

**MINUTES OF THE MEETING
OF THE
DEVELOPMENT REVIEW COMMITTEE
December 19, 2018**

A meeting of the Development Review Committee was held on, December 19, 2018 at 1:00 p.m. in the Old Jail Building, located at 514 W. Liberty Street, Louisville, Kentucky.

Committee Members present were:

Rich Carlson, Vice Chair
Jeff Brown
Emma Smith

Committee Members absent were:

David Tomes, Chair
Donald Robinson

Staff Members present were:

Joe Reverman, Planning Assistant Director
Brian Davis, Planning Manager
Jay Lockett, Planner I
Lacey Gabbard, Planner I
Molly Clark, Associate Planner
Paul Whitty, Legal Counsel
Beth Stuber, Transportation Planning
Pamela M. Brashear, Management Assistant

The following matters were considered:

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APPROVAL OF MINUTES

DECEMBER 5, 2018 DRC MEETING MINUTES

On a motion by Commissioner Brown, 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 December 5, 2018.

The vote was as follows:

YES: Commissioners Brown, Smith and Carlson

NOT PRESENT FOR THIS CASE: Commissioners Robinson and Tomes

DEVELOPMENT REVIEW COMMITTEE
December 19, 2018

NEW BUSINESS

CASE NO. 18MINORPLAT1161

Request: A Minor Subdivision Plat with a LDC waiver
Location: 1330 and 1332 Etawah Avenue
Owner(s): Equity Trust Company
Applicant: Clarisa De Luna-Villaflor
Jurisdiction: Lyndon
Council District: 7 – Angela Leet
Case Manager: Molly Clark, Associate Planner
Presented By: Jay Luckett, Planner I

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

Agency Testimony:

00:05:00 Mr. Luckett discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Clarisa De Luna-Villaflor, 11200 Cherry Lane, Louisville, Ky. 40223

Summary of testimony of those in favor:

00:07:33 Ms. De Luna-Villaflor stated one portion of the property satisfies the width requirement but the other is only 33 feet wide. There are other properties in the neighborhood that are only 30 feet wide.

The following spoke in opposition to this request:

Matt Zicher, 1331 Etawah Avenue, Louisville, Ky.
Kevin Acca, 1333 Etawah Avenue, Louisville, Ky.

Summary of testimony of those in opposition:

00:08:46 Mr. Zicher stated there will be issues because they're building more than one house. The area is heavily flooded when it rains and part of the road has been lost due to erosion. There is already construction in the area and the construction workers are blocking the road. The street is not wide enough and 2 cars can't travel at the same time, one has to pull over to let the other pass. Also, wildlife has diminished in the area. The construction workers are noisy and it disrupts the quality of life (early morning and late evening).

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NEW BUSINESS

CASE NO. 18MINORPLAT1161

00:12:58 Mr. Acca stated the contractors are pulling from the residents' electricity. Security, noise and wildlife are issues as well. One house would be more acceptable than 2.

Deliberation

00:15:57 Chair Carlson asked if the minor plat is typically the first step to something being built. Mr. Lockett replied, yes they're building 2 homes. Chair Carlson added, if homes are built, MSD will have to review it. Mr. Lockett said MSD will be reviewing construction plans and since this is in the local regulatory flood plain, there will be additional requirements. If there are known drainage issues on site and MSD is aware of them, they could require some mitigation to help with flood control.

00:17:01 Chair Carlson asked if construction can improve flooding? Mr. Lockett said yes.

00:17:34 Commissioner Smith stated she would like clarification of zone X (not in flood hazard area) and MSD's note saying the property sits in the local area flood plain. Mr. Lockett explained that zone X refers to FEMA and is not a federally recognized flood plain but MSD (local) is more restrictive and accurate.

00:19:05 Chair Carlson asked if the city of Lyndon has permit issuing jurisdiction. Commissioner Brown stated Lyndon would submit a Certificate of Appropriateness for a building permit to be issued by Metro.

00:19:47 Commissioner Brown stated it's all 30 foot lots on the west side (of street) and the request is reasonable given all the existing lots on the street. Pavement width is adequate and any flood plain or building permit issuance will be dealt with at the building permit stage, not minor plat. The 33 foot frontage is greater than almost all the lots on the street.

00:20:35 Commissioner Smith said there are many lots this size (small) in the area.

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

Waiver from the Land Development Code section 5.3.1.C to reduce the required width from 50 feet to 33.68 feet

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NEW BUSINESS

CASE NO. 18MINORPLAT1161

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

WHEREAS, the waiver will not adversely affect adjacent property owners since the resulting lots will be consistent with the lot sizes in the area and the form district standards; and

WHEREAS, Community Form Guideline 1 policy B.3 of Cornerstone 2020 calls for a mix of residential housing choices and densities for the neighborhood; Community Form Guideline 3 policy A.3 calls for a development that is compatible with adjacent residential areas; Community Form Guideline 3 policy A.23 calls for the creation of lot patterns and setbacks that are compatible with those of nearby developments that meet form district standards; Livability/Environment Guideline 10 calls for development that is approved by MSD and is compatible with floodplain guidelines. The proposed waiver would allow creation of lots that are consistent with the pattern of development in the area and it allows to avoid existing MSD equipment and easements on site. MSD has approved the plat and will review construction plans for compliance with local regulatory floodplain standards; and

WHEREAS, the Louisville Metro Development Review Committee finds the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since all other requirements of the Land Development Code will be met; and

WHEREAS, the Louisville Metro Development Review Committee further finds the strict application of the provision of the regulation would deprive the applicant of the reasonable use of the land because the existing MSD easement would restrict the buildable area of the lot even though it is large enough for subdivision under the form district standards.

RESOLVED, that the Louisville Metro Development Review Committee does hereby **APPROVE** the waiver from the Land Development Code section 5.3.1.C to reduce the required width from 50 feet to 33.68 feet.

The vote was as follows:

YES: Commissioners Brown, Smith and Carlson

NOT PRESENT AND NOT VOTING: Commissioners Robinson and Tomes

DEVELOPMENT REVIEW COMMITTEE
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NEW BUSINESS

CASE NO. 18WAIVER1049

Request: Landscape Buffer Area
Project Name: Plantside Landscape Waiver
Location: 1819 Plantside Drive
Owner(s): Plantside Commons, LLC.
Applicant: Cort Rulketter
Jurisdiction: Jeffersontown
Council District: 18 – Marilyn Parker
Case Manager: Jay Luckett, Planner I

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

Agency Testimony:

00:22:35 Mr. Luckett discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Kortwell Kenner, 7202 River Road, Louisville, Ky.

Summary of testimony of those in favor:

00:25:04 Mr. Kenner stated he did not seek the proper waivers and is now correcting it.

Deliberation

00:26:02 Development Review Committee deliberation.

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

Waiver of Land Development Code (Jeffersontown) section 10.2.4.B to waive the PEC Property Perimeter Landscape Buffer Area requirements

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

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NEW BUSINESS

CASE NO. 18WAIVER1049

WHEREAS, the waiver will not adversely affect adjacent property owners since the site currently exists without the required buffers, and the change in use will not create any additional runoff of storm water to adjacent properties; and

WHEREAS, Guideline 3, Policy 9 of Cornerstone 2020 calls for protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigation when appropriate. Guideline 3, Policies 21 and 22 call for appropriate transitions between uses that are substantially different in scale and intensity or density, and mitigation of 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 impacts from noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered. Guideline 13, Policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. Guideline 13, Policy 6 calls for screening and buffering to mitigate adjacent incompatible uses. The intent of landscape buffer areas is to create suitable transitions where varying forms of development adjoin, to minimize the negative impacts resulting from adjoining incompatible land uses, to decrease storm water runoff volumes and velocities associated with impervious surfaces, and to filter airborne and waterborne pollutants. The area of the storage use is a relatively small portion of the site, and will not greatly change the overall site as it currently operates; and

WHEREAS, the Louisville Metro Development Review Committee finds the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since the site is already built out, and the waiver would allow existing conditions to remain as they have been; and

WHEREAS, the Louisville Metro Development Review Committee further finds the strict application of the provisions of this part would cause an unnecessary hardship on the applicant, as they would need to remove significant portions of the existing parking areas to create the required landscape buffer areas.

RESOLVED, that the Louisville Metro Development Review Committee does hereby **APPROVE** the waiver of the Land Development Code (Jeffersontown), section 10.2.4.B to waive the PEC Property Perimeter Landscape Buffer Area requirements.

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NEW BUSINESS

CASE NO. 18WAIVER1049

The vote was as follows:

YES: Commissioners Brown, Smith and Carlson

NOT PRESENT AND NOT VOTING: Commissioners Robinson and Tomes

DEVELOPMENT REVIEW COMMITTEE
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NEW BUSINESS

CASE NO. 18DEVPLAN1167

Request: Revised District Development Plan with a Waiver
Project Name: Blankenbaker Station III – Lot 7
Location: 2701 Constant Comment Place
Owner(s): H03 Chestnut, LLC
Applicant: H03 Chestnut, LLC
Jurisdiction: Louisville Metro
Council District: 20 – Stuart Benson
Case Manager: Jay Lockett, Planner I

NOTE: This case was heard first.

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

Agency Testimony:

00:03:47 Mr. Lockett stated he received a request from the applicant to remove this case from the docket indefinitely. If they decide to proceed at a later date, it will be re-noticed.

Deliberation

00:04:10 Development Review Committee deliberation.

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

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

RESOLVED, that the Louisville Metro Development Review Committee does hereby **DEFER** this case indefinitely.

The vote was as follows:

YES: Commissioners Brown, Smith and Carlson

NOT PRESENT AND NOT VOTING: Commissioners Robinson and Tomes

DEVELOPMENT REVIEW COMMITTEE
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NEW BUSINESS

CASE NO. 18MOD1010

Request: Amendment to Binding Element
Project Name: Avoca Ridge BE Amendment
Location: 12201 Avoca Road
Owner(s): Michael Gross, ARL Investments, LLC
Applicant: John Campbell, Heritage Engineering
Jurisdiction: Louisville Metro
Council District: 19 – Julie Denton
Case Manager: Lacey Gabbard, AICP, Planner I

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

Agency Testimony:

00:27:47 Ms. Gabbard discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

John Campbell, Heritage Engineering, 642 South 4th Street, Suite 100, Louisville, Ky. 40202

Summary of testimony of those in favor:

00:29:35 Mr. Campbell stated the request is for financing purposes.

Deliberation

00:30:50 Development Review Committee deliberation.

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

Modification of Binding Element #3d

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

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NEW BUSINESS

CASE NO. 18MOD1010

WHEREAS, there do not appear to be any environmental constraints or historic resources on the subject site. There are no changes to the approved development plan associated with this request, and tree canopy will be provided on the subject site per the provisions of the land development code; and

WHEREAS, there are no changes to existing vehicular or pedestrian circulation in and around the subject site associated with this request; and

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

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

WHEREAS, the Louisville Metro Development Review Committee finds there are no changes to the site associated with this binding element modification request; and

WHEREAS, the Louisville Metro Development Review Committee further finds the requested modification of binding elements conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code.

RESOLVED, that the Louisville Metro Development Review Committee does hereby **APPROVE** the modification of binding element number 3d.

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. Before any permit (including but not limited to building, parking lot, change of use, site disturbance) is requested:
 - a. The development plan must receive full construction approval from Develop Louisville, Louisville Metro Public Works and the Metropolitan Sewer District.

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NEW BUSINESS

CASE NO. 18MOD1010

- b. A minor subdivision plat or legal instrument shall be recorded dedicating additional right-of-way to Avoca Road to provide a total of 40' feet from the centerline. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
 - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - d. A minor subdivision plat or legal instrument shall be recorded creating the lot lines as shown on the development plan. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
 - e. 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; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
 - f. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
- 4. 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.
 - 5. 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.
 - 6. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the June 15, 2017 Planning Commission meeting.

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NEW BUSINESS

CASE NO. 18MOD1010

7. The applicant shall file a formal street closure application for the portion of Avoca Road to the west of the entrance to the subject property before approval of any construction plans for the proposed development. The applicant shall, should Louisville Metro Government approve the street closure application, remove all pavement from the portion of the road that is closed.
8. The developer shall contribute their prorated portion, not to exceed \$7,700 to the cost of the signal installation at Aiken Rd and N. English Station Rd. This shall be paid within 30 days of the request by the Director of Louisville Metro Public Works.
9. Prior to any site disturbance, the cemetery boundaries shall be defined by a qualified archeologist and documentation of the cemetery boundaries shall be submitted to Planning and Design staff. After the boundary has been approved, all buildings and structures shall be set back at least 30' from the cemetery boundary. The buffer shall be delineated with the installation of temporary fencing during construction. As soon as practical, the owner/developer is required to erect a new permanent fence made of material compatible with the character of the existing cemetery and the surrounding residences.

The vote was as follows:

YES: Commissioners Brown, Smith and Carlson

NOT PRESENT AND NOT VOTING: Commissioners Robinson and Tomes

DEVELOPMENT REVIEW COMMITTEE

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NEW BUSINESS

CASE NO. 18DEVPLAN1162

Request: Revised District Development Plan with Waivers and General Plan Binding Element Revisions
Project Name: Hardee's with drive-thru
Location: 11201 Oscar Road
Owner(s): RE NO ONE, LLC
Applicant: Guggenheim Development Services
Jurisdiction: Louisville Metro
Council District: 17 – Glen Stuckel
Case Manager: Lacey Gabbard, AICP, Planner I

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

Agency Testimony:

00:32:08 Ms. Gabbard discussed the case summary, standard of review and staff analysis from the staff report.

00:38:16 Commissioner Brown said the original plan called for sidewalks across the entire frontage. Are they now only going to provide sidewalks on the portion that's being developed?

The following spoke in favor of this request:

Phillip Gambrell, Prism Engineering, 2309 Watterson Trail, Louisville, Ky. 40299

Summary of testimony of those in favor:

00:39:26 Mr. Gambrell stated Hardees has been bought out and the new owners will provide a smaller and modern prototype of the building.

Mr. Gambrell provided colored renderings for the commissioners.

Mr. Gambrell explained the waiver along Chamberlain Ln. – landscaping in the Chamberlain right-of-way.

00:44:40 Commissioner Brown is concerned with the landscaping in the right-of-way, available site distance and what that does to the location of the sidewalk. The area has a roadside ditch with no curb. It's not safe. Mr. Gambrell said there should be no site distance issue and hasn't been for years.

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NEW BUSINESS

CASE NO. 18DEVPLAN1162

00:51:23 Mr. Gambrell stated it's frustrating that his client will not be able to close on the property before the end of the year. The comments have taken months and this issue today is a surprise. Chair Carlson said it's a safety issue and has to be addressed. Mr. Gambrell would like it to be approved on condition that the applicant/representatives work with Public Works on site distance issue. Mr. Reverman said it won't be feasible.

Deliberation

00:55:33 Development Review Committee deliberation.

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

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

RESOLVED, that the Louisville Metro Development Review Committee does hereby **CONTINUE** this case to the January 9, 2019 Development Review Committee meeting.

The vote was as follows:

YES: Commissioners Brown, Smith and Carlson

NOT PRESENT AND NOT VOTING: Commissioners Robinson and Tomes

DEVELOPMENT REVIEW COMMITTEE
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ADJOURNMENT

The meeting adjourned at approximately 1:56 p.m.

Chair

Planning Director