

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO DEVELOPMENT REVIEW COMMITTEE MEETING
May 10, 2022**

A meeting of the Development Review Committee was held on May 10, 2023 at 1:00 p.m. in the Old Jail building court room, located at 514 West Liberty Street, Louisville, Kentucky 40202.

Committee Members present were:

Rich Carlson, Chair
Michelle Pennix
Jennifer Caummisar-Kern
Bill Fischer

Committee Members absent were:

Patti Clare, Vice Chair

Staff Members present were:

Brian Davis, Assistant Director
Julia Williams, Planning Manager
Beth Stuber, Engineer Supervisor
Laura Ferguson, Assistant County Attorney
Mary Willis, Management Assistant
John Michael Lawler, Planner I
Jay Lockett, Planner II
Ethan Lett, Planner I
Dante St. Germain, Planner II
Amy Brooks, Planner II

The following matters were considered:

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APPROVAL OF MINUTES

April 19, 2023, DRC MEETING MINUTES

On a motion by Commissioner Pennix, seconded by Commissioner Fischer, the following resolution was adopted:

RESOLVED, that the Development Review Committee does hereby **APPROVE** the Minutes of its meeting conducted on April 19, 2023.

The vote was as follows:

YES: Commissioners Pennix, Fischer, and Carlson

ABSENT: Commissioner Clare

ABSTAIN: Commissioner Caummisar-Kern

DEVELOPMENT REVIEW COMMITTEE MINUTES
May 10, 2023

NEW BUSINESS

CASE NO. 23-WAIVER-0026

Request:	Waivers associated with a Category 2B plan for a proposed gas station and convenience store
Project Name:	Sethi Station
Location:	2124 W Market St
Owner:	Sethi Properties, LLC
Applicant:	Sethi Properties, LLC
Representative:	John Miller, Miller Wihry
Jurisdiction:	Louisville Metro
Council District:	5 – Donna Purvis
Case Manager:	John Michael Lawler, Planner I

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.)

00:03:45 Commissioner Caummisar-Kern was sworn in as a committee member.

Agency Testimony:

00:06:36 John Michael Lawler presented the case and produced a PowerPoint presentation (see staff report and recording for detailed presentation.)

00:09:41 Commissioner Carlson asked if the glass in the presentation was clear or spandrel glass. Lawler stated it is spandrel glass.

The following spoke in favor of the proposal:

Nick McCart, Keyes Architects & Associates, 4717 Preston Highway, Louisville, KY 40213

Summary of testimony of those in favor:

00:10:48 Nick McCart spoke in favor of the application.

00:12:15 Commissioner Pennix requested to see the rendering and questioned the landscape. Lawler stated the landscape will run along 22nd Street.

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NEW BUSINESS

CASE NO. 23-WAIVER-0026

00:13:09 Commissioner Carlson questioned the location of the private and public restrooms. McCart stated the layout is what the customer is requesting.

00:14:28 Commissioner Fischer asked if the front of the building was all glass and where the arch was going to be placed. McCart confirmed the front would be glass and the arch would be on the corner of W. Market and 22nd Street.

00:16:37 Commissioner Carlson asked if Waivers 1,2,3, and 5 are now justified. Lawler stated the waivers can be supported.

The following spoke in opposition to the proposal:

None

Deliberation:

00:19:49 Commissioners' deliberation.

00:25:10 On a motion by Commissioner Fischer, seconded by Commissioner Pennix the following resolution was adopted:

RESOLVED, the Louisville Metro Development Review Committee does hereby **TABLE** this case to the end of the meeting.

The vote was as follows:

YES: Commissioners Pennix, Fischer, and Carlson.

ABSENT: Commissioner Clare

ABSTAIN: Commissioner Caummisar-Kern

01:55:06 On a motion by Commissioner Fischer, seconded by Commissioner Pennix, the following resolution, was adopted:

RESOLVED, the Louisville Metro Development Review Committee does hereby **UN-TABLE** this case at the end of the meeting.

The vote was as follows:

YES: Commissioners Pennix, Fischer, and Carlson.

ABSENT: Commissioner Clare

ABSTAIN: Commissioner Caummisar-Kern

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NEW BUSINESS

CASE NO. 23-WAIVER-0026

01:55:20 John Michael Lawler stated the case would need to be continued.

01:57:25 Commissioner Pennix asked if the property was open 24hr. Lawler stated he didn't know the correct information.

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.

01:57:46 On a motion by Commissioner Fischer, seconded by Commissioner Pennix, the following resolution, based on the Staff Analysis and Standard of Review and evidence and testimony heard today, was adopted:

RESOLVED, that the Development Review Committee does hereby **CONTINUE** this case to the May 24th, 2023, Development Review Committee Meeting.

The vote was as follows:

YES: Commissioners Pennix, Fischer, and Carlson.

ABSENT: Commissioner Clare

ABSTAIN: Commissioner Caummisar-Kern

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NEW BUSINESS

CASE NO. 22-DDP-0123

Request:	Revised Detailed District Development Plan
Project Name:	Unifirst
Location:	12400 Schutte Station Pl
Owner:	Unifirst Corp
Applicant:	Vestal Corporation
Jurisdiction:	Louisville Metro
Council District:	11 – Kevin Kramer
Case Manager:	Jay Lockett, 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:

00:25:55 Jay Lockett requested that the case be continued to May 24th, 2023

The following spoke in favor of the proposal:

None

The following spoke in opposition to the proposal:

None

Deliberation:

00:26:10 Commissioners' 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.

00:26:15 On a motion by Commissioner Pennix, seconded by Commissioner Fischer, the following resolution, based on the Staff Analysis and Standard of Review and evidence and testimony heard today, was adopted:

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NEW BUSINESS

CASE NO. 22-DDP-0123

RESOLVED, that the Development Review Committee does hereby **CONTINUE** this case to the May 24th, 2023, Development Review Committee Meeting.

The vote was as follows:

YES: Commissioners Pennix, Fischer, and Carlson.

ABSENT: Commissioner Clare

ABSTAIN: Commissioner Caummisar-Kern

DEVELOPMENT REVIEW COMMITTEE MINUTES
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NEW BUSINESS

CASE NUMBER 23-FBH-0001

Request:	Review for a Factory Built Housing Dwelling Unit
Project Name:	Mount Holly Road FBH
Location:	1411 Mount Holly Rd
Owner:	Louis Heavrin III
Applicant:	Louis Heavrin III
Representative:	Louis Heavrin III
Jurisdiction:	Louisville Metro
Council District:	13 – Dan Seum Jr.
Case Manager:	Amy Brooks, Planner I

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:

00:27:01 Amy Brooks presented the case and produced a Power Point presentation (see staff report and recording for detailed presentation.)

00:29:31 Commissioner Fischer inquired about the dimensions of the lot the home would be built on and if the home would be built on a foundation. Brooks stated 2 and half acres of land and the home would need a permit for the foundation.

00:30:52 Commissioner Pennix asked if the other homes were within 1/8 of a mile. Brooks confirmed that distance was correct.

The following spoke in support of the proposal:

The following spoke in opposition:

None

Deliberation:

00:31:38 Commissioners' deliberation.

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NEW BUSINESS

CASE NUMBER 23-FBH-0001

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.

Approval of factory-built housing that does not conform with one or more of the standards listed in subsection 4.1.2.C of the Land Development Code.

00:32:45 On a motion by Commissioner Fischer, seconded by Commissioner Pennix, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

WHEREAS: The applicant is requesting a roof pitch of 3:12. The Planning Commission may approve factory-built housing that does not conform with one or more of the standards listed in sub-section 4.1.2.C if the Commission finds that the proposed housing:

WHEREAS: A one-eighth mile buffer was applied to the subject site. There are a variety of housing types and roof pitches within the surrounding neighborhood; some of which are similar in aesthetic to the proposed structure. See Attachment 4 for examples of adjacent properties.

WHEREAS: Section 4.6 of Plan 2040 sets the goal to expand and ensure a diverse range of housing choices and ensure long-term affordability and livable options in all neighborhoods. Some objectives in the plan to meet these goals include flexible zoning/design regulations encourage diverse housing options, varieties of housing types and densities are promoted, infill development and adaptive re-use are promoted, redevelopment of vacant and underused properties for residential uses is encouraged, and housing types are integrated into the surrounding neighborhood through complementary design. The proposed home will not violate specific guidelines of Plan 2040 as the proposal will allow for the residential use of the site in a manner that is appropriate for the form district and surrounding area. The structure will not allow an unreasonable circumvention of the regulations or cause a hazard to the public. The structure complies with the Comprehensive Plan.

RESOLVED, the Louisville Metro Development Review Committee does hereby **APPROVE** the approval of factory-built housing that does not conform with one or more of the standards listed in subsection 4.1.2.C of the Land Development Code.

The vote was as follows:

YES: Commissioners Pennix, Fischer, and Carlson.

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NEW BUSINESS

CASE NUMBER 23-FBH-0001

ABSENT: Commissioner Clare

ABSTAIN: Commissioner Caummisar-Kern

DEVELOPMENT REVIEW COMMITTEE MINUTES
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NEW BUSINESS

CASE NUMBER 23-FBH-0003

Request:	Review for a Factory Built Housing Dwelling Unit
Project Name:	Dunkirk Lane FBH
Location:	7416 Dunkirk Lane
Owner:	Michael Roberts
Applicant:	Shelly Mabis, Clayton Homes
Representative:	Shelly Mabis
Jurisdiction:	Louisville Metro
Council District:	14 – Cindi Fowler
Case Manager:	Amy Brooks, Planner I

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:

00:34:08 Amy Brooks presented the case and produced a Power Point presentation (see staff report and recording for detailed presentation.)

00:36:35 Commissioner Pennix asked if the home that is still standing is being torn down. Brooks stated that the home caught fire and that it is being replaced.

The following spoke in support of the proposal:

Destiny Meredith, 9500 Cochise Way, Louisville, KY 40258

Summary of testimony of those in support:

00:39:16 Destiny Meredith spoke in support of the application.

The following spoke in opposition to the proposal:

None

Deliberation:

00:37:23 Commissioners' deliberation.

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NEW BUSINESS

CASE NUMBER 23-FBH-0003

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.

Approval of factory-built housing that does not conform with one or more of the standards listed in subsection 4.1.2.B of the Land Development Code

00:40:38 On a motion by Commissioner Pennix, seconded by Commissioner Fischer, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

WHEREAS: A one-eighth mile buffer was applied to the subject site. There are a variety of housing types with varying widths within the surrounding neighborhood; some of which are similar in aesthetic to the proposed structure. See Attachment 4 for examples of adjacent properties.

WHEREAS: Section 4.6 of Plan 2040 sets the goal to expand and ensure a diverse range of housing choices and ensure long-term affordability and livable options in all neighborhoods. Some objectives in the plan to meet these goals include flexible zoning/design regulations encourage diverse housing options, varieties of housing types and densities are promoted, infill development and adaptive re-use are promoted, redevelopment of vacant and underused properties for residential uses is encouraged, and housing types are integrated into the surrounding neighborhood through complementary design. The proposed home will not violate specific guidelines of Plan 2040 as the proposal will allow for the residential use of the site in a manner that is appropriate for the form district and surrounding area. The structure will not allow an unreasonable circumvention of the regulations or cause a hazard to the public. The structure complies with the Comprehensive Plan.

RESOLVED the Louisville Metro Development Review Committee does hereby **APPROVE** the approval of factory-built housing that does not conform with one or more of the standards listed in subsection 4.1.2.B of the Land Development Code

The vote was as follows:

YES: Commissioners Pennix, Fischer, and Carlson

ABSENT: Commissioner Clare

ABSTAIN: Commissioner Caummisar-Kern

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NEW BUSINESS

CASE NUMBER 23-MPLAT-0020

Request:	Record plat amendment to create 1 buildable lot from 1 non-buildable lot
Project Name:	Shean Court Minor Plat
Location:	6024 Shean Court
Owner:	Shean Court, LLC
Applicant:	Shean Court, LLC
Representative:	Chris Crumpton, Bluestone Engineering
Jurisdiction:	Louisville Metro
Council District:	22 – Robin Engel
Case Manager:	John Michael Lawler, Planner I

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:

00:41:41 John Michael Lawler presented the case and produced a Power Point presentation (see staff report and recording for detailed presentation.)

00:44:00 Commissioner Fischer asked why the lot wasn't buildable when the subdivision was built. Lawler stated it was due to the sewer treatment plant.

The following spoke in support of the proposal:

Chris Crumpton, Blue Stone Engineers, 4350 Brownsboro Road Ste 110, Louisville, KY 40207

Summary of testimony of those in support:

00:45:22 Chris Crumpton spoke in support of the proposal and to answer any questions.

The following spoke in opposition to the proposal:

None

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NEW BUSINESS

CASE NUMBER 23-MPLAT-0020

Deliberation:

00:46:45 Commissioners' 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.

00:46:50 On a motion by Commissioner Pennix, seconded by Commissioner Fischer, the following resolution, based on the Standard of Review and Staff Analysis 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 1 buildable lot from 1 non-buildable lot.

The vote was as follows:

YES: Commissioners Pennix, Fischer, and Carlson.

ABSENT: Commissioner Clare

ABSTAIN: Commissioner Caummisar-Kern

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NEW BUSINESS

CASE NUMBER 23-CAT3-0006

Request:	Category 3 Development Plan creating a new single-family residential unit in the Portland Neighborhood
Project Name:	Habitat for Humanity
Location:	2403 Griffiths Ave
Owner:	Habitat for Humanity
Applicant:	Habitat for Humanity
Representative:	Emma Whitaker
Jurisdiction:	Louisville Metro
Council District:	5 – Donna Purvis
Case Manager:	John Michael Lawler, Planner I

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:

00:48:31 John Michael Lawler presented the case and produced a Power Point presentation (see staff report and recording for detailed presentation.)

The following spoke in support of the proposal:

None

The following spoke in opposition to the proposal:

None

Deliberation:

00:51:12 Commissioners' 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.

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NEW BUSINESS

CASE NUMBER 23-CAT3-0006

00:51:17 On a motion by Commissioner Pennix, seconded by Commissioner Fischer, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

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

The vote was as follows:

YES: Commissioners Pennix, Fischer, and Carlson.

ABSENT: Commissioner Clare

ABSTAIN: Commissioner Caummisar-Kern

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NEW BUSINESS

CASE NUMBER 23-MPLAT-0040

Request: Waiver from LDC Section 5.2.2 to allow three lots to be less than the minimum required width of 35'

Project Name: East Burnett Ave Minor Plat

Location: 605 E Burnett Ave

Owner: Old Fritz Capital Investments LLC

Applicant: Shane McCloud

Representative: Mike Hill

Jurisdiction: Louisville Metro

Council District: 6 – Phillip Baker

Case Manager: Ethan Lett, Planner I

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:

00:52:35 Ethan Lett presented the case and produced a Power Point presentation (see staff report and recording for detailed presentation.)

00:54:25 Commissioner Fischer asked if the neighboring homes were 25ft. Lett confirmed those were the dimensions.

The following spoke in support of the proposal:

Mike Hill, Land Development & Design, 503 Washburn Ave, Louisville, KY 40222

Summary of testimony of those in support:

00:54:52 Mike Hill spoke in support of the proposal and gave a brief presentation (see video.)

The following spoke in opposition to the proposal:

None

Summary of testimony of those in opposition:

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NEW BUSINESS

CASE NUMBER 23-MPLAT-0040

None

Deliberation:

00:56:14 Commissioners' 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 from LDC Section 5.2.2 to allow three lots to be less than the minimum required width of 35'

00:56:32 On a motion by Commissioner Fischer, seconded by Commissioner Pennix, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

WHEREAS: The waiver will not adversely affect adjacent property owners as the new lot configurations will fit in with surrounding properties that have similarly narrow widths. The majority of lots within this block have a width of only 25 feet.

WHEREAS: Community Form Goal 1, Policy 4 calls for proposals to ensure compatibility with the scale and site design of nearby existing development and with the desired pattern of development within the form district. The majority of lots within the immediate block face are only 25 feet, and many of the lots in the surrounding neighborhood are narrow and below the minimum width requirement. The proposed minor subdivision will therefore match the existing character of the neighborhood and be compatible with the desired pattern of development within the Traditional Form.

WHEREAS: The extent of the waiver of the regulation is the minimum necessary to afford minimum relief because the proposed lot widths are the minimum reduction from the standards necessary to create three lots. Any other configuration of the three lots would require a greater deviation from the minimum lot width requirement. **STAFF:** The Metropolitan Sewer District approved the development plan and ensured the provision of adequate drainage facilities on the subject site under the original plan approval.

WHEREAS: 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. Since the proposed subdivision exceeds the minimum lot area requirements for each proposed lot, and since the proposed subdivision is improving the compatibility of the current space with the character and pattern of development in the

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surrounding neighborhood, the strict application of the provisions would be unreasonable.

RESOLVED, the Louisville Metro Development Review Committee does hereby **APPROVE** the Waiver from LDC Section 5.2.2 to allow three lots to be less than the minimum required width of 35'

The vote was as follows:

YES: Commissioners Pennix, Fischer, and Carlson.

ABSENT: Commissioner Clare

ABSTAIN: Commissioner Caummisar-Kern

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NEW BUSINESS

CASE NUMBER 23-AMEND-0002

Request: Amendment to general plan binding elements for Middletown Station
Project Name: Middletown Station BE Amendment
Location: 12937 Shelbyville Rd
Owner: Middletown Shops 1&2, LLC
Applicant: Middletown Shops 1&2, LLC
Representative: John Talbott
Jurisdiction: Middletown
Council District: 19 – Anthony Piagentini
Case Manager: John Michael Lawler, Planner I

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:

00:57:31 John Michael Lawler presented the case and produced a Power Point presentation (see staff report and recording for detailed presentation.)

The following spoke in support of the proposal:

John Talbott, Bardenwerper, Talbott, Roberts, 1000 N. Hurstbourne Pkwy, Louisville, KY 40223

Summary of testimony of those in support:

01:00:39 John Talbott spoke in support of the proposal and presented a PowerPoint presentation (see video).

01:03:07 Commissioner Pennix wanted more clarification on how the project worked. Talbott stated it would not be an overnight facility.

The following spoke in opposition to the proposal:

None

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NEW BUSINESS

CASE NUMBER 23-AMEND-0002

Deliberation:

01:04:39 Commissioners' 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.

Amendment to Binding Elements

01:05:51 On a motion by Commissioner Pennix, seconded by Commissioner Fischer, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

WHEREAS: There do not appear to be any environmental constraints or historic resources on the subject site. No modifications are occurring on the site.

WHEREAS: Provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community were provided when the development was originally approved.

WHEREAS: There are no open space requirements pertinent to the current proposal.

WHEREAS: The Metropolitan Sewer District approved the development plan and ensured the provision of adequate drainage facilities on the subject site under the original plan approval.

WHEREAS: The proposed land use is compatible with existing and future development in the area.

WHEREAS: The amendment conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code.

RESOLVED, the Louisville Metro Development Review Committee does hereby **RECOMMEND** that the city of Middletown **APPROVE** the Amendment to Binding Elements.

Existing Binding Elements with Modifications

1. The following uses permitted in a C-2 district will not be allowed in any phase of Middletown Station Center:
 - (a) Bowling Alleys
 - (b) Ice Storage Houses

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- (c) Funeral Homes
 - ~~(d) Veterinary Hospitals~~
 - (e) Automobile Garages and used Car Sales Area, except as part of a new automobile sales agency.
 - (f) Dance Halls
 - (g) Kennels
 - (h) Monument Sales
 - (i) Plumbing and Heating Shops
 - (j) Refrigerated Lockers
 - (k) Sign Painting
 - (l) Skating Rinks
 - (m) Storage Garages
 - (n) Trade Schools
 - (o) Upholstery and Furniture Repair Shops
2. The development shall not exceed 730,245 of gross floor area. (Tract A to have 537,981 sf retail and 1,738 non-retail; Tract B to have 36,040 sf retail; Tract B to have 5,875 sf of restaurant and 16,525 sf of retail in a single 22,400 sf building, and Tract D to have 17,500 sf office. The remaining square footage is taken up by outlots.) Prior to the submittal of any detailed plan for tracts A, B and D, an updated traffic study shall be submitted at the direction of Planning and Design staff.
 3. The only permitted development identification signs shall be located as shown on the approved general district development plan. The primary entrance sign shall not exceed 255 square feet in area per side and 40 feet in height. The secondary entrance signs (2) shall not exceed 71 square feet in area per side and 10 feet in height. No sign shall have more than two sides.
 4. The size and location of any proposed freestanding sign must be approved by the Planning Commission and the City of Middletown. The Planning Commission or the City of Middletown may require that the signs be smaller than would otherwise be permitted by the Zoning District regulations.
 5. There shall be no direct vehicular access from outlots to Shelbyville Road.
 6. There shall be no further creation of outlots along Shelbyville Road. Outlots are subject to all original binding elements.
 7. 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 and to the City of Middletown for review and approval; any changes/additions/alterations not so referred shall not be valid.

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8. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
9. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit is requested:
 - (a) The development plan must receive full construction approval from Louisville Metro Department of Inspections, Permits and Licenses, Louisville Metro Public Works and the Metropolitan Sewer District.
 - (b) The appropriate variances shall be obtained from the Board of Zoning Adjustment to allow the development as shown on the approved district development plan.
 - (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 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.
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 specifically waived by the Planning Commission.
11. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
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 and design of the proposed Wal-Mart shall be substantially the same as depicted in the rendering as presented at the November 29, 2006 Development Review Committee meeting. The materials and design of the proposed Target shall be substantially the same as depicted in the rendering as presented at the June 18, 2008 Development Review Committee meeting.
14. No idling of trucks shall take place within 200 feet of single-family residences. No overnight idling of trucks shall be permitted on-site.

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15. 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 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.

16. The developer shall contribute up to 50% of the cost of signal installation at Aiken Rd and N. English Station Rd., not to exceed \$35,000. This shall be paid within 30 days of the request by the Director of Metro Public Works. The request shall be made to the developer when Metro Public Works obtains the balance of the cost of installation, no sooner than construction plan approval of the Target building.

The vote was as follows:

YES: Commissioners Pennix, Fischer, and Carlson.

ABSENT: Commissioner Clare

ABSTAIN: Commissioners Caummisar-Kern

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NEW BUSINESS

CASE NUMBER 23-DDP-0007

Request:	Revised Detailed District Development Plan with Binding Elements and Waivers
Project Name:	Zips Car Wash
Location:	9520 Preston Highway
Owner:	Meijer Stores Limited Partnership
Applicant:	Zips Car Wash
Representative:	CEI Engineering
Jurisdiction:	Louisville Metro
Council District:	24 – Madonna Flood
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:

01:07:05 Dante St. Germain presented the case and produced a Power Point presentation (see staff report and recording for detailed presentation.)

01:11:48 Commissioner Carlson stated he communicated with St. Germain about the binding elements. St. Germain stated she will look into the binding elements.

The following spoke in support of the proposal:

Greg Mcahey, UCR Development, 8080 Park Ln Ste 750, Dallas, TX 75231

Summary of testimony of those in support:

01:14:51 Greg Mcahey spoke in favor of the application and to answer any questions.

01:15:36 Laura Ferguson spoke about the blasting requirement.

The following spoke in opposition to the proposal:

None

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Summary of testimony of those in opposition:
None

Deliberation:

01:16:39 Commissioners' 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 #1: Waiver from 5.6.1.B.1 to permit a structure to have a ground-floor elevation with articulating features along less than 60% of the façade (23-WAIVER-0056)

Waiver #2: Waiver from 10.2.4.B.3 to permit more than 50% overlap of a required VUA LBA with a utility easement and to waive required plantings in the area of encroachment (23-WAIVER-0065)

01:17:54 On a motion by Commissioner Pennix, seconded by Commissioner Fischer, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted

(Waiver #1) WHEREAS: The waiver will not adversely affect adjacent property owners as mitigation of the waiver is being provided

WHEREAS: The waiver will not violate specific guidelines of Plan 2040 as Plan 2040 does not address building façades.

WHEREAS: The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the proposed use is a car wash, which is not the type of building that is conducive to compliant building articulation.

WHEREAS: 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 providing the required articulation would cause the applicant to incur expenses related to the articulation with no discernable benefit to the public.

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(Waiver #2) WHEREAS: The waiver will not adversely affect adjacent property owners as the easement already exists and the site is currently part of a parking lot. Meijer, the current owner of the property, would be the only affected neighbor.

WHEREAS: The waiver will not violate specific guidelines of Plan 2040 as Plan 2040 recommends adequate buffering between uses that are significantly different in density or intensity. The uses around the site are similar in intensity as the proposed use on the site.

WHEREAS: The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the easement already exists and unavoidably overlaps the VUA LBA. The provision of an internal LBA would impact the development significantly without any benefits to the public.

WHEREAS: 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 providing the required VUA LBA behind the easement, or provision of the required internal LBA, would make the property largely unusable.

RESOLVED, the Louisville Metro Development Review Committee does hereby **APPROVE** the requested Waiver #1 from 5.6.1.B.1 to permit a structure to have a ground-floor elevation with articulating features along less than 60% of the façade (23-WAIVER-0056) and Waiver #2 from 10.2.4.B.3 to permit more than 50% overlap of a required VUA LBA with a utility easement and to waive required plantings in the area of encroachment (23-WAIVER-0065).

The vote was as follows:

YES: Commissioners Pennix, Fischer, and Carlson.

ABSENT: Commissioner Clare

ABSTAIN: Commissioners Caummisar-Kern

Revised Detailed District Development Plan and revised Binding Elements

01:19:04 On a motion by Commissioner Pennix, seconded by Commissioner Fischer, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted

WHEREAS: No natural resources are evident on the site. The site is outside the buffer zone for Fishpool Creek.

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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 site is a future outlot being subdivided from an underutilized parking lot, and development on the site will not impact surrounding neighborhoods.

RESOLVED, the Louisville Metro Development Review Committee does hereby **APPROVE** the requested Revised Detailed District Development Plan and revised Binding Elements.

Proposed Binding Elements

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

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.

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.

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5. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
6. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested:
 - a. The development plan must receive full construction approval from Louisville Metro Department of Codes and Regulations Construction Permits and Transportation Planning Review and the Metropolitan Sewer District.
 - b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
 - e. 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.
7. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
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.

General Plan Binding Elements.

1. The development shall be in accordance with the approved district development plan and agreed upon binding elements unless amended pursuant to the Zoning District Regulations. No further development shall occur without prior approval from the Planning Commission, except for land uses permitted in the established zoning district.

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2. The development shall not exceed 261,500 square feet of gross floor area (229,400 square feet for the retail store and 34,000 square feet for the garden center).
3. Signs shall be in accordance with Chapter 8 of the Land Development Code.
4. No outdoor advertising signs (billboards), small free- standing (temporary) signs, pennants or banners shall be permitted on the site.
5. There shall be no outdoor storage on the site.
6. Outdoor lighting shall be directed down and away from surrounding residential properties.
7. The developer will lengthen the existing northbound left turn lane on Preston at the proposed entrance per Kentucky Department of Highways requirement.
8. The developer will construct a separate southbound right turn lane on Preston at the Meijer entrance per Kentucky Department of Highways requirement.
9. Traffic improvements will be made to the intersection of Preston and South Park/Manslick in conformance to a preliminary drawing that has been submitted to the Jefferson County Division of Public Works and the developer will:
 - a. Provide to the County the construction drawings and specifications for the improvement.
 - b. Pay for the construction of the improvements including water line relocation if any are required.
 - c. Post necessary bonds for improvements prior to building construction approval.

The County will:

- a. Purchase all right-of-way and easements required for the proposed improvements.
- b. Bid the project and provide construction supervision. The Developer will be able to obtain construction drawing approvals, building permits and occupancy permits regardless of whether or not the County has obtained the right-of-way and easements required by this binding element. If the County is unable to obtain the right-of-way and easements within four years of construction approval, the Developer's requirements under this binding element are null and void.

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10. The applicant agrees to permit a transit stop to be located on the site at an appropriate location as determined in concert with the Transit Authority of River City (TARC).
11. A soil erosion and sedimentation control plan shall be developed and implemented in accordance with the Metropolitan Sewer District and the USDA Natural Resources Conservation Service recommendations. Documentation of MSD's approval of the plan shall be submitted to the Planning Commission prior to grading and construction activities.
12. 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, and 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 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.
 - d. Location of construction fencing for each tree/tree mass designated.
13. 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 the Jefferson County Department of Public Works and Transportation (400 Fiscal Court Building) and the Metropolitan Sewer District (400 S. Sixth Street).
 - b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
 - c. A minor plat or legal instrument shall be recorded consolidating the property into one lot. A copy of the recorded instrument shall be submitted to the Division of Planning and Development Services; transmittal of the approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.

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- d. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in the parkway policy and article 12 prior to requesting a building permit. Such plan shall be implemented prior to the applicant requesting a Certificate of Occupancy for the site and shall be maintained thereafter.
- e. An access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be secured from the adjoining property owner and recorded. A copy of the recorded instrument shall be submitted to the Division of Planning and Development Services; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
14. If a building permit is not issued within two years of the date of approval of the plan or rezoning, whichever is later, the property shall not be used in any manner unless a revised district development plan is approved or an extension is granted by the Planning Commission.
15. 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.
16. The property owner/developer shall provide copies of these binding elements to tenants, contractors and other parties engaged in development of this project, and shall inform them of the content of these binding elements. Further, the property owner/developer shall require contractors to similarly notify all of their sub-contractors whose duties relate to the binding elements. The property owner/developer shall ensure their compliance with the binding elements.
17. The western end of the five foot berm along the southern property line shall maintain the 525 foot elevation as near to the western most power pole along that berm as staff determines possible while the 2.5:1 slope is maintained.
18. Prior to the applicant requesting a certificate of occupancy, the applicant shall obtain approval of a revised plan showing the extended berm from the staff landscape architect.

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The vote was as follows:

YES: Commissioners Pennix, Fischer, and Carlson.

ABSENT: Commissioner Clare

ABSTAIN: Commissioners Caummisar-Kern

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NEW BUSINESS

CASE NUMBER 22-DDP-0120

Request:	Revised Detailed District Development Plan
Project Name:	Progress Park
Location:	4501 Progress Blvd
Owner:	Progress Park, LLC
Applicant:	Mike Pifer
Jurisdiction:	Louisville Metro
Council District:	2-Barbara Shanklin
Case Manager:	Ethan Lett, Planner I

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:

01:20:34 Ethan Lett presented the case and produced a Power Point presentation (see staff report and recording for detailed presentation.)

The following spoke in support of the proposal:

Mike Hill, Land Development & Design, 503 Washburn Ave, Louisville, KY 40222

Summary of testimony of those in support:

01:24:35 Mike Hill spoke in favor of the application and presented a PowerPoint presentation (see video).

01:29:38 Commissioner Fischer inquired about the size of the building and how customers would interact with the facility. Hill explained the building went down in size and customers would drive to the location, rent a unit and stay for the night.

01:30:51 Mike Hill questioned why he needed to go back to BOZA. Julia Williams stated the plans were changed and a modified CUP was needed.

The following spoke in opposition to the proposal:

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None

Deliberation:

01:32:27 Commissioners' 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. Revised Detailed District Development plan

01:32:55 On a motion by Commissioner Pennix, seconded by Commissioner Fischer, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted

WHEREAS: The proposed development conserves natural resources including a large amount of trees and vegetation. The site provides substantial buffers, open space and open water areas, and recreational spaces

WHEREAS: The subject site is located in a poorly connected area but provides for pedestrian and vehicular safety within the subject site. Connection to single-family residential areas would be inappropriate

WHEREAS: Sufficient amounts of open space are provided. The proposed development provides buffers, scenic and recreational open spaces with trees, vegetation, and existing and proposed open water spaces.

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: Appropriate transitions between uses that are substantially different in scale and intensity or density have been provided by way of landscape buffering and access prohibitions.

WHEREAS: The proposed development is unique for an urbanized area as camping areas are more commonly associated with parks or rural areas. While it may be unique, it would not appear that the location of the proposed development would create a nuisance or disruption to the mix of uses present in the area. This is primarily due to the

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project's low impact on the natural environment and enhanced landscape buffering. For these reasons, the development plan conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code.

RESOLVED, the Louisville Metro Development Review Committee does hereby **APPROVE** the condition that the Modified CUP be approved by BOZA, **SUBJECT** to the following Binding Elements:

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 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. Construction Fencing shall also be provided along the Limits of Disturbance as shown on the approved district development plan.
4. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested:
 - a. The development plan must receive full construction approval from Louisville Metro Department of Codes and Regulations Construction Permits and Transportation Planning Review and the Metropolitan Sewer District.
 - b. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
 - 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

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5. There shall be a staff member on site during all scheduled events and between the hours 6:00 p.m. and 7:00 a.m.
6. There shall be no long term rentals on the property with the exception of the existing homes on the property with one for the staff member(s).
7. The property shall not be used as a mobile home park
8. A solid 8 foot wooden fence shall be installed and maintained (kept in good repair) around the entire perimeter of the property as presented at the October 30, 2017 neighborhood meeting and as presented at the June 5, 2018 Planning Commission public hearing.
9. All scheduled events held at the event center and outdoor reception area shall end no later than 12 a.m. (midnight) on Friday and Saturday and no later than 10 p.m. Sunday through Thursday. Indoor live music or amplified music at the event center shall not be audible from any single family residential property line.
10. There shall be no outdoor live music or outdoor amplified music between the hours of 10:00 p.m. and 7:00 a.m. anywhere on site on Friday and Saturday and between the hours of 9:00 p.m. and 7:00 a.m. on Sunday through Thursday.
11. The maximum number of scheduled large events (over 100 people) at the event center and outdoor reception area shall be 72 per year.
12. The property shall be prohibited from obtaining an A.B.C. license. Alcoholic beverages may be provided during an event by a caterer holding the appropriate license.
13. No commercial deliveries shall occur before 9 a.m.
14. The dumpster shall not be visible to neighbors.
15. Only one fire pit, being a maximum of 3 feet in diameter, will be allowed at each cluster of airstreams.
16. The property shall not be used as a pay lake.
17. Enhanced landscaping shall be installed to shield the two southern clusters of retail units on the property from Busath Avenue and Lambert Avenue prior to the installation and rental of facilities on-site. Except as specifically shown on the detailed district development plan, the vegetation along the northern portion of the subject property shall remain and not be removed.
18. All rental units shall be installed such that they are not facing any adjoining residential property on Busath Avenue or Lambert Avenue.

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19. The property shall NOT be used for any other use except those uses designated on the approved district development, unless a revised district development plan and the change of use is approved by the full Planning Commission with notification to all 1st and 2nd tier adjoining property owners and all those who spoke at the public hearing on June 5, 2018.
20. A copy of the campgrounds' rules and regulations shall be provided to all guests and posted in a convenient location visible to all guests upon entry. The rules and regulations shall include, but not limited to the following:
 - Check in/Check out procedures
 - Minimum age for rental
 - Use of fire pits
 - Use of Lake
 - Garbage disposal
21. Applicant shall work with the owner of 4019 Busath Avenue to agree upon modifications to the proposed wood fence that will be located close to the above residence. In the event an agreement is not reached, the applicant shall, at a minimum, move the fence in this location into the subject property 15 feet to provide a buffer or reduce the size of the fence adjoining, whichever is preferred by the adjoining property owner.
22. Quiet hours for rental units shall be 10:00 p.m. – 7:00 a.m.
23. There shall be no use of gas or diesel generators between the hours of 6:00 p.m. and 8:00 a.m. anywhere on the site.

The vote was as follows:

YES: Commissioners Pennix, Fischer, and Carlson.

ABSENT: Commissioner Clare

ABSTAIN: Commissioners Caummisar-Kern

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NEW BUSINESS

CASE NUMBER 22-DDP-0133

Request:	Revised Detailed District Development Plan with revisions
Project Name:	Heartland Dental
Location:	100 Marshall Dr.
Owner:	TT of B Louisville, Inc.
Applicant:	Heartland Dental
Jurisdiction:	Louisville Metro
Council District:	9 – Andrew Owen
Case Manager:	Jay Lockett, 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:

01:33:58 Jay Lockett presented the case and produced a Power Point presentation (see staff report and recording for detailed presentation.)

01:36:02 Commissioner Carlson asked if BOZA would approve the variances. Lockett stated the information would be in the binding elements.

The following spoke in support of the proposal:

Chris Brown, Bowman Consulting, 3001 Taylor Springs Drive, Louisville, KY 40220

Phyllis Skonicki, 110 Marshall Drive, Louisville, KY 40207

Summary of testimony of those in support:

01:37:04 Chris Brown spoke in favor of the application and presented a PowerPoint presentation (see video).

01:45:21 Phyllis Skonicki spoke in favor of the proposal.

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**The following spoke in opposition to the proposal:
None**

Deliberation:

01:46:34 Commissioners' deliberation.

01:46:52 Jay Lockett made clarifications to the binding elements.

01:49:37 Commissioner Carlson acknowledged binding element number 17 being a masonry wall.

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.

Revised Detailed District Development plan with Revisions to Binding Elements

01:53:02 On a motion by Commissioner Pennix, seconded by Commissioner Fischer, the following resolution, based on the Staff Analysis and Standard of Review and evidence and testimony heard today, was adopted:

WHEREAS: There do not appear to be any environmental constraints or historic resources on the subject site.

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 associated with this request.

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.

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WHEREAS: The development plan conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code.

RESOLVED, the Louisville Metro Development Review Committee does hereby **APPROVE** the Revised Detailed District Development plan with Revisions to Binding Element, **SUBJECT** to the following Binding Elements:

Proposed 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 City of Beechwood Village for review and 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. Signage:
 - a. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site. Temporary way finding signs, construction-related signs or directional signs are permitted. Plans for all proposed freestanding signage shall be submitted to the City of Beechwood Village for review.
 - b. No median, street signage or other structure in the City of Beechwood Village right of way can be installed or removed without review and coordination with the City of Beechwood Village.
 - c. The property owner shall be responsible for reimbursing the City of Beechwood Village for legal fees incident to any and all necessary signage enforcement on the City's part.
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, alteration permit) 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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- b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
 - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - d. A minor plat or legal instrument shall be recorded consolidating the property into a single lot. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services prior to requesting a building permit.
 - 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.
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 permitted on the site.
 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. No idling of trucks shall take place within 200 feet of residences. No overnight idling of trucks shall be permitted on-site.
 9. Hours of Operation:
 - a. Deliveries: 7am-7pm Monday- Friday; 9am-5pm Saturday and Sunday
 - b. Trash Pick-Up: 7am-6pm Monday-Friday
 - c. Construction: 7am-4pm Monday- Friday
 - d. Business Hours: 7am- 7pm Monday-Friday
 10. The only permitted use of the subject property shall be a dentist office. Any changes in use shall be reviewed and approved by the Planning Commission or its designee. Thirty (30) days advance notice of any Planning Commission or designee decision shall be given to the City of Beechwood Village and 1st tier adjacent property owners.

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11. The applicant shall provide a copy of the plan and application to the City of Beechwood Village, within one week of filing to Planning and Design Services, of all Revised Detailed District Development Plans, Amendment to Binding Elements, Change of Zoning or Conditional Use Permit requests, Waivers, and Variances.
12. Dumpsters shall be enclosed as required by the Land Development Code, be lidded and the lid shall not be made of metal.
13. Landscaping shall be installed pursuant to the "Detailed Landscape Plan" presented at the May 10, 2023 Development Review Committee and presented to the City of Beechwood Village. Any and all landscaping shall be maintained, including mowing, trimming, pruning, replacing all bushes, trees, grass, and or plantings. Any replacement landscaping shall be of similar quality and size as approved by Planning and Design services staff. All landscaping approved by the Planning and Design Services staff shall be installed following the exact specifications of the approved final landscaping plan.
14. Lighting:
 - a. At the time a building permit for the parking lot construction is requested, the applicant/developer shall submit a certification statement to the permit issuing agency, from an engineer, or other qualified professional stating that the lighting of the proposed development is in compliance with Chapter 4 Part 1.3 of the Land Development Code and shall be maintained accordingly thereafter. No permits shall be issued unless such certification statement is submitted.
 - b. Outdoor lighting shall be directed down and away from surrounding residential properties. Lighting fixtures shall assure that no light source is visible off site. Lighting levels attributable to the fixtures located on the subject site shall not exceed 0.25 foot candles at the property line. Light shall be LED or equivalent.
15. Proper drainage of storm water and water fun off from site shall not overflow and encroach onto neighboring private property owners, City of Beechwood Village or its right of way. If water encroaches or ponds onto said properties, land owner shall take immediate action to remedy the situation. Storm water shall drain according to MSD and in accordance with MSD approved construction documents. Any storm water runoff is sole responsibility of property owner. Owner shall take appropriate actions to meet recommended site drainage specifications as approved by MSD.
16. An 8-foot tall (at top of columns) masonry wall shall be installed as located on the RDDDP presented at the May 10, 2023 Development Review Committee meeting. The wall shall be maintained by the property owner.

The vote was as follows:

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YES: Commissioners Pennix, Fischer, and Carlson.

ABSENT: Commissioner Clare

ABSTAIN: Commissioners Caummisar-Kern

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ADJOURNMENT

The meeting adjourned at approximately 2:58 p.m.

Chairman

Division Director