

**MINUTES OF THE MEETING
OF THE
DEVELOPMENT REVIEW COMMITTEE
February 1, 2017**

A meeting of the Development Review Committee was held on February 1, 2017 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
Emma Smith
Rich Carlson, Vice Chair

Committee Members absent were:

Jeffrey Brown

Staff Members present were:

Emily Liu, Director, Planning and Design Services
Joseph Reverman, Assistant Director, Planning and Design Services
Steve Hendrix, Planning and Design Supervisor
Ross Allen, Planner I
Dante St. Germain, Planner I
Laura Mattingly, Planner I
Tammy Markert, Transportation
John Carroll, Legal Counsel
Chris Cestaro, Management Assistant (minutes)

The following matters were considered:

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APPROVAL OF MINUTES

Approval of the minutes of the January 18, 2017 Development Review Committee meeting

00:04:22 On a motion by Commissioner Carlson, 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 January 18, 2017.

The vote was as follows:

YES: Commissioner Carlson.

NO: No one.

NOT PRESENT: Commissioner Brown.

ABSTAINING: Commissioners Smith and Tomes.

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NEW BUSINESS

CASE 16DEVPLAN1243

Request: Community Facility Review for a proposed Water Tank to be constructed by the Louisville Water Company
Project Name: Water Company Storage Tank
Location: 8612 Old Bardstown Road
Owner(s): Bruce Spencer P.E. – Louisville Water Company
Applicant: Patti Kaelin – Louisville Water Company
Representative: Patti Kaelin – Louisville Water Company
Jurisdiction: Louisville Metro
Council District: 22 – Robin Engel

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:

00:05:13 Ross Allen presented the case and showed the site plan (see staff report and recording for detailed presentation.)

The following spoke in favor of the request:

Vince Guenther, Louisville Water Company, 550 South Third Street, Louisville, KY 40202

Summary of testimony of those in favor:

00:09:14 Vince Guenther, representing the Louisville Water Company, presented the applicant's case (see recording for detailed presentation.) He said the applicant has proposed four motion-sensor lights on a pedestal. The lights are considered "residence friendly" and are pointed down.

00:10:36 Mr. Guenther explained why the 5 million gallon water tank was being replaced with a 3-million gallon tank (old design; water usage; water pressure; water quality issues.) He discussed what area will be served by this new tank.

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The following spoke in opposition to the request:

No one spoke.

The following spoke neither for nor against the request:

No one spoke.

00:13:23 Commissioners' deliberation.

00:14:19 On a motion by Commissioner Carlson, seconded by Commissioner Smith, 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 Community Facility Review for a proposed water tank located at 8612 Old Bardstown Road.

The vote was as follows:

YES: Commissioners Smith, Carlson, and Tomes.

NO: No one.

NOT PRESENT: Commissioner Brown.

ABSTAINING: No one.

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NEW BUSINESS

CASE 16DEVPLAN1238

Request: Category 3 Development Plan and Waivers
Project Name: Renaissance South Business Park, Tracts 6 & 7
Location: 8701 Minors Lane
Owner: Donald Hansen – Red Twig, LLC
Applicant: Donald Hansen – Red Twig, LLC
Representative: Patrick Dominik – Sabak, Wilson & Lingo Inc.
Jurisdiction: Louisville Metro
Council District: 13 – Vicki Aubrey Welch

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:

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

The following spoke in favor of the request:

Patrick Dominik and Kelli Jones, Sabak Wilson & Lingo, 608 S. Third Street, Louisville, KY 40202

Doug Thurman, 8916 Lippincott, Louisville, KY 40222

Summary of testimony of those in favor:

00:19:30 Patrick Dominik, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.) He added that the proposed footprint is "virtually identical" to that which was approved in August 2016.

00:26:50 In response to a question from Commissioner Smith, Mr. Dominik said this will be an office/business supply warehouse distribution facility (office materials, cleaning supplies, etc.) He responded to a question from Commissioner Carlson regarding security on the site and fire safety. He also discussed measures that have been taken regarding the Marathon pipeline on the property.

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00:32:27 In response to another question from Commissioner Carlson, Mr. Dominik discussed long-range plans for a possible additional ramp from the Gene Snyder freeway and how this might impact the site. Mr. Dominik said there had been some discussion about this, but there are no immediate plans yet.

00:33:21 In response to a question from John Carroll, legal counsel for the Planning Commission, Mr. Dominik explained the proposed Alternative Landscape Plan.

00:34:54 In response to a question from Commissioner Smith, Mr. Dominik discussed the proposed amenity area.

00:35:35 Doug Thurman works for a company that owns 45 acres that is adjacent to the site. He said the company is in favor of the project. Asked about a private road proposed on the south part of the site - will this be a public road? He also asked if all drainage will be self-contained on the property. Mr. Dominik said there is a driveway cut on South Park Road – it is an old driveway that used to serve lots before they were all consolidated (see recording for detailed presentation.) He explained the access easement that has been created is not open to the public, but is open to allow maintenance to the detention area. He also said the applicant is proposing to keep all stormwater drainage on the property.

00:42:14 In responds to additional questions from Mr. Thurman, Tammy Markert, with Metro Transportation Planning, addressed the issue of the road. Mr. Dominik addressed access issues. Ms. Markert said the road is only meant for maintenance access to the detention area.

The following spoke in opposition to the request:

No one spoke.

The following spoke neither for nor against the request:

No one spoke.

- Waiver #1 – Waiver of LDC Section 5.12.2 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 not provide the 6' berm within the required Landscape Buffer Area adjacent to a residential use.

00:47:50 On a motion by Commissioner Carlson, seconded by Commissioner Smith, the following resolution was adopted:

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(Waiver #1) WHEREAS, the Louisville Metro Development Review Committee finds that the 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 the waiver of the regulation is the minimum necessary to afford relief to the applicant as the applicant is providing the largest amenity area possible (7,200 square feet) while maximizing warehouse space; 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 or create an unnecessary hardship as the distribution center 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 the waiver will not adversely affect adjacent property owners as the applicant is proposing to replant a continuous evergreen screen and is providing the 50' Landscape Buffer Area, meeting the intent of the LDC requirement for a berm; 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

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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. This proposal does not violate these guidelines of Cornerstone 2020 as the Landscape Buffer Area width, plantings and screening are still being provided, which will provide a transition to the more intense use, screening from lighting, noises, etc. and will decrease storm water runoff from impervious surfaces; 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 all other landscape requirements are being met and while the easement and stream located along the buffer pose challenges to constructing the 6' berm the applicant is still providing a continuous screen of evergreen trees; and

WHEREAS, the Committee further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant as the easement and stream in the LBA pose challenges that would make the berm impossible to construct; 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 Waiver of LDC Section 5.12.2 to allow the proposed amenity area to be less than 10% of the total building square footage and the Waiver of LDC Section 5.5.4.B.1 to not provide the 6' berm within the required Landscape Buffer Area adjacent to a residential use.

The vote was as follows:

YES: Commissioners Smith, Carlson, and Tomes.

NO: No one.

NOT PRESENT: Commissioner Brown.

ABSTAINING: No one.

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00:49:08 On a motion by Commissioner Carlson, seconded by Commissioner Smith, 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 Category 3 Development Plan review for a warehouse/distribution center located at 8701 Minors Lane, and which will include the Alternate Landscaping Plan.

The vote was as follows:

YES: Commissioners Smith, Carlson, and Tomes.

NO: No one.

NOT PRESENT: Commissioner Brown.

ABSTAINING: No one.

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Summary of testimony of those in favor:

00:56:53 Nick Pregliasco, 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 the request:

No one spoke.

The following spoke neither for nor against the request:

No one spoke.

01:04:16 Commissioners' discussion

Waiver of 10.2.4 to reduce the required property perimeter Landscape Buffer Area on the south and east property lines.

On a motion by Commissioner Carlson, seconded by Commissioner Smith, the following resolution was adopted:

WHEREAS, the Louisville Metro Development Review Committee finds that the waiver will not adversely affect adjacent property owners as the property to the south is a designated greenway and the property to the east is an office with an adjoining parking lot; 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

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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. This proposal does not violate these guidelines of Cornerstone 2020 as the encroachments do not impact any residential developments or other incompatible developments. The wooded greenway to the south serves as a buffer to the residential area farther south. The property to the east is a similar development with shared access where buffering is not necessary. The applicant is also providing a courtyard in the remaining greenspace along that property line; 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 applicant has provided the required LBAs along the frontage of the site as well as the west side and will be providing landscaping where possible; and

WHEREAS, the Committee further finds that the strict application of the provisions of the regulation would not deprive the applicant of the reasonable use of the land as the irregular shape of the lot restricts the building size and parking; 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 **RECOMMEND** to the City of Lyndon that the requested Waiver of 10.2.4 to reduce the required property perimeter Landscape Buffer Area on the south and east property lines be **APPROVED**.

The vote was as follows:

YES: Commissioners Smith, Carlson, and Tomes.

NO: No one.

NOT PRESENT: Commissioner Brown.

ABSTAINING: No one.

Revised Detailed District Development Plan

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01:06:15 On a motion by Commissioner Carlson, seconded by Commissioner Smith, the following resolution 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 will be provided with vehicular and pedestrian access from Forest Green Blvd and connections to the site to the east, as well as pedestrian connections throughout the site; and

WHEREAS, the Committee further finds that the applicant has met the open space standards by providing passive open space, a courtyard and patio areas; 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 use and building design are compatible with the existing and future development of the area, as this area is developed with a mixture of commercial and office uses; 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 **RECOMMEND** to the City of Lyndon that the requested Revised Detailed District Development Plan be **APPROVED**, subject to the following binding elements:

1. All applicable Binding Elements from Docket No. 9-106-97V shall remain in effect.
2. The development shall be in accordance with the approved district development plan. Any changes/additions/alterations of any binding element(s) shall require notice to the Old Dorsey Place Homeowners Association and Owl Creek Community Association via their registered agents thirty (30) days in advance of

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- any Planning Commission meeting (i.e. LD&T) at which any such change/addition/alteration is considered, and any such change/addition/alteration shall be referred by the Planning Commission to the City of Lyndon for approval, and any changes/additions/alterations not so referred shall not be valid.
3. Freestanding signage shall be monument style with uniform brick foundations and uniform tops. No freestanding sign shall exceed seven feet in height and 63 square feet in area. Only two freestanding signs shall be permitted along Hurstbourne Parkway -- at the designated entrances to the Forest Green development. All other freestanding signs shall be located along the interior access road (Forest Green Parkway). All freestanding signs shall obtain prior approval from the Planning Commission.
 4. The Erosion Protection and Sediment Control (EPSC) plan shall be submitted to Friends of Beargrass Creek for review and comment at the time of submittal to MSD. Documentation of MSD's approval of the plan shall be submitted to the Planning Commission prior to grading and construction activities.
 5. The developer and its assigns shall mitigate stormwater runoff from impervious surfaces using accepted Best Management Practices ("BMPs") to the extent reasonable and practical in accordance with the accompanying letter from Gresham Smith & Partners. Plans for storm water management shall be submitted to Friends of Beargrass Creek for review and comment at the time of submittal to MSD.
 6. Responsibility for open space areas shall be divided between the Forest Garden/Village Association (herein referred to as the "Homeowners Association", membership in which shall include all of the owners of lots in the innovative residential subdivision) and the Forest Green Development Association (herein referred to as the "Development Association", membership in which shall include all of the owners of all of the lots in the overall Forest Green development) and may also include a Forest Green Commercial Association (hereinafter referred to as the "Commercial Association", membership in which may include the owners of lots in the commercial portion of the Forest Green development). The Homeowners Association shall have responsibility for maintenance of all areas of the Forest Green innovative subdivision which comprise the lots on which dwelling units are located as well as interior streets, and the Homeowners Association's maintenance obligation shall include signage, streets, street lighting, yards of individual dwelling units and building exteriors. The Development Association shall have responsibility for maintenance of all areas of the Forest Green innovate subdivision, plus areas outside of said subdivision, which comprise areas denoted on the preliminary plan and development plan as reserved as "Open Space" areas and as "Greenways" areas, and the Development Association's maintenance

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obligations shall include tree and trail preservation and care of other planting and facilities within those Open Space and Greenways areas. The Commercial Association, if formed, will have responsibility for maintenance of all interior streets and public areas outside of the innovative subdivision that are not the responsibility of the Development Association or of an individual lot owner, and the Commercial Association's maintenance obligation will include entrance and street signage, street lighting, street repairs and landscaping along streets and at entrances.

7. Within the "Open Space" areas denoted on the Development Plan, the Developer or its assignee, including any builder other than Developer, shall not be permitted to remove any healthy shade tree of 4 inch or greater caliber. Open Space areas and building setbacks as denoted on the Preliminary Plans shall not be reduced on the record plat.
8. Within the "Greenways" areas denoted on the Development Plan, no development shall occur except as shown on the approved district development plan. Within these "Greenways" areas and within areas located outside of Greenways areas which contain slopes greater than 15 percent inside Open Space areas, the Developer or its assignee shall not be permitted to engage in any land disturbing activities until such time as a plan, prepared generally in accordance with the Louisville and Jefferson County Multi-Objective Stream Corridor/Greenway Plan, which shall include provisions for preservation of vegetation, stream and slope protection and public usage of Greenways areas, has been approved by the Planning Commission. Such plan shall also be submitted to Friends of Beargrass Creek for review and comment at the time of submittal to applicable agencies. The plan for stream corridor preservation mandated by this binding element shall be implemented within six months of approval of said plan by the Planning Commission. No portion of the "Greenways" area shall be the subject of any future rezoning request. (A portion of the "Greenways" area is the subject of the present rezoning application.) Grading within the "greenways " area shall be limited to that necessary for pedestrian paths, vehicular and pedestrian stream crossings, with possible minor incursions into the "Greenways" in the vicinity of Lots 1, 2, and 3.
9. The dumpster shall not be emptied between the hours of midnight and 6 a.m.
10. Cleaning of lots and waste pick up shall be limited to the hours of 7:00 a.m. to 7:00 p.m. Monday through Saturday. Waste receptacles shall be bricked on three sides and wood gated with all sides high enough to completely conceal interior receptacles.
11. The developer shall furnish to representatives of the adjacent residents associations (Foxboro Manor, Old Dorsey Place, Owl Creek) the name and telephone number of a contact person for purposes of reporting possible

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- violations of the approved district development plan. Provision shall be made for gaining access to the contact person over the weekend and after normal business hours.
12. The Landscape Plan shall include clusters of native species shrubs and small flowering trees within the Landscape Buffer Area along the open space lot to provide additional screening where it is needed as determined by Planning Commission staff.
 - ~~13. The façade elevations for the proposed restaurant shall be in accordance with applicable form district standards and shall be approved by PDS staff prior to issuance of a building permit.~~
 14. Prior to development of each site or phase of this project, a detailed district development plan shall be submitted to the Planning Commission for approval. Each plan shall be in adequate detail and subject to additional binding elements. The additional binding elements may relate, but not be limited, to the following items:
 - a. screening, buffering, landscaping, tree preservation
 - b. density, floor area, size and height of buildings
 - c. points of access and site layout with respect to on-site circulation
 - d. land uses
 - e. signage
 - f. loading berths
 - g. parking
 - h. sidewalks
 - i. site design elements relating to alternative transportation modes
 - j. outdoor lighting
 - k. minor subdivision plat approval
 - l. air pollution
 - m. the timing of construction to coincide with the availability of flood protection measures, municipal sewer and water service, and adequate fire protection
 - n. Dumpsters
 - ~~15. At the time of detailed district development plan approval, a rendering of buildings proposed for construction on a site shall be submitted to the Planning Commission for review and approval as to consistency with the use, design and locational guidelines of these binding elements and general district development plan.~~
 15. **Building design for the office on Lot 1 shall be consistent with the**

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elevations submitted at the February 1, 2017 Development Review Committee meeting.

16. ~~The commercial portion of the development shall not exceed 5,000 square feet of gross floor area.~~ The following are prohibited uses of the property: adult entertainment; automobile parking areas, public and private; gas stations; automobile service stations with service bays for repair; automobile part stores that have service bays for parts installation and/or for automobile repair; automobile sales agencies; automobile rental agencies; car washes; clubs, private, non-profit or proprietary; community residences; garage or yard sales; laundries or laundrettes, self-service; towers (radio, TV cellular, receiving or transmitting); and all uses of the property (except assisted living facilities, homes for the elderly and nursing homes) that require a conditional use permit in addition to appropriate zoning.
17. No outdoor advertising signs, small free-standing signs, pennants, balloons, or banners shall be permitted on the site.
18. There shall be no outdoor storage on the site.
19. Outdoor lighting shall be designed to be similar in height, style and intensity to that approved at the Woodlawn Center at Hubbards Lane and Westport Road. Outdoor lighting shall be directed down and away from surrounding residential properties. Lighting fixtures shall have a 90 degree cutoff so that no light source is visible off-site. Lighting levels attributable to the fixtures located on the subject site shall not exceed two foot candles at the property line, except that, at the back side of the berm at the rear of the main shopping center, lighting levels shall not exceed one foot candle.
20. 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.
21. The applicant shall submit a plan for approval by the Planning Commission staff landscape architect 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 Planning Commission staff landscape architect 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/lot

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- lines, easements, existing topography, and other significant site features (LOJIC topographic information is acceptable);
 - b. Preliminary drainage considerations (retention/detention, ditches/large swales, etc.);
 - c. Location of all existing trees/tree masses existing on the site as shown by aerial photo or LOJIC maps; and
 - d. Location of construction fencing for each tree/tree mass designated to be preserved.
22. A note shall be placed on the preliminary plan, construction plan and the record plat that construction fencing shall be erected prior to any grading or construction activities to prevent compaction of root systems of trees to be preserved and to prevent any disturbance of Greenways areas. The fencing shall enclose the area beneath the dripline of the tree canopy and, where necessary, to prevent any disturbance to Greenways areas and shall remain in place until all construction is completed. No parking, material storage or construction activities shall be permitted within the fenced area.
23. Before any permit (including but not limited to building, parking lot, change of use or alteration permit) is requested:
- a. The development plan must receive full construction approval from
 - i. the Jefferson county Department of Public Works and Transportation (400 Fiscal Court Building) and the Metropolitan Sewer District (700 West Liberty).
 - b. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Article 12 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
24. If a building permit is not issued within one year 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.
25. 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.
26. The level of quality and design and building materials shall be generally consistent with the renderings and photographs produced at the public hearing. Buildings shall be constructed of brick except for minor accent treatments, which may be constructed of other building materials. Brick shall not be painted.

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27. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system. 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.
28. If work is required within the easements causing removal or damage of landscape materials, the property owner shall be responsible for replacement of materials according to the approved landscape plan.
29. Construction activity shall be limited to Monday through Saturday, 7:00 a.m. to 7:00 pm. No construction activity (except on the interior of a building) shall be permitted on Sundays or holidays. Heavy equipment operation shall be prohibited on weekend days. Construction traffic shall be prohibited from using neighborhood streets.
- ~~30. The development shall not exceed 175,000 square feet of gross floor area for an office and 5,000 square feet of gross floor area for the restaurant.~~
31. The development shall not exceed 175,000 square feet of gross floor area for an office and 5,000 square feet of gross floor area for the restaurant. **Lot 2 and 15,200 square feet of gross floor area for Lot 1.**

The vote was as follows:

YES: Commissioners Smith, Carlson, and Tomes.

NO: No one.

NOT PRESENT: Commissioner Brown.

ABSTAINING: No one.

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CASE 16DEVPLAN1247

Request: Revised Detailed District Development Plan with Associated Waivers
Project Name: Ground Effects Expansion
Location: 12201 Westport Road
Owner: TDA Properties
Applicant: Omer Gursoy – Ground Effects
Representative: Ann Richard – Land Design & Development
Jurisdiction: Louisville Metro
Council District: 17 – Glenn Stuckel

Case Manager: Dante St. Germain, 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:

01:07:26 Dante St. Germain presented the case and showed the site plan (see staff report and recording for detailed presentation.) She discussed changes to binding elements, mostly to update them, and added that parts B and C of Binding Element #5 should be deleted because they are no longer needed.

01:15:59 In response to a question from Commissioner Carlson, Tammy Markert, with Metro Transportation Planning, discussed sidewalks and said there is a TARC Express route here. Ms. Markert added that there are no sidewalks on the other side of Westport Road.

The following spoke in favor of the request:

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

Summary of testimony of those in favor:

01:19:26 Ann Richard, the applicant's representative, presented the applicant's case and showed the elevations and a Power Point presentation (see recording for detailed presentation.)

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01:23:17 In response to a question from Commissioner Smith, Ms. Richard said that 100% of the spraying would be done inside. Charles Porter, an applicant's representative, discussed how the spraying process is conducted (see recording.)

The following spoke in opposition to the request:

No one spoke.

The following spoke neither for nor against the request:

No one spoke.

Waiver #1: Landscape Waiver of Land Development Code section 5.5.4.B.1 to waive the 50' industrial-to-residential landscape buffer area and omit the 6 foot berm and canopy trees

Waiver #2: Waiver of Land Development Code section 5.5.2.A.1 to not orient the principle structure toward the abutting public street or focal point

Waiver #3: Waiver of Land Development Code section 5.6.1.B to not provide an articulated façade

Waiver #4: Sidewalk Waiver of Land Development Code section 5.8.1.B to provide only a partial sidewalk along Westport Road

01:24:39 On a motion by Commissioner Carlson, seconded by Commissioner Smith, the following resolution was adopted:

(Waiver #1) WHEREAS, the Louisville Metro Development Review Committee finds that the waiver will not adversely affect adjacent property owners as this site was developed prior to the development of the residential properties, and the applicant wishes to continue to use the area in the same manner that it has been used since the CUP was granted in 1985; and

WHEREAS, the Committee further finds that the waiver will not violate specific guidelines of Cornerstone 2020. The waiver will not violate specific guidelines of Cornerstone 2020 as Guideline 3 *Compatibility* Policy 4 states that 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. This policy is not violated as the pattern of development along this transition is that of medium-intensity industrial use next to residential. The current buffering of privacy fencing and vegetation was acceptable to the residents who moved in after the

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current development was built out. Guideline 3 *Compatibility* Policy 22 states that buffers should be used between uses that are substantially different in intensity or density. Buffers should be variable in design and may include landscaping, vegetative berms and/or walls and should address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances. This policy is not violated as the boundary between uses is currently buffered with privacy fencing and vegetation that has existed for many years; 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 there is no other way to allow the applicant to continue the existing use of the 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 as the existing use of the area is proposed to be continued without change, and the imposition of the buffer area would deprive the applicant of the ability to maneuver vehicles into stacked parking adjacent to the CUP area, which was approved thirty-two years ago; and

(Waiver #2) WHEREAS, the Committee further finds that the waiver will not adversely affect adjacent property owners as the site has been built out since the 1980s and the conditions of the site are existing; and

WHEREAS, the Committee further finds that the waiver will not violate specific guidelines of Cornerstone 2020. The waiver will not violate specific guidelines of Cornerstone 2020 as Guideline 3 *Compatibility* Policy 1 states to ensure compatibility of all new development and redevelopment with the scale and site design of nearby existing development and with the pattern of development in the form district. This guideline is not violated because the development is existing, and follows the pattern of nearby development; 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 design is an existing condition and changing the orientation of the building would require extensive remodeling or redevelopment of the site; and

WHEREAS, the Committee further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as the requested waiver allows the subject site to continue in its existing condition; and

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(Waiver #3) WHEREAS, the Committee further finds that the waiver will not adversely affect adjacent property owners as the building has existed in its current state since 1985 and the new addition will match the current building design; and

WHEREAS, the Committee further finds that the waiver will not violate specific guidelines of Cornerstone 2020. The waiver will not violate specific guidelines of Cornerstone 2020 as Objective G4.2 *Site and Building Characteristics* states to utilize performance standards and design guidelines for such characteristics and building height, setbacks, lot dimensions, parking and building design to establish a specific character for workplaces and to ensure compatibility of new development. This is not violated because the new development will match the existing building design, maintaining the existing character of the neighborhood; 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 providing an façade articulation on the new addition would cause the new addition to not match the existing building; and

WHEREAS, the Committee further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as the requested waiver allows the subject site to continue in its existing condition; and

(Waiver #4) WHEREAS, the Committee further finds that the waiver will not adversely affect adjacent property owners as the applicant is providing a partial sidewalk to which new sidewalks can be connected in the future. The nearest existing sidewalk is approximately 300 feet away. The partial sidewalk being provided will assist pedestrians with reaching a nearby TARC stop and utilizing the traffic signal at the corner; and

WHEREAS, the Committee further finds that the waiver will not violate specific guidelines of Cornerstone 2020. The waiver will not violate specific guidelines of Cornerstone 2020 as Cornerstone 2020 defines the Suburban Workplace form as characterized by predominately industrial and office uses where the buildings are set back from the street in a landscaped setting. Suburban workplaces often contain a single large-scale use or a cluster of uses within a master planned development. New larger proposed industrial uses are encouraged to apply for a planned development district. In order to provide adequate transportation access in suburban workplaces connected roads, public transportation and pedestrian facilities should be encouraged. The applicant is providing a partial sidewalk in a location that will facilitate the use of nearby TARC stops and the traffic signal; and

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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 applicant is expanding the building by approximately 8%, and is providing a partial sidewalk at the corner. The Land Development Code provides that a reduction waiver shall not exempt future development on the parcel from the construction of the remainder of the sidewalk; and

WHEREAS, the Committee further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as the applicant is expanding the building by approximately 8%, and is providing a partial sidewalk. Providing a full sidewalk would represent a significant expense given the relatively small nature of the project; 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 Waivers as follows: a **Landscape Waiver** of Land Development Code section 5.5.4.B.1 to waive the 50' industrial-to- residential landscape buffer area and omit the 6 foot berm and canopy trees; a **Waiver** of Land Development Code section 5.5.2.A.1 to not orient the principle structure toward the abutting public street or focal point; a **Waiver** of Land Development Code section 5.6.1.B to not provide an articulated façade; and a **Sidewalk Waiver** of Land Development Code section 5.8.1.B to provide only a partial sidewalk along Westport Road.

The vote was as follows:

YES: Commissioners Smith, Carlson, and Tomes.

NO: No one.

NOT PRESENT: Commissioner Brown.

ABSTAINING: No one.

Revised Detailed District Development Plan for proposed 5,075 square foot expansion of existing building

01:26:20 On a motion by Commissioner Carlson, seconded by Commissioner Smith, the following resolution was adopted:

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WHEREAS, the Louisville Metro Development Review Committee finds that LOJIC does not show any environmental constraints or historic resources on the subject site. The site is already developed and the existing vegetation will be maintained, or replaced if removed; 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. Connection to the partial sidewalk is being provided. The partial sidewalk being proposed will provide improved access to nearby TARC stops and supply a basis for later full sidewalk connections; and

WHEREAS, the Committee further finds that open space is not required for the proposed 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 site design and land uses are compatible with the existing and future development of the area as the site is already developed and is surrounded on three sides by similar land uses. The residential area to the north was platted in 1991 after this site was already developed; and

WHEREAS, the Committee further finds that the development plan conforms to applicable guidelines and policies of the Comprehensive Plan as Cornerstone 2020 defines the Suburban Workplace form as characterized by predominately industrial and office uses where the buildings are set back from the street in a landscaped setting. Suburban workplaces often contain a single large-scale use or a cluster of uses within a master planned development. New larger proposed industrial uses are encouraged to apply for a planned development district. In order to provide adequate transportation access in suburban workplaces connected roads, public transportation and pedestrian facilities should be encouraged. Walkways to workplace-serving uses are encouraged for workplace employees. Development within suburban workplace form districts may need significant buffering from abutting uses. These guidelines are not violated because the development is existing and has been built out since 1985 with no conflict with neighboring uses or residents; 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

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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 for a proposed 5,075 square foot expansion of existing building, **SUBJECT** to the following binding elements:

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. The development shall not exceed ~~48,455~~ **66,755** square feet of gross floor area.
3. The property shall be used only for the following uses:
 - a) Leasing of mini-warehouses (the mini-warehouse operation will involve storage and incidental assembly of items stored in the mini-warehouse. All storage will be enclosed).
 - b) Warehouse storage (all enclosed).
 - c) Manufacture and assembly of automotive parts and accessories.
 - d) Moving of "household goods" as defined in Tariff No. 78 of the Movers and Warehousemen's Association of America, issued March 1, 1974, which is located in the file for the case.
 - e) Office buildings.
 - f) Accessory buildings and parking as shown on the development plan.
4. There shall be no outdoor storage on the site.
5. ~~Before a building or alteration permit and/or a certificate of occupancy is requested:~~ **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 be re-approved by the Jefferson County Department of Public Works and Transportation and the Metropolitan Sewer District.~~ **The development plan must receive full construction approval from Develop Louisville, Louisville Metro Public Works and the Metropolitan Sewer District.**
 - b) The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in **Chapter 10 prior to**

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requesting a building permit. Such plan shall be implemented prior to occupancy **of the site** and maintained thereafter.

- ~~e) A minor subdivision plat or legal instrument shall be recorded dedicating additional right-of-way to Westport Road to provide a total of 60 feet from the centerline. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; issuance of the certificate of occupancy by the office responsible for permit issuance will occur only after receipt of said instrument.~~
6. A certificate of occupancy must be received from the appropriate code enforcement office 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. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
 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. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
 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.
 11. When sidewalks are constructed along the portion of Westport Road adjacent to this property, a clearly defined, safe pedestrian access will be provided by the owner of the property from the public sidewalk through off street parking to building entrances.
 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,

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

The vote was as follows:

YES: Commissioners Smith, Carlson, and Tomes.

NO: No one.

NOT PRESENT: Commissioner Brown.

ABSTAINING: No one.

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ADJOURNMENT

The meeting adjourned at approximately 1:27 p.m.

Chair

Planning Director