

**MINUTES OF THE MEETING  
OF THE  
DEVELOPMENT REVIEW COMMITTEE  
January 17, 2018**

A meeting of the Development Review Committee was held on, January 17, 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  
Jeffrey Brown  
Emma Smith

**Committee Members absent were:**

David Tomes, Chairman  
Laura Ferguson

**Staff Members present were:**

Emily Liu, Planning Director  
Joe Reverman, Assistant Director  
Brian Davis, AICP, Planning Manager  
Jon Crumbie, Planning Coordinator  
Ross Allen, Planner I  
Jay Lockett, Planner I  
Chastity White, Associate Planner  
Mark Dutrow, Engineer II  
Paul Whitty, Legal Counsel  
Travis Fiechter, Legal Counsel  
Pamela M. Brashear, Management Assistant

The following matters were considered:

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**APPROVAL OF MINUTES**

**JANUARY 3, 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 January 3, 2018.

**The vote was as follows:**

**YES: Commissioners Brown, Smith and Carlson**

**NOT PRESENT FOR THIS CASE: Commissioners Ferguson and Tomes**

## DEVELOPMENT REVIEW COMMITTEE

January 17, 2018

### NEW BUSINESS

#### CASE NO. 17MINORPLAT1116

Request: Waiver to allow a lot to be created below minimum width  
Project Name: Creek Alley Properties  
Location: 993 Vine Street  
Owner: Creek Alley Properties, LLC  
Applicant: Creek Alley Properties, LLC  
Representative: C Robert Vinsand  
Jurisdiction: Louisville Metro  
Council District: 4 – Barbara Sexton Smith  
**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. 5<sup>th</sup> Street.)

#### Agency Testimony:

00:13:11 Mr. Luckett discussed the case summary, standard of review and staff analysis from the staff report.

#### Deliberation

00:17:17 Commissioner Brown requests a note be added on the plat prohibiting any driveway access to Vine and Brent Streets.

**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, based on testimony heard today, was adopted.

**RESOLVED**, that the Louisville Metro Development Review Committee does hereby **APPROVE** the waiver to allow a lot to be created below the minimum width **ON CONDITION** that a note is added to the plat to be recorded that restricts driveway access to Vine and Brent Streets.

#### The vote was as follows:

**YES: Commissioners Brown, Smith and Carlson**

**NOT PRESENT AND NOT VOTING: Commissioners Ferguson and Tomes**

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**NEW BUSINESS**

**CASE NO. 17DEVPLAN1185**

Request:	Revised District Development plan for a restaurant
Project Name:	Naïve Restaurant
Location:	1001 East Washington Street
Owner:	Geiger St. Properties, LLC
Applicant:	Catherine MacDowell
Representative:	Ana Nouri
Jurisdiction:	Louisville Metro
Council District:	4 – Barbara Sexton Smith
<b>Case Manager:</b>	<b>Jay Luckett, Planner I</b>

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. 5<sup>th</sup> Street.)

**Agency Testimony:**

00:19:26 Mr. Luckett discussed the case summary, standard of review and staff analysis from the staff report.

**The following spoke in favor of this request:**

Ana Nouri, 1119 Roshrevor Circle, Louisville, Ky. 40205

**Summary of testimony of those in favor:**

00:28:21 Ms. Nouri stated the owner doesn't want to consolidate the lots, but keep his options open for future development. Regarding parking on site, the applicant is exploring the option of changing the zoning of the 2 lots to C-2 – featuring outdoor dining and a vegetable garden. A study was done and the alley is only 12 feet wide and the lots (across the alley) are very narrow so there's limited maneuvering space. "We're working Public Works."

**Deliberation**

00:31:25 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.**

**Revised District Development Plan and Binding Elements**

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#### CASE NO. 17DEVPLAN1185

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

**WHEREAS**, there do not appear to be any environmental constraints or historic resources on the subject site; and

**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; 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 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. Buildings and parking lots will meet all required setbacks; and

**WHEREAS**, the Louisville Metro Development Review Committee further finds the development plan conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code. The plan is consistent with the land use recommendations of the Butchertown Neighborhood Plan.

**RESOLVED**, that the Louisville Metro Development Review Committee does hereby **APPROVE** the Revised District Development Plan **ON CONDITION** that the plan is updated to accurately reflect the available on-street parking along the lots frontages and the proposed binding elements but maintain binding element number 8 to read: No improvements shall be made on the unimproved portion of the subject premises, except for uses permitted in the R-6 zone, a parking lot or the walk-in cooler and trash area associated with the restaurant use as may be required to support a C-N use of the building currently located on the subject premise, **SUBJECT** to the following Binding Elements:

1. The development shall be in accordance with the approved district development plan. No further development will occur without prior approval from the Planning Commission.

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2. Before a construction permit for parking lot is requested:
  - a) The development plan must be reapproved by Develop Louisville and the Metropolitan Sewer District.
  - b) The size and location of any proposed freestanding sign must be approved by the Planning Commission. The Planning Commission may require that the signs be smaller than would otherwise be permitted in the Zoning District Regulations.
  - c) The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described Chapter 10. Such plan shall be implemented prior to requesting a certificate of occupancy and maintained thereafter.
  - d) All necessary recording fees shall be paid.
3. No outdoor advertising signs (billboards) or small freestanding (temporary) signs shall be permitted on the site.
4. All binding elements must be implemented prior to requesting issuance of the construction permit.
5. The development shall be in accordance with the approved district development plan. No further development will occur without prior approval from the Planning Commission.
6. Before a construction permit for is requested:
  - a) The development plan must be approved by Develop Louisville and the Metropolitan Sewer District.
  - b) The size and location of any proposed freestanding sign must be approved by the Planning Commission. The Planning Commission may require that the signs be smaller than would otherwise be permitted in the Zoning District Regulations.
  - c) The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10. Such plan shall be implemented prior to requesting a certificate of occupancy and maintained thereafter.
  - d) All necessary recording fees shall be paid.

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7. No outdoor advertising signs (billboards) or small freestanding (temporary) signs shall be permitted on the site.
8. No improvements shall be made on the unimproved portion of the subject premises, except for uses permitted in the R-6 zone, a parking lot or the walk-in cooler and trash area associated with the restaurant use as may be required to support a C-N use of the building currently located on the subject premise.

**The vote was as follows:**

**YES: Commissioners Brown, Smith and Carlson**

**NOT PRESENT AND NOT VOTING: Commissioners Ferguson and Tomes**

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**CASE NO. 17DEVPLAN1217**

Request:	Revised Detailed District Development plan to allow a parking garage and hospital addition
Project Name:	Norton Brownsboro Hospital
Location:	4960 Norton Healthcare Boulevard
Owner:	Norton Hospitals, Inc.
Applicant:	Norton Hospitals, Inc.
Representative:	Glenn Price
Jurisdiction:	Louisville Metro
Council District:	16 – Scott Reed
<b>Case Manager:</b>	<b>Jon E. Crumbie, Planning and Design Coordinator</b>

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. 5<sup>th</sup> Street.)

**Agency Testimony:**

00:37:24 Mr. Crumbie discussed the case summary, standard of review and staff analysis from the staff report.

**The following spoke in favor of this request:**

Glenn Price, Frost, Brown, Todd, 400 West Market Street, Suite 3200, Louisville, Ky. 40202

Chris Haedt, 515 East Main Street, 4<sup>th</sup> floor, Columbus, Ohio 43215

**Summary of testimony of those in favor:**

00:40:39 Mr. Price gave a power point presentation.

00:42:10 Mr. Haedt, architect representing the design team for Norton Brownsboro Hospital, continued the power point presentation. Expansion will allow Norton to serve the community. There will be a 2-level parking structure to serve staff and patients (202 spaces).

**Deliberation**

00:51:25 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.**



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**Revised Detailed District Development Plan and Binding Elements**

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

**WHEREAS**, other than landscaping associated with the existing development there are no previously existing natural resources on the site; and

**WHEREAS**, safe and efficient vehicular and pedestrian transportation has been provided under prior developments and will continue to remain safe and efficient for the development and surrounding community; and

**WHEREAS**, open space is not required for this development; and

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

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

**WHEREAS**, the Louisville Metro Development Review Committee further finds the development plan 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 Detailed District Development Plan and the proposed update to binding element 2, **SUBJECT** to the following Binding Elements:

1. The Development approved as a General District Development Plan shall be developed in accordance with such Plan and binding elements contained herein unless amended pursuant to the Zoning District Regulations. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission for review and approval; any changes/additions/alterations not so referred shall not be valid. Each applicant seeking approval of a detailed district development plan for each parcel in the Development shall be responsible for up-dating the General District Development Plan as to those matters where

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the applicant's approved plan deviates from the General District Development Plan.

2. The development shall be in accordance with the approved 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. Outlet structures shall be generally oriented toward the internal roadways as shown on the General District Development Plan.
3. Prior to development (includes clearing and grading) of each parcel in the development, the applicant, developer, or property owner of each such parcel shall obtain approval of a detailed district development plan from the Architectural Review Committee and thereafter obtain approval from LD&T. Each plan shall be in adequate detail and subject to additional binding elements. The additional binding elements may relate, but not be limited, to the following items:
  - a. screening, buffering, landscaping, tree preservation
  - b. density, floor area, size and height of buildings; provided that the development is not more restricted than set forth within the binding elements.
  - c. points of access and site layout with respect to on-site circulation
  - d. land uses
  - e. signage
  - f. loading berths
  - g. parking
  - h. sidewalks
  - i. site design elements relating to alternative transportation modes
  - j. outdoor lighting
  - k. minor subdivision plat approval
  - l. air pollution
  - m. the timing of construction to coincide with the availability of flood protection measures, municipal sewer and water service, and adequate fire protection
  - n. dumpsters
4. The following uses shall not be permitted in the C-2 Commercial District: adult entertainment, auction sales, automobile repair garages, bingo halls, car washes and flea markets.
5. Each applicant for development of a parcel shall be required to provide the information needed to notify first tier property owners to the perimeter of the entire Development, plus those who spoke in opposition to the Development at

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the public hearing, at least seven (7) days prior to the Land Development and Transportation Committee meeting review of any detailed district development plan for each parcel in the Development. This list of names and addresses shall be submitted by the applicant at the time of filing for any Land Development and Transportation Committee meeting review. Staff of the Planning Commission shall be responsible for ensuring that these notices are mailed in accordance with this binding element.

6. Prior to the recording of the record plat, copies of the recorded documents listed below shall be filed with the Planning Commission.
  - a) Articles of Incorporation, Articles of Organization or other appropriate origination documents filed with appropriate governmental authorities for the entity responsible for common areas maintenance, repair and upkeep, which includes maintenance of WPAs.
  - b) A deed of restriction in a form approved by Counsel to the Planning addressing responsibilities for the maintenance of common areas and open space and maintenance of WPAs and other issues required by these binding elements / conditions of approval.

### DESIGN

7. A Streetscape Master Plan shall be submitted to Planning Commission staff for review and approval prior to filing of any Detailed District Development Plan. The Streetscape Master Plan shall include, but not be limited to street tree planting locations/sidewalk and multi-purpose trail typical cross section design/location of street lights, public benches, TARC stop, and trash receptacles. A transit stop has been shown for conceptual purposes only. The decision and location of a transit stop shall be made by TARC prior to construction plan approval for the public roadway.
8. The only permitted freestanding signs shall be as shown on the approved General District Development Plan or sign plans. Prior to the erection of any sign, a unified sign plan for the entire Development shall be submitted, detailing the materials, sizes and appearance of all freestanding signs proposed for the Development. Freestanding signs shall be monument style. Information relating to attached building signage shall be submitted as part of the detailed plan review for each parcel. Attached signage affixed to the office buildings, hotel, and the medical diagnostic clinic shall be back lit and not internally illuminated. No outdoor advertising signs, small free-standing signs, pennant, balloons, or banners shall be permitted on any parcel in the Development.

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9. Outdoor lighting shall be directed down and away from surrounding residential properties. Lighting fixtures shall have a 90-degree cutoff. Light levels due to lighting on the Development shall not exceed one-foot candle measured at the property line. Light levels due to lighting on Lot O shall not exceed 0.5-foot candle measured at the property line of the Development. Each applicant for such parcel in the Development shall obtain certification by a qualified expert in measurement of lighting levels prior to requesting a certificate of occupancy. Such certification shall be maintained on site at all times thereafter. Light standards in the commercial, office and hotel components shall not exceed 30-feet in height. The Development shall meet all Article 12 requirements for screening and buffering.
10. The materials and design of proposed structures shall be substantially the same as depicted in renderings presented at the time of detailed district development plan approval for each parcel. The building materials for the retail component and hotel shall be drivel, tile, brick, masonry and stone except nationally or regionally recognized chain operations may utilize wood exteriors where such exterior appearance is part of an established and generally used trade dress. The building materials for the office component shall be brick or stone or a combination of brick and stone. All structures adjacent to KY 22 shall have a consistent architectural style and exterior color scheme. An Architectural Review Committee shall be established by the Developer and reflected within the Deed Restrictions recorded prior to the submittal of the first detail district development plan.
11. Focal points, to help visually unify and organize the overall Development and establish a sense of identity for each Activity Center and amenity parcel that provide opportunities for public gathering and seating shall be provided. General location of focal points and amenity parcels shall conform to the conceptual focal points/amenities master plan submitted at the March 25, 2002 public hearing, and shall be considered with each detailed district development plan review.
12. The number and general location of curb cuts for all parcels shall conform to the General District Development Plan. Crossover access easements shall be granted for shared access between parcels where shown on the General District Development Plan. Pedestrian and Bicycle parking facilities shall be provided in accordance with the Planning Commission Policies and the Louisville and Jefferson County Development Code in effect at the time of detailed district development plan submittal. Parking shall be designed to provide safe pedestrian way to all structures. Applicants submitting a detailed district development plan shall consider opportunities for shared parking, the use of alternative materials to reduce impervious surface and the transport of water born pollutants. Low Impact

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Development (LID) stormwater management strategies such as bioretention, vegetated swales/buffer strips, permeable pavers, and shared parking shall be incorporated where appropriate as determined by the Architectural Review Committee or LD&T into each activity center to reduce impervious surface area and negative water quality impacts from the transport of water born pollutants. Where appropriate, as provided above, the applicant shall demonstrate provisions for LID strategies at the time of detailed district development plan submittal.

13. A sidewalk collector system, providing pedestrian access to the Development in connecting the activity centers, shall be provided as shown on the General District Development Plan. Sidewalks, connecting individual parcels to the connector system, shall be provided and their location reviewed with each detailed district development plan request. A 10-foot wide multi-purpose trail shall be provided as shown on the General District Development Plan. Extension of the multi-purpose trail into an activity center, as shown on the General District Development Plan shall be provided prior to a Certificate of Occupancy request for the structure(s) on the parcel in which the extension is proposed.
14. Buildings longer than 100 feet in length shall contain recesses or other design features to break up the facade. No interrupted length of the facade shall be greater than 100 feet. In addition, each applicant with respect to Lots 'J' and 'K' shall address the rear elevations of buildings so as to make buildings compatible and complimentary to the front elevation.
15. The maximum height of the medical diagnostic clinic, office buildings and hotel shall be 71 feet from the ground floor elevation to the roof eaves.
16. The site shall be developed in accordance with the woodland protection areas delineated on the site plan, tree preservation plan and related notes. Any modification of the woodland protection area requires notification of adjoining property owners and LD&T action.
17. The applicant shall provide deeds of restriction ensuring that WPAs will be permanently protected in a manner consistent with these binding elements and the approved plan. The form of the deed restrictions shall be approved by Planning Commission counsel. Deed Restrictions must be recorded prior to tree preservation approval. All plans setting out woodland protection areas must contain the following notes:  
A. Woodland Protection Areas (WPAs) identified on this plan represent portions of the site that shall permanently preserve all existing vegetation. All clearing, grading and fill activity in these areas must be in keeping with restrictions

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established at the time of development plan approval. No further clearing, grading, construction or other land disturbing activity other than as required by MSD for sewer and drainage maintenance/installation and construction of multi-purpose trail shown on general district development plan shall take place within designated WPAs beyond pruning to improve the general health of the tree or to remove dead or declining trees that may pose a public health and safety threat. B. Dimension lines have been used on this plan to establish the general location of WPAs and represent the minimum boundary of the designated WPAs. The final boundary for each WPA shall be established in the field by the applicant, developer, or property owner to include canopy area of all trees at or within the dimension line.

C. Tree protection fencing shall be erected around all WPAs prior to Site Disturbance Approval to protect the existing tree stands and their root systems. The fencing shall be located at least 3 feet beyond the edge of the tree canopy and shall remain in place until all construction is completed.

D. No parking, material storage or construction activities are permitted within the WPAs.

18. An original stamped copy of the approved Tree Preservation Plan shall be present on site during all clearing, grading, and construction activity and shall be made available to any DPDS inspector or enforcement officer upon request.
19. The applicant shall provide a minimum 50-foot setback adjacent to the Gene Snyder Freeway for Lots G, H, J, K and L. No impervious surfaces, excluding the multi-purpose trail as shown on the General District Development Plan are allowed within this setback area. Screening from the Gene Snyder Freeway shall be consistent with the concept Home Improvement Buffer concept plan as shown at the March 25, 2002 public hearing.
20. The applicant shall expand the 30-foot Woodland Protection Areas (WPAs) beyond 30 feet where more space is available and where space is needed to meet the preservation requirements as listed within binding element 16A-D. The applicant shall work with Planning Commission staff to provide supplemental tree plantings where gaps exist within the WPAs.
21. The applicant shall provide screening and buffering in excess of the landscape code requirements along KY 22 and Chamberlain Lane. The proposed landscaping design shall be consistent with the KY 22 and Chamberlain Lane buffer concept plans as shown at the March 25, 2002 public hearing.
22. The historic Von Allmen Dairy Farm Residence shall be preserved and there shall be no alterations to the exterior of the historic residence unless approved by

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the Planning Commission and the Jefferson County Office of Historic Preservation and Archives.

23. A landscaping plan that includes preservation of existing trees shall be established for the Von Allmen House. The plan shall be approved by the Office of Historic Preservation and Archives and Planning Commission staff and shall apply only to the area delineated for preservation by the Office of Historic Preservation. The preservation area shall contain 0.6 acres and shall be located as shown on the preservation area drawing received on April 11, 2002. The landscape/tree preservation plan for the house shall be submitted and approved prior to requesting a building permit for Lot O or a change of use/certificate of occupancy for the historic house (for non-residential uses).
24. All loading areas shall be screened from adjacent public streets and residential properties. At time of detailed plan approval the applicant shall demonstrate to LD&T compliance with the above stated restriction and details related to screening materials.
25. Off-street parking for each development site shall not exceed the greater of (1) the parking spaces proposed in the table shown on the General District Development Plan or (2) the minimum parking requirements as set forth within the Louisville and Jefferson County Development Code.

### CONSTRUCTION

26. Prior to the issuance of permits for any buildings, the developer shall contract with an archaeologist approved by the Office of Historic Preservation and Archives to perform an archaeological survey. If determined to be necessary by the archaeologist, a archaeological excavation shall be conducted.
27. The applicant for each parcel shall identify and submit for approval by designated DPDS staff, a plan showing the location of Tree Preservation Areas on each parcel where there are existing trees in the Development (exclusive of areas dedicated as public right-of-way) prior to beginning any construction procedure (i.e., clearing, grading, demolition). All construction shall be conducted in accordance with the approved Tree Preservation Plan. A partial plan may be submitted to delineate clearing necessary for preliminary site investigation. All Tree Preservation Plans must be prepared in accordance with the standards set forth by DPDS.
28. Before any permit (including but not limited to building, parking lot, change of use or alteration permit) is requested:

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- a. The detailed development plan for such parcel in the Development must receive full construction approval from the Jefferson County Department of Public Works and Transportation (400 Fiscal Court Building) and the Metropolitan Sewer District (700 West Liberty).
  - b. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Article 12 and in conformance with the Parkway Policy prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the parcel and shall be maintained thereafter.
  - c. A major subdivision plat creating the parcels and roadways as shown on the approved preliminary subdivision plan shall be recorded prior to issuance of any building permits.
  - d. The Developer shall dedicate fifty feet (50') of right-of-way from the centerline Chamberlain Lane and shall construct or pay the cost of construction adjacent to the Development in accordance with plans approved by Jefferson County Department of Public Works.
  - e. The Developer shall contribute one million five hundred thousand dollars (\$1,500,000.00) to be used with respect to the cost of construction of a six-lane section of Kentucky Highway 22 as directed by the Kentucky Department of Highways with a grass median for that portion of Kentucky Highway 22 between the Gene Snyder Freeway and Chamberlain Lane, the cost of construction of Chamberlain Lane adjacent to the Development, and the cost of the improvements approved by the appropriate governmental units to the access ramps to and from the Gene Snyder Freeway.
  - f. The Developer shall comply with the three (3) conditions stated in the Federal Highway Administration waiver granting the Developer the right to locate the primary entrance to the Development directly across from the Highway 22 off ramp from the north lane of the Snyder Freeway. The text of each condition is set forth in the letter from the Kentucky Transportation Cabinet dated January 22, 2002.
29. If a building permit is not issued within two years of the date of approval of the General District Development 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.
30. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of each structure on each parcel for



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the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of a certificate of occupancy, unless specifically waived by the Planning Commission.

31. If work is required within the easements causing removal or damage of landscape materials, the property owner of the affected parcel shall be responsible for replacement of materials according to the approved landscape plan.
32. Except for roadway and utility construction, construction activity shall be limited to Monday through Saturday, 7 AM to 6 PM. Roadway and utility construction shall be permitted seven days per week and shall be limited to 6 AM through 11 PM. No other construction activity (except on the interior of a building) shall be permitted on Sundays or national holidays. Except for roadway and utility construction, heavy equipment operation shall be prohibited on Saturdays and Sundays. Public roads shall be kept clear of construction debris and mud.
33. The applicant shall not request a certificate of occupancy for any structure until all roadway improvements adjacent to the overall development site and ramp improvements as required by Jefferson County Public Works and Kentucky Transportation Cabinet have been completed. The applicant shall not request a certificate of occupancy for a use other than residential for the historic house until after January 1, 2005. The applicant shall not request a certificate of occupancy for the proposed office buildings on Lot O until KY 22 between I-265 and HWY 1694 has been widened in accordance with the Kentucky Transportation Cabinet plans.

**OPERATIONS**

34. Cleaning of parking lots and dumpster pick-up shall be limited to the hours of 7 AM to 10 PM, Monday through Saturday. Waste receptacles shall be concealed from view.
35. The applicant, developer, or property owner of each parcel shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of parcels in the Development and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of each parcel and occupants of the parcels shall at all times be responsible for compliance with these binding elements. At all times during development of the parcels in the Development, the applicant and developer, their heirs, successors, and assignees, contractors,

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

36. The development shall be in accordance with the approved Preliminary Subdivision Plan. Further subdivision may take place using the minor subdivision plat process. At time of minor plat approval a minor plat index for the development shall be submitted to Planning Commission staff. The minor plat index shall show the proposed lot and all other lots created by minor plat as well as the appropriate minor plat docket numbers.

**The vote was as follows:**

**YES: Commissioners Brown, Smith and Carlson**

**NOT PRESENT AND NOT VOTING: Commissioners Ferguson and Tomes**

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#### CASE NO. 17DEVPLAN1212

Request: Request for a Sidewalk Waiver from LDC 5.8.1.B and General Waiver from LDC 5.9.2.A.1.b. as associated with a Category 2B Development Plan

Project Name: Brown Foreman Expansion

Location: 402 Maclean Avenue

Owner: Brown Foreman Corporation

Applicant: Brown Foreman Corporation

Representative: Chris Brown, AICP – BTM Engineering Inc.

Jurisdiction: Louisville Metro

Council District: 21 – Vitalis Lanshima

**Case Manager: Ross Allen, Planner I**

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

#### Agency Testimony:

00:53:20 Mr. Allen discussed the case summary, standard of review and staff analysis from the staff report.

#### The following spoke in favor of this request:

Chris Brown, BTM Engineering, Inc., 3001 Taylor Springs Drive, Louisville, Ky. 40220

#### Summary of testimony of those in favor:

00:55:49 Mr. Brown gave a power point presentation discussing the following: additions to the existing cooerage; demolition of a 27,246 square foot building; 6.2 increase in building square footage; sidewalk and pedestrian connection waivers.

#### Deliberation

00:59:15 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 #1:** A waiver from LDC Section 5.8.1.B to not provide a sidewalk for approximately 618 feet along Maclean Ave. as associated with the Category 2B Development Plan

**DEVELOPMENT REVIEW COMMITTEE**  
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**NEW BUSINESS**

**CASE NO. 17DEVPLAN1212**

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

**WHEREAS**, Guideline 7, Policy 1 states that developments should be evaluated for their impact on the street and roadway system and to ensure that those who propose new developments bear or reasonably share in the costs of the public facilities and services made necessary by development. Guideline 9, Policy 1 states that new development should provide, where appropriate, for the movement of pedestrians, bicyclists and transit users with sidewalks along the streets of all developments where appropriate. Sidewalks would not be appropriate with the connections to the rail lines to the west and airport authority properties to the east with industrial uses along this short stretch of a dead end local road; and

**WHEREAS**, compliance with the regulations would not provide appropriate connections and access to the subject property. Pedestrian traffic is not advisable along Maclean Avenue with the terminus of the roads at the rail line and airport properties. Guideline 9, Policy 1 of Cornerstone 2020 discusses sidewalks being provided where appropriate. The waiver is being requested because sidewalks are not appropriate along the ROW of the subject property; and

**WHEREAS**, the Louisville Metro Development Review Committee finds the impacts of the waiver will be minimal on adjacent property owners since there is railroad ROW to the east and additional industrial properties to the north and east that terminate at Crittenden Drives dead end into the Louisville Airport Authority properties. All of these properties are not safe areas for pedestrian traffic; and

**WHEREAS**, the Louisville Metro Development Review Committee further finds the strict application of the provision of the regulations would cut back vehicular access along Maclean Avenue for the industrial site, reduce existing parking and place pedestrian traffic along a CSX rail line and the airport property potentially leading to unsafe conditions for pedestrians.

**WAIVER #2:** A waiver from LDC 5.9.2.A.b.i to not provide a clearly defined safe pedestrian access from the adjacent public right of way through off-street parking area to a non-residential building entrance along Maclean Ave.

**WHEREAS**, the waiver will not adversely affect adjacent property owners since the subject property is located at the dead end on the south side of Maclean Avenue at the CSX rail line and one of three properties that connects to the airport property to the east. It is a property that would not be easily accessed by any pedestrians; and

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**WHEREAS**, Guideline 9, Policy 1 states that new development should provide, where appropriate, for the movement of pedestrians, bicyclists and transit users with walkways for access to public transportation stops. The subject property would not be appropriate for the movement of pedestrians to and from the site due to the locations of the rail line to the west and airport to the east; 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 internal vehicular and pedestrian connections will be provided in parking areas for employee use and access; and

**WHEREAS**, the Louisville Metro Development Review Committee further finds 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 by requiring a pedestrian connection to be provided in a potentially unsafe manner and in a location of existing parking for the property; and

**RESOLVED**, that the Louisville Metro Development Review Committee does hereby **APPROVE** Waiver #1, a waiver from Land Development Code section 5.8.1.B to not provide a sidewalk on the Maclean Ave. frontage and Waiver #2, a waiver from the Land Development Code 5.9.2.A.b.i to not provide a clearly defined safe pedestrian access from the adjacent public sidewalk through the off-street parking to the building entrance.

**The vote was as follows:**

**YES: Commissioners Brown, Smith and Carlson**

**NOT PRESENT AND NOT VOTING: Commissioners Ferguson and Tomes**

**DEVELOPMENT REVIEW COMMITTEE**  
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**NEW BUSINESS**

**CASE NO. 17DEVPLAN1218**

Request:	Request for a Landscape Waiver from LDC 10.2.10, table 10.2.6 to not provide the 10 foot VUA LBA along Westport Road as associated with a Category 2B Development Plan
Project Name:	8717 Westport Road
Location:	8717 Westport Road
Owner:	Frank Otte – Otte Family Limited Partnership
Applicant:	Mike Leonard – Hogan Real Estate
Representative:	Derek Triplett – Land Design & Development Inc.
Jurisdiction:	Louisville Metro
Council District:	7 – Angela Leet
<b>Case Manager:</b>	<b>Ross Allen, Planner I</b>

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. 5<sup>th</sup> Street.)

**Agency Testimony:**

01:03:31 Mr. Allen discussed the case summary, standard of review and staff analysis from the staff report.

**The following spoke in favor of this request:**

Derek Triplett, Land Design and Development, Inc., 503 Washburn Avenue, Suite 101, Louisville, Ky. 40222

**Summary of testimony of those in favor:**

01:07:43 Mr. Triplett gave a power point presentation. "The green space and landscaping material we'll be able to provide will be an improvement on the established character of this commercial node." The existing entrance will be maintained but the entrance off Hermitage Way will be greatly reduced. Also, "I did speak with Mark Madison, engineer for the city of Plantation, and he stated that as long as we provide landscaping to match this rendering, they are in support of our waiver request."

**Deliberation**

01:11:05 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.**

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**NEW BUSINESS**

**CASE NO. 17DEVPLAN1218**

**A waiver from LDC Section 10.2.10, table 10.2.6 to not provide a 10 foot VUA LBA along Westport Road for an approximate length of 147 feet as associated with the Category 2B Development Plan**

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

**WHEREAS**, the waiver will not adversely affect adjacent property owners because the existing development does not provide the 10 foot VUA LBA adjacent to Westport Road. The proposal will be of similar uses as the Brakeway is to the west on the north side of Westport Rd., JCPS TAPP School to the south, and residential multifamily dwellings to the east facing Hermitage Way; and

**WHEREAS**, the waiver will not violate Guideline 3, Compatibility, of Cornerstone 2020, which calls for the protection of roadway corridors and public areas from visual intrusions, for mitigation of parking areas so as not to negatively impact nearby residents and pedestrians, and for screening and buffering of parking areas adjacent to streets. The proposed development will be a continuation of the established character of this block of Westport Road. There will be approximately 15 feet of greenspace between the existing sidewalk along Westport Road and the proposed edge of pavement on the subject property. Measures will be taken to coordinate with the Kentucky Transportation Cabinet on the possibility of providing the landscaping within that greenspace; 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 applicant is improving the existing condition; there is still not enough room to provide landscaping on the subject property along Westport Road. Measures will be taken to coordinate with the Kentucky Transportation Cabinet on the possibility of providing landscaping within the Westport Road right of way; and

**WHEREAS**, the Louisville Metro Development Review Committee further finds the applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect) by providing a greater vehicular use area landscape buffer area along Hermitage Way right of way. A 10 foot VUA LBA is required and a 15 foot to 20 foot landscape buffer area is to be provided. The strict application of the regulation would create an unnecessary hardship due to the fact that the proposed use would be held to a more restrictive requirement than the existing use.

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**CASE NO. 17DEVPLAN1218**

**RESOLVED**, that the Louisville Metro Development Review Committee does hereby **APPROVE** the waiver from the Land Development Code section 10.2.10, table 10.2.6 to not provide a 10 foot vehicular use area landscape buffer area along Westport Road.

**The vote was as follows:**

**YES: Commissioners Brown, Smith and Carlson**

**NOT PRESENT AND NOT VOTING: Commissioners Ferguson and Tomes**



**DEVELOPMENT REVIEW COMMITTEE**  
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**NEW BUSINESS**

**CASE NO. 17DEVPLAN1215**

Request: Detailed District Development Plan for 301 apartments on 16.4 acres, Landscape Waiver and Amendment to General Plan Binding Elements  
Project Name: Oxmoor Farm Apartments  
Location: 202 Oxmoor Lane  
Owner: WMB Oxmoor Properties Holding LLC  
Applicant: NTS Development Company  
Representative: Bardenwerper Talbott & Roberts, PLLC and Qk4  
Jurisdiction: Louisville Metro  
Council District: 18 – Marilyn Parker  
**Case Manager: Brian Davis, AICP, Planning Manager**

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. 5<sup>th</sup> Street.)

**Agency Testimony:**

01:13:00 Mr. Davis discussed the case summary, standard of review and staff analysis from the staff report.

**The following spoke in favor of this request:**

Bill Bardenwerper, Bardenwerper, Talbott and Roberts, PLLC, 1000 North Hurstbourne Parkway, Louisville, Ky. 40223  
Matt Ricketts, NTS Development Company, 500 North Hurstbourne Parkway, Suite 400, Louisville, Ky. 40222  
Diane Zimmerman, 12803 Hiagh Meadows Pike, Prospect, Ky. 40059  
Ashley Bartley, Qk4, 1046 East Chestnut Street, Louisville, Ky. 40204

**Summary of testimony of those in favor:**

01:19:47 Mr. Bardenwerper gave a power point presentation. The apartments will be in the center of the site. The design is meant to be compatible with the historic farm.

01:36:53 Mr. Ricketts stated they did conceal the garages because they didn't want them to be a focal point of the area. The deck is two levels and the grade levels are mitigated by the design.

01:41:59 Ms. Zimmerman stated, "The Westport Rd. Interchange has done exactly what, as a transportation professional, had hoped it would do in relieving the traffic on Shelbyville Rd., and the volume on Shelbyville Rd. is actually lower than in 2012 and

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early 2000.” “Originally, NTS charged me with how many apartments could we put in here? Can we add as many as 500 trips? The answer is yes, it’s well more than the 300 apartments proposed.”

01:49:25 Ms. Bartley stated she would work out the details for the curb cuts.

**The following spoke neither for nor against the request:**

John Singler, 209 Old Harrods Creek Road, Louisville, Ky. 40223

**Summary of testimony of those neither for nor against:**

01:56:10 Mr. Singler, city of Hurstbourne attorney, requests a change to the General Plan binding element 16 to add a sentence at the end as follows: Further, any applicant filing a Detailed District Development Plan must give the city of Hurstbourne an opportunity to participate in the scoping and review of the traffic analysis. Mr. Bardenwerper said he doesn’t have the authority to agree to it.

**Deliberation**

02:09:06 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.**

**Development Plan and Amendment to General Plan Binding Elements**

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

**WHEREAS**, the applicant is preserving much of the existing tree canopy on site and designed the development to comply with the required streamside buffers along the creek that runs along the northwestern property line. While there is some disturbance proposed within a portion of the 100 year flood zone, the applicant has designated some floodplain compensation areas elsewhere on the site; and

**WHEREAS**, provisions for safe and efficient vehicular transportation within and around the development and the community has been provided, and Metro Public Works has approved the preliminary development plan. Sidewalks exist along the Oxmoor Lane frontage; and

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**WHEREAS**, the proposed development is providing 71,490 square feet of open space on the development plan, which meets the requirements of the Land Development Code; 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 the overall site design and land uses are compatible with the existing and future development of the area. With the exception of the waiver request, appropriate landscape buffering and screening will be provided to screen adjacent properties and roadways; and

**WHEREAS**, the Louisville Metro Development Review Committee further finds the development plan generally 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 Detailed District Development Plan **ON CONDITION** that the left turn lane that's being removed and will no longer serve the site is restored for the full width median, the proposed binding elements, changes to binding element numbers 10 and 16 for the General Plan to add CORSIM, HCS, Synchro or other approved software analysis and an amendment to the General Plan binding element number 15.

**Existing General Plan Binding Elements**

1. The Development approved as a General District Development Plan shall be developed in accordance with such Plan and binding elements contained herein unless amended pursuant to the Zoning District Regulations. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission for review and approval; any changes/additions/alterations not so referred shall not be valid. Each applicant seeking approval of a detailed district development plan for each parcel in the Development shall be responsible for up-dating the General District Development Plan as to those matters where the applicant's approved plan deviates from the General District Development Plan.
2. The development under Docket No. 9-15-02 shall not exceed:
  - a) Office 947,600 square feet of gross floor area
  - b) Specialty Retail 52,000 square feet of gross floor area
  - c) Shopping Center w/Restaurant 436,000 square feet of gross floor area

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- d) Hotel w/Conference Center 400 rooms
  - e) Assisted Living Facility 273 Units
  - f) Single-Family Residential 44 lots
  - g) Condominiums/Town Houses 110 Units
  - h) Apartments 1,294 Units
3. Each applicant for development of a parcel shall be required to provide the information needed to notify first tier property owners to the perimeter of the entire Development, plus those who spoke in opposition to the Development at the public hearing, at least seven (7) days prior to the Land Development and Transportation Committee meeting review of any detailed district development plan for each parcel in the Development. This list of names and addresses shall be submitted by the applicant at the time of filing for any Land Development and Transportation Committee meeting review. Staff of the Planning Commission shall be responsible for ensuring that these notices are mailed in accordance with this binding element.
4. Prior to the recording of the record plat, copies of the recorded documents listed below shall be filed with the Planning Commission.
- a) Articles of Incorporation, Articles of Organization or other appropriate origination documents filed with appropriate governmental authorities for the entity responsible for common areas maintenance, repair and upkeep.
  - b) A deed of restriction in a form approved by Counsel to the Planning Commission addressing responsibilities for the maintenance of common areas and open space and other issues required by these binding elements / conditions of approval.
5. A Streetscape Master Plan shall be submitted to Planning Commission staff for review and approval prior to filing of any Detailed District Development Plan. The Streetscape Master Plan shall include, but not be limited to street tree planting locations/sidewalk and multi-purpose trail typical cross section design/location of street lights, public benches, TARC stop, and trash receptacles. The applicant shall work with TARC on the location of transit stops within the development. The applicant shall provide the location and design of proposed transit stops on the Streetscape Master Plan. The Streetscape Master Plan shall include the design of road intersections that promote safe pedestrian movement.
6. Outdoor lighting shall be directed down and away from surrounding residential properties. Lighting fixtures shall have a 90-degree cutoff. Light levels due to lighting on the Development shall not exceed 0.5 foot candles measured at the property line adjacent to residential properties all other property lines shall not exceed 1.0 foot candles measured at the property line, except for lots designed

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to share parking. Each applicant for such parcel in the Development shall obtain certification by a qualified expert in measurement of lighting levels prior to requesting a certificate of occupancy. Such certification shall be maintained on site at all times thereafter.

7. The number and general location of curb cuts for all parcels shall conform to the General District Development Plan. Crossover access easements shall be granted for shared access between parcels where shown on the General District Development Plan. Pedestrian and Bicycle parking facilities shall be provided in accordance with the Planning Commission Policies and the Louisville and Jefferson County Development Code in effect at the time of detailed district development plan submittal. Parking shall be designed to provide safe pedestrian way to all structures.
8. An original stamped copy of the approved Tree Preservation Plan shall be present on site during all clearing, grading, and construction activity and shall be made available to any DPDS inspector or enforcement officer upon request.
9. All loading areas shall be screened from adjacent public streets and residential properties. At time of detailed plan approval the applicant shall demonstrate to LD&T compliance with the above stated restriction and details related to screening materials.
10. If a building permit is not issued within five years of the date of approval of the rezoning or the submittal of the CORSIM, Synchro or other approved software analysis, 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.
11. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of each structure on each parcel for the proposed use. All binding elements requiring action and approval and effecting the structures and parcels for which a certificated of occupancy is sought must be implemented prior to requesting issuance of a certificate of occupancy, unless specifically waived by the Planning Commission or stated specifically otherwise within the binding elements.
12. If work is required within the easements causing removal or damage of landscape materials, the property owner of the affected parcel shall be responsible for replacement of materials according to the approved landscape plan.

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13. The applicant, developer, or property owner of each parcel shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of parcels in the Development and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of each parcel and occupants of the parcels shall at all times be responsible for compliance with these binding elements. At all times during development of the parcels in the Development, the applicant and developer, their heirs, successors, and assignees, contractors, subcontractors, and other parties engaged in development of the parcels, shall be responsible for compliance with these binding elements.
14. The development shall be in accordance with the approved Preliminary Subdivision Plan. Further subdivision may take place using the minor subdivision plat process, except for the Single-Family Residential portion of the development, which will require an amendment to the preliminary subdivision plan. At time of minor plat approval a minor plat index for the development shall be submitted to Planning Commission staff. The minor plat index shall show the proposed lot and all other lots created by minor plat as well as the appropriate minor plat docket numbers.
15. The design of the development and plan submittal requirements (including but not limited to building design, amenities, water quality controls, street design, landscape buffer design, focal point design, and signage) shall be in accordance with the Oxmoor Farm Design Guidelines, with the exception of building height of the proposed development for 17DEVPLAN1215, which shall be in accordance with the Campus Form District standards.
16. A Corridor Simulation (CORSIM), Synchro or other approved software analysis shall be completed and submitted to the City of Louisville and the Kentucky Transportation Cabinet to review for possible improvements prior to submittal of detailed district development plans to the Planning Commission for any portion of the development.
17. The applicant for each detailed district development plan shall demonstrate to the Planning Commission how they have minimized impervious surface for the proposed development (this may include; shared parking, pervious pavement, parking structures, transportation demand management measures, etc.).
18. Prior to Detailed District Development Plan submittal for Lots 10 and 11 the applicant/developer shall provide a geotechnical study to address the sinkholes on these two lots. The applicant/developer shall address the measures taken to

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minimize the impact of development in areas with sink holes and to minimize the impact on groundwater resources in areas where sink holes are to be disturbed.

19. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
20. There shall be no outdoor storage, display or sales permitted on the site.
21. 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.
22. A Tree Preservation Plan (TPP) shall be approved by Planning Commission staff prior to transmittal to the office responsible for permit issuance. No clearing and/or grading activities may take place until a Tree Preservation Plan has been approved. The Tree Preservation Plan shall identify and submit for approval by designated DPDS staff, a plan showing the location of Tree Preservation Areas on site (exclusive of areas dedicated as public right-of-way) prior to beginning any construction procedure (i.e., clearing, grading, demolition). All construction shall be conducted in accordance with the approved Tree Preservation Plan. A partial plan may be submitted to delineate clearing necessary for preliminary site investigation. All Tree Preservation Plans must be prepared in accordance with the standards set forth by DPDS.
23. Before any permit (including but not limited to building, parking lot, change of use or alteration permit) is requested:
  - a. The development plan must receive full construction approval from the City of Louisville Department of Inspections, Permits and Licenses (617 W. Jefferson Street) and the Metropolitan Sewer District (700 West Liberty).
  - 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 Article 12 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
24. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.

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25. No idling of trucks shall take place within 200 feet of residential properties. No overnight idling of trucks shall be permitted on-site.
26. The owner/developer/applicant shall provide 50-foot setback from top of bank where no trail is provided and 100-foot setbacks from top of bank where trails are provided along Hurstbourne Creek and Beargrass Creek, except where roads cross the creeks. Lot 1 shall only contain a 50-foot setback adjacent to Beargrass Creek. Lot 15 (Preservation Easement) is exempt from these setback restrictions. The applicant shall submit a Greenway Trail plan to Planning Commission staff for review and approval that depicts the location of access easements for the trails and the exact locations of the 50-foot and 100-foot setbacks prior to the submittal of detailed plans for any lot adjacent to Hurstbourne Creek and/or Beargrass Creek.
27. A trail shall be provided on either lots 4A or 7A only if approval is granted from the Kentucky Heritage Council to allow a trail access easement stub into Lot 15 (Preservation Easement).
28. All detailed district development plans submitted for Planning Commission review for lots containing proposed Greenway Trails shall provide the location and design of trail connections to the street sidewalk network.
29. At time of detailed district development plan review the developer/owner of lots adjacent to Beargrass Creek and Hurstbourne Creek shall provide information to the Planning Commission on the landscaping proposed within required stream setbacks. Landscaping within the stream setback areas shall be designed to shade the creek(s) and to lessen the visual impact of adjacent development on the creek(s). The Metropolitan Sewer District must approve all landscaping within any drainage easements.
30. Development of Oxmoor Farm shall be conducted in phases as shown on the General District Development Plan corresponding with development phases identified in the Traffic Impact and Air Quality Analysis for Oxmoor Farm Rezoning submitted with the Application. These development phases defer the development on certain parcels in Oxmoor Farm until the construction of portions of Bunsen Parkway (as described in Part 1, I. of the Traffic Analysis), and until the construction of recommended intersection improvements (as described in Part 1, V.F. of the Traffic Analysis). Specifically, the phases are as follows:  
  
(1) development in Phase 1 is limited to Parcels 1 and 5, except there may be surface parking only for use by Oxmoor Center over Parcel 4A; (2) there will be



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no construction on the parcels described in Phase 2 (except the aforementioned parking on Parcel 4A and construction on Parcel 13) until the bridge over I-264 and Bunsen Parkway from I-264 to the southern end of the preservation easement are funded and under construction and no certificates of occupancy shall be requested for buildings in Phase 2 until construction of the Bridge over I-264 is completed and that portion of Bunsen Parkway is completed to serve the building or buildings for which the certificates of occupancy are requested; (3) there will be no construction on Parcel 7 in Phase 2 until Christian Way is under construction past Lyndon Lane and no certificates of occupancy shall be requested for buildings in Parcel 7 until construction of Christian Way past Lyndon Lane is completed; and (4) there will be no construction on the parcels described in Phase 3 until the bridge over I-64 and the remaining section of Bunsen Parkway are funded and under construction, and no certificates of occupancy shall be requested for buildings in Phase 3 until construction of the Bridge over I-64 is completed and that portion of Bunsen Parkway is completed to serve the building or buildings for which the certificates of occupancy are requested.

31. The owner/developer of each development site shall demonstrate at time of detailed district development plan review by the Planning Commission their provisions for Low Impact Development (LID) stormwater management to reduce runoff and associated contaminants and to minimize negative impacts on groundwater recharge areas.
32. The development as shown on the approved General District Development plan shall be subject to Section 8.1 Plan Certain of the Louisville and Jefferson County Development Code, except for Lot 15 (Preservation Easement).
33. There shall be no single commercial retailer, which exceeds 100,000 square feet gross floor area.
34. The owner/developer agrees to investigate the integration of affordable housing in accordance with relevant Cornerstone 2020 guidelines and policies for portions of the development prior to detailed plan stage. Excluding single-family residential and office portions of the development. At the time of detailed plan revision the applicant shall present findings to the Land Development and Transportation Committee.
35. The owner/developer shall meet with Friends of Beargrass Creek to discuss mitigation of impacts of CSO's (Combined Sewer Overflows) prior to submittal of any Detailed District Development Plans.

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36. The owner/developer agrees to meet within 180 days of approval with residents of south Lyndon Lane, Cheffield Drive and Oxmoor Woods Residents Association about traffic calming measures and potential closing of south Lyndon Lane and Cheffield connectors.
37. The intersection improvement for Oxmoor Lane and Star Ford (southbound exclusive left) detailed in part 1, V.F. of the Traffic Analysis shall be constructed in Phase 2 rather than Phase 3.
38. Development of Phase 3 of Oxmoor Farm shall also be deferred until Shelbyville Road is widened from Oxmoor Lane to Lyndon Lane. More particularly, no building permits for buildings in Phase 3 shall be obtained until contracts have been let for the widening of Shelbyville Road by at least one additional land from Oxmoor Lane to Lyndon Lane. The property owner is not responsible for this improvement or for the cost of this improvement. However, in lieu of the intersection improvements specified in Part 1, V.F. of the Traffic Analysis, the property owner may be asked to contribute the cost that would otherwise be spent on such improvements to the proposed widening. In addition, in the event the CORSIM analysis required to be provided under another binding element demonstrates a substantial improvement in the traffic function on Shelbyville Road above what is anticipated by the Traffic Analysis, this requirement may be waived.
39. Prior to issuance of building permits, the developer shall contract with an archaeologist approved by the Jefferson County Office of Historic Preservation and Archives or successor agency to perform an archaeological survey of the site. The Office of Historic Preservation and Archives and the developer shall agree upon a scope of work prior to the beginning of the survey.
40. The developer shall conduct photographic recordation of all dwellings and structures, including barns and ancillary farm structures, to be removed during the course of development. Photographic documentation shall include color slides and black and white prints with negatives. The photographs should include all facades of structures and key interior features, the site, trees, and historic roadways within the property. One copy of the documentation shall be deposited in the archives of the Jefferson County Office of Historic Preservation and Archives.

**Detailed District Development Plan Binding Elements**

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1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
3. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
4. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, 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. 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.
  - c. 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. Prior to any site disturbance permit being issued and prior to any clearing, grading or issuance of a site disturbance permit, a site inspection shall be conducted by PDS staff to ensure proper placement of required tree protection fencing in accordance with the approved Tree Preservation Plan.
6. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.

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7. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
8. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
9. The materials and design of proposed structures shall be substantially the same as depicted in the renderings as presented at the January 17, 2018 DRC meeting.

**The vote was as follows:**

**YES: Commissioners Brown, Smith and Carlson**

**NOT PRESENT AND NOT VOTING: Commissioners Ferguson and Tomes**

**Waiver of Section 10.2.4 to not require the landscape buffer between zoning lines that cross the property**

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

**WHEREAS**, the waiver will not adversely affect adjacent property owners because the waiver is internal to the site; and

**WHEREAS**, the waiver will not violate the Comprehensive Plan because this presents an issue of impact mitigation, specifically relating to screening and buffering to assure that different uses compatibly coexist. As this is an internal matter pertaining to the relations of the developed to the undeveloped portions of the site, no Comprehensive Plan impacts exist, and thus none require mitigation; and

**WHEREAS**, the Louisville Metro Development Review Committee finds the extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because the waiver only exists between the portion of the site where the

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apartment/clubhouse buildings and parking garage exist and the portion of the site which is largely left as open space; and

**WHEREAS**, the Louisville Metro Development Review Committee further finds strict application of the provisions of the regulation would deprive the applicant of a reasonable use of the land or would create an unnecessary hardship on the applicant because it would be required to insert landscaping in an area that doesn't need it, when the rest of the site will meet all, and actually exceed, LDC landscaping requirements.

**RESOLVED**, that the Louisville Metro Development Review Committee does hereby **APPROVE** a waiver of section 10.2.4 to not require the landscape buffer between the C-1 and R-4 zoning lines.

**The vote was as follows:**

**YES: Commissioners Brown, Smith and Carlson**

**NOT PRESENT AND NOT VOTING: Commissioners Ferguson and Tomes**

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**ADJOURNMENT**

The meeting adjourned at approximately 3:08 p.m.

*Richard Carlson* 1/31/18  
Vice Chair

*[Signature]*  
Planning Director