the remainder of the site shall be between 9:00 a.m. and 12:00 midnight, Monday through Saturday, and 12:00 noon through 12:00 midnight on Sunday. Go kart operations shall cease at 11:00 p.m. every day.
10. There shall be no outdoor storage on the site.

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11. The applicant shall submit a plan for approval by the Planning Commission staff showing trees/tree masses to be preserved prior to beginning any construction procedure (i.e. clearing, grading, demolition). Any modification of the tree preservation plan requested by the applicant may be approved by the designated DPDS staff if the changes are in keeping with the intent of the approved tree preservation plan. The plan shall exhibit the following information:

- a. Proposed site plan showing buildings, edges of pavement, property lines, easements, existing topography, and other significant site features (LOJIC topographic information is acceptable).
- b. Preliminary drainage considerations (retention/detentions, ditches/large swales, etc.).
- c. Location of all existing trees/tree masses on the site as shown by aerial photo or LOJIC maps.
- d. Location of construction fencing for each tree/tree mass designated to be preserved.

12. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested, the appropriate conditional use permit shall be obtained from the Board of Zoning Adjustment to allow the development as shown on the approved district development plan.

13. If a building permit is not issued within one year of the date of approval of the plan, 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.

14. 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.

15. 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 the 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

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other parties engaged in development of the site, shall be responsible for compliance with these binding elements.

16. The tree preservation plan, fencing plan, and the landscaping plan shall be subject to approval by the City Commission prior to implementation. Such approval may be at a regular or special meeting of the City Commission and approval shall not be unreasonably withheld.

17. All commercial trash receptacles shall be enclosed by a structure (wall) (except entrance gate which shall be of compatible material) to a height greater than the height of the commercial trash receptacle and permanently maintained.

18. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the June 12, 2003, LD&T meeting.

The vote was as follows:

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

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ADJOURNMENT

The meeting adjourned at approximately 3:46 p.m.

Chairman

Division Director