

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO DEVELOPMENT REVIEW COMMITTEE MEETING
AUGUST 15, 2018**

A meeting of the Louisville Metro Development Review Committee was held on August 15, 2018 at 1:00 p.m. at the Old Jail Building, located at 514 W. Liberty Street, Louisville, KY 40202.

Commissioners present:

David Tomes, Chair
Rich Carlson, Vice Chair
Jeff Brown

Commissioners absent:

Emma Smith
Donald Robinson

Staff members present:

Emily Liu, Director, Planning & Design Services
Brian Davis, Planning Manager
Jay Lockett, Planner I
Ross Allen, Planner I
Dante St. Germain, Planner I
Julia Williams, Planning Supervisor
Paul Whitty, Legal Counsel
Beth Stuber, Transportation
Chris Cestaro, Management Assistant

The following matters were considered

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APPROVAL OF MINUTES

August 1, 2018 DRC Meeting Minutes

00:04:13 On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution was adopted:

RESOLVED, that the Louisville Metro Development Review Committee does hereby **APPROVE** the minutes of its meeting conducted on August 1, 2018.

The vote was as follows:

YES: Commissioner Brown.

NOT PRESENT: Commissioners Smith and Robinson.

ABSTAINING: Commissioners Carlson and Tomes.

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NEW BUSINESS

CASE NUMBER 18MINORPLAT1071

Request:	Waiver to allow direct access to a collector-level roadway
Project Name:	T & C Contracting Minor Plat
Location:	6301 Pendleton Road
Owner(s):	T & C Contracting
Applicant:	Spurrier Land Surveying
Representative:	Eric Spurrier
Jurisdiction:	Louisville Metro
Council District:	14 – Cindi Fowler

Case Manager: **Jay Luckett, 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:

00:04:39 Jay Luckett presented the case (see staff report and recording for detailed presentation.)

The following spoke in favor of this request:

Kathy Matheny, Cardinal Surveying, 9009 Preston Hwy, Louisville, KY 40219

Summary of testimony of those in favor:

00:06:32 Kathy Matheny, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.) She emphasized that the most current minor plat has the property access on the north side, so it would not be shared by the two West Point Lumber companies.

00:20:25 Paul Whitty, legal counsel for the Planning Commission, asked if Tracts 1 and 2 were being consolidated. Ms. Matheny said she believes they are.

The following spoke in opposition to this request:

No one spoke.

Deliberation:

00:11:51 The Commissioners concurred that the proposal is justified.

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NEW BUSINESS

CASE NUMBER 18MINORPLAT1071

An audio/visual recording of the Planning Commission hearing 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.

00:12:09 On a motion by Commissioner Carlson, seconded by Commissioner Brown , the following resolution, based on the Standard of Review and Staff Analysis and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Development Review Committee finds that the requested waiver will not adversely affect the public health, safety or welfare because there are other single family residences on E Orell Road that also have access to the roadway; and

WHEREAS, the Committee further finds that the waiver will not violate specific guidelines of Cornerstone 2020. 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 for the movement of pedestrians, bicyclists and transit users with sidewalks along the streets of all developments where appropriate. The waiver is consistent with previous waivers granted to the site, and the development pattern of the area; and

WHEREAS, the Committee further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant; and

WHEREAS, the Committee further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant; now, therefore be it

RESOLVED, that the Louisville Metro Development Review Committee does hereby **APPROVE** the requested Waiver of Land Development Code Section 7.8.60.B.4 to allow access to collector level roadway.

The vote was as follows:

YES: Commissioners Brown, Carlson, and Tomes.

NOT PRESENT: Commissioners Smith and Robinson.

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NEW BUSINESS

CASE NUMBER 18WAIVER1023

Request:	Waiver to allow an accessory structure with a footprint that exceeds the footprint of the principle structure on a lot
Project Name:	Trena Trail Garage
Location:	6110 Trena Trail
Owner(s):	Steven Jupin
Applicant:	Steven Jupin
Representative:	Steven Jupin
Jurisdiction:	Louisville Metro
Council District:	12 – Rick Blackwell
Case Manager:	Dante St. Germain, 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:

00:13:02 Dante St. Germain presented the case (see staff report and recording for detailed presentation.) She explained that this case was previously heard at the August 1, 2018 DRC meeting and was continued to allow the applicant an opportunity to revise his plan.

The following spoke in favor of this request:

Steve Jupin, 6110 Trena Trail, Louisville, KY

Summary of testimony of those in favor:

00:16:47 Steve Jupin, the applicant, said he can reduce the size of the garage to make it less than the footprint of the house (he has not yet drawn up any plans.) This would just require him to get a building permit, not a waiver.

An audio/visual recording of the Planning Commission hearing 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.

The Waiver application was withdrawn and no action was taken on this case.

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NEW BUSINESS

CASE NUMBER 18WAIVER1032

Request:	Waiver to allow a single business in a multiple-use building to have more than one sign on a façade
Project Name:	Swim School Signage
Location:	3572 Springhurst Boulevard
Owner:	Springhurst Crossings LLC
Applicant:	Amy Albiero
Representative:	Amy Albiero
Jurisdiction:	Louisville Metro
Council District:	17 – Glen Stuckel
Case Manager:	Dante St. Germain, 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:

00:18:24 Dante St. Germain presented the case and showed elevations of the proposed signage (see staff report and recording for detailed presentation.)

00:20:51 In response to a question from Commissioner Carlson, Ms. St. Germain said that, if approved, this waiver would not run with the building. This waiver request applies to this applicant only.

The following spoke in favor of this request:

Laura Ford, Kaden Companies, Kaden Tower - Sixth Floor, 6100 Dutchmans Lane, Louisville, KY 40205

Summary of testimony of those in favor:

00:21:21 Laura Ford, representing the building owner, said the reason why this is being requested is because the tenant is operating one business that provides two separate services.

The following spoke in opposition to this request:

No one spoke.

Deliberation:

00:23:30 The Commissioners concurred that the proposal is justified.

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NEW BUSINESS

CASE NUMBER 18WAIVER1032

An audio/visual recording of the Planning Commission hearing 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.

00:23:44 On a motion by Commissioner Carlson, seconded by Commissioner Brown, the following resolution, based on the Standard of Review and Staff Analysis and the testimony presented today, was adopted:

WHEREAS, the Louisville Metro Development Review Committee finds that the waiver will not adversely affect adjacent property owners as the adjacent property most affected is Springhurst shopping center, toward which the subject building faces. As a high-intensity commercial development, the property owners and tenants of the shopping center are unlikely to see an adverse effect from the extra signage; and

WHEREAS, the Commission further finds that the waiver will not violate specific guidelines of Cornerstone 2020 as Cornerstone 2020 defines the Regional Center form as a development form that typically contains a mixture of high intensity uses including regional shopping, office, services, entertainment facilities and medium to high-density residential uses. Cornerstone 2020 also encourages signs that are compatible with the form district pattern and contribute to the visual quality of their surroundings. Promote signs of a size and height adequate for effective communication and conducive to motor vehicle safety. Encourage signs that are integrated with or attached to structures wherever feasible. These guidelines are not violated because the proposed signage is compatible with the form district and will not adversely affect motor vehicle safety; and

WHEREAS, the Commission further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the façade of the structure has a deep central recess, with the result that it is impossible to integrate the three signs into a single sign; and

WHEREAS, the Commission further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant as it would not be possible to adequately advertise the multiple services being provided by the business without multiple signs; now, therefore be it

RESOLVED, the Louisville Metro Development Review Committee does hereby **APPROVE** the requested Waiver from Land Development Code section 8.8.3.A.1 to allow a single business in a multiple-use building to have more than one sign on the front façade.

The vote was as follows:

YES: Commissioners Brown, Carlson, and Tomes.

NOT PRESENT: Commissioners Smith and Robinson.

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NEW BUSINESS

CASE NUMBER 18WAIVER1030

Request:	Sidewalk waiver and a waiver to allow a single family home to not use alley access
Project Name:	Payne Street Waivers
Location:	1112 Payne Street
Owner:	The Wynnfield Co. LLC
Applicant:	The Wynnfield Co. LLC
Representative:	Don Underwood Design
Jurisdiction:	Louisville Metro
Council District:	4 – Barbara Sexton Smith
Case Manager:	Jay Lockett, 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:

00:24:31 Jay Lockett presented the case (see staff report and recording for detailed presentation.)

The following spoke in favor of this request:

Ken Sumner, 909 Vine Street, Louisville, KY

Summary of testimony of those in favor:

00:28:24 Ken Sumner, the applicant's representative, was available for questions.

The following spoke in opposition to this request:

No one spoke.

Deliberation:

00:29:07 The Commissioners concur that the proposal is justified.

An audio/visual recording of the Planning Commission hearing 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 18WAIVER1030

- **(Waiver #1) Waiver** of Land Development Code section 5.8.1.B to not provide sidewalks in the Bishop St right-of-way.
- **(Waiver #2) Waiver** of Land Development Code section 5.4.1.E.3 to not provide access from the alley for a proposed single family home.

00:29:19 On a motion by Commissioner Carlson, seconded by Commissioner Brown, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

(Waiver #1) WHEREAS, the Louisville Metro Development Review Committee finds that the waiver will not adversely affect adjacent property owners, as there are currently no existing sidewalks along the northeast side of the Bishop St right-of-way, nor has there been historically; and

WHEREAS, the Committee further finds that the waiver will not violate specific guidelines of Cornerstone 2020. 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 for the movement of pedestrians, bicyclists and transit users with sidewalks along the streets of all developments where appropriate. The narrow historic right-of-way of Bishop St has existing telephone poles directly adjacent to the subject site. It would be very difficult to install a proper sidewalk along this right-of-way without moving the existing infrastructure there. There is an existing sidewalk on the opposite side of Bishop St that can serve pedestrians in this area; and

WHEREAS, the Committee further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant, as the applicant will still maintain the sidewalk along the Payne St right-of-way to Public Works standards; and

WHEREAS, the Committee further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant, as they would either need to construct an impractical sidewalk, or undertake the expensive process of moving public utility equipment; and

(Waiver #2) WHEREAS, the Committee further finds that the waiver will not adversely affect adjacent property owners, as the site will still be accessed and parking provided in the accessory use area through an existing curb cut; and

WHEREAS, the Committee further finds that the waiver will not violate specific guidelines of Cornerstone 2020. Guideline 2, Policy 15 states to encourage the design, quantity and location of parking in activity centers to balance safety, traffic, transit, pedestrian, environmental and aesthetic considerations. Guideline 3, Policy 1 states to ensure compatibility of all new development and redevelopment with the scale and site design of nearby existing development and with the pattern of development within the form district. Guideline 3, Policy 23 states that setbacks, lot dimensions and building heights should be compatible with those of nearby

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developments that meet form district guidelines. The proposed parking area is consistent with nearby developments in the area. The access point already exists and transportation planning staff has confirmed that it can continue to be used in a safe manner to provide access to the site; and

WHEREAS, the Committee further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant, as a second proposed house will have access from the alley as required by the Land development Code; and

WHEREAS, the Committee further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant, as the access point is existing, and the area where an access would be required by the regulation has existing electrical and telephone equipment that would interfere with construction; now, therefore be it

RESOLVED, that the Louisville Metro Development Review Committee does hereby **APPROVE** the requested **Waiver** of Land Development Code section 5.8.1.B to not provide sidewalks in the Bishop St right-of-way; and does hereby **APPROVE** the requested **Waiver** of Land Development Code section 5.4.1.E.3 to not provide access from the alley for a proposed single family home.

The vote was as follows:

YES: Commissioners Brown, Carlson, and Tomes.

NOT PRESENT: Commissioners Smith and Robinson.

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NEW BUSINESS

CASE NUMBER 18DEVPLAN1107

Request:	Revised Detailed District Development Plan for a proposed office building with a waiver
Project Name:	V-Soft Building
Location:	2500 Eastpoint Parkway
Owner:	Limestone Bank
Applicant:	V-Soft Consulting Group
Representative:	Kent Gootee - Mindel Scott & Associates
Jurisdiction:	Louisville Metro
Council District:	19 – Julie Denton
Case Manager:	Jay Lockett, 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:

00:30:20 Jay Lockett presented the case (see staff report and recording for detailed presentation.)

00:32:39 Commissioner Brown asked about binding element #15 on the Detailed Plan (sidewalk construction.) Mr. Lockett explained why this binding element will be stricken.

The following spoke in favor of this request:

Kent Gootee, Mindel Scott & Associates, 5151 Jefferson Boulevard, Louisville, KY 40219

Summary of testimony of those in favor:

00:33:16 Kent Gootee, the applicant's representative, presented the applicant's case (see recording for detailed presentation.) He explained that the applicant will build sidewalks on their side in the property; the bank will build sidewalks on their half of the property.

The following spoke in opposition to this request:

No one spoke.

Deliberation:

00:35:00 The Commissioners concurred that the proposal is justified.

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An audio/visual recording of the Planning Commission hearing 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 and RDDDP with Binding Elements

00:35:09 On a motion by Commissioner Carlson, seconded by Commissioner Brown, the following resolution, based on the Standard of Review and Staff Analysis, and testimony heard today, was adopted:

(Waiver) WHEREAS, the Louisville Metro Development Review Committee finds that the waiver will not adversely affect adjacent property owners since the adjacent property has the same owner, and the properties will share a common access easement in the area of the required buffer; and

WHEREAS, the Committee further finds that the waiver will not violate specific guidelines of Cornerstone 2020. Guideline 3, Policy 9 of Cornerstone 2020 calls for protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigation when appropriate. Guideline 3, Policies 21 and 22 call for appropriate transitions between uses that are substantially different in scale and intensity or density, and mitigation of the impact caused when incompatible developments occur adjacent to one another through the use of landscaped buffer yards, vegetative berms and setback requirements to address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances. Guideline 3, Policy 24 states that parking, loading and delivery areas located adjacent to residential areas should be designed to minimize impacts from noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered. Guideline 13, Policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. Guideline 13, Policy 6 calls for screening and buffering to mitigate adjacent incompatible uses. The uses are compatible, and will share a common access across the proposed property line; and

WHEREAS, the Committee further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since the buffer will still be provided along the part of the proposed property line in the portion of the site that is not to be used for access and vehicle maneuvering; and

WHEREAS, the Committee further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant, as most of the area of encroachment is already paved and will be used to provide access to the proposed sites; and

WHEREAS, the Committee further finds that the waiver will not adversely affect adjacent property owners since this request only affects the site to the east that is being subdivided to create this lots. The site was originally approved as a single larger lot and this request is to

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preserve the existing entrance that will be shared between the 2 proposed lots and allow for circulation between the 2 buildings; and

WHEREAS, the Committee further finds that this request will not violate the Comprehensive plan as the proposed layout complies with Guideline 3 Policy 4, 22 and 24 as the request does not impact residential use, the affected adjacent use is for a similar/compatible use that will not be negatively impacted with the omission of the buffer, since the parking is convenient and adequate for the use and the appropriate buffers will be provided to screen the parking from the street; and

WHEREAS, the Committee further finds that the request is the minimum necessary to allow the existing pavement/entrance to remain as a shared access drive and serve the 2 resulting lots. It will provide adequate circulation between the 2 lots and for the overall site; and

WHEREAS, the Committee further finds that the strict application of providing the 15' buffer between the 2 proposed lots would deprive the applicant of the reasonable use of the existing driveway as shared access and create an unnecessary hardship in its removal and the requirement then to construct new and separate access to serve these lots; and

(RDDDP and Amendment to Binding Elements) WHEREAS, the Committee further finds there do not appear to be any environmental constraints or historic resources on the subject site. Tree canopy requirements of the Land Development Code will be provided on the subject site; and

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

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

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

WHEREAS, the Committee further finds that the overall site design and land uses are compatible with the existing and future development of the area. Appropriate landscape buffering and screening will be provided to screen adjacent properties and roadways, with the exception of the requested waiver. Buildings and parking lots will meet all required setbacks; and

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

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RESOLVED, that the Louisville Metro Development Review Committee does hereby **APPROVE** the requested Waiver of Land Development Code 10.2.4.B.8 to allow a vehicle use area to encroach into a required 15' PEC Property Perimeter Landscape Buffer Area AND the requested Revised Detailed District Development Plan, SUBJECT to the following 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.
2. Signs shall be in accordance with Chapter 8 of the Land Development Code
3. No outdoor advertising signs (billboards), small free-standing (temporary) signs, pennants balloons, or banners shall be permitted on the site.
4. Flagpoles on the subject site cannot exceed 35 feet in height.
5. There shall be no outdoor storage on the site.
6. Outdoor lighting shall be directed down and away from surrounding residential properties. Lighting fixtures shall have a 90 degree cutoff so that no light source is visible off-site. Lighting levels attributable to the fixtures located on the subject site shall not exceed two foot candles at the property line.
7. Construction fencing shall be erected at the edge of the area of development prior to any grading or construction to protect the existing tree stands and their 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.
8. The applicant shall submit a plan for approval by the Planning Commission staff landscape architect showing trees/tree masses to be preserved prior to beginning any construction procedure (i.e. clearing, grading, demolition). Any modification of the tree preservation plan requested by the applicant may be approved by the Planning Commission staff landscape architect if the changes are in keeping with the intent of the approved tree preservation plan. The plan shall exhibit the following information.
 - a. Proposed site plan (showing buildings, edges of pavement, property/lot 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.

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- d. Location of construction fencing for each tree/tree mass designated to be preserved.
- 9. 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 Develop Louisville 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 minor plat shall be recorded creating the property lines as shown on the development plan.
- 10. 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
- 11. There shall be no outdoor music (live, piped, radio or amplified), outdoor entertainment, or outdoor PA system permitted on the site.
- 12. 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.

The vote was as follows:

YES: Commissioners Brown, Carlson, and Tomes.

NOT PRESENT: Commissioners Smith and Robinson.

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NEW BUSINESS

CASE NUMBER 18MOD1007

Request:	Modification of Condition of Approval to allow for grass cutting in a landscape buffer area (Lots 1 through 5)
Project Name:	Shakes Run COA Mod
Location:	Shakes Run Subdivision
Owner:	Shakes Run Community Association
Applicant:	Signature Green Properties, LLC
Representative:	Bardenwerper, Talbott & Roberts PLLC
Jurisdiction:	Louisville Metro
Council District:	19 – Julie Denton
Case Manager:	Jay Lockett, 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:

00:36:35 Jay Lockett presented the case (see staff report and recording for detailed presentation.) He handed out a packet of information, received yesterday, that arrived from a neighbor in opposition.

The following spoke in favor of this request:

Nick Pregliasco, Bardenwerper Talbott & Roberts PLLC, 1000 North Hurstbourne Parkway, Louisville, KY 40223

Mike Jones, 8908 Ayrshire Avenue, Louisville, KY 40222

Jacob Coons, 1408 Shakes Creek Way, Louisville, KY 40023

Adam Sparks, 1406 Shakes Creek Way, Louisville, KY 40023

Greg and Karen Whallin, 1404 Shakes Creek Way, Louisville, KY 40023

Summary of testimony of those in favor:

00:39:20 Nick Pregliasco, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.)

00:53:40 Jacob Coons, the owner of Lot 5, explained why the residents are making this request.

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00:54:35 Adam Sparks, the owner of Lot 4, spoke in support. He expressed concern that, because this area is near the entrance to the subdivision, the view of unmowed grass could deter prospective buyers and harm current residents' property values.

00:55:36 Greg and Karen Whallin were called but declined to speak.

00:55:42 Mike Jones was called but declined to speak (available to answer questions.)

The following spoke in opposition to this request:

Dudley Wetherby, 223 North Madison Avenue, Louisville, KY 40243

Summary of testimony of those in opposition:

00:56:05 Dudley Wetherby said he had requested this COA to protect vegetation and trees that are native to this area. He said there have been "continuous violations" of COA language pertaining to the preservation and maintaining of the tree canopy. He said Mr. Jones states that he cannot keep the homeowners from mowing these lots; however, Mr. Wetherby said the TCPA behind these lots has not been mowed since 2006, when homes were built there. He said he is concerned that this will set a precedent to eliminate other TCPAs in the subdivision.

01:00:18 Commissioner Carlson asked if the area under discussion today is contiguous to Mr. Wetherby's property. Mr. Wetherby said it is not.

Rebuttal:

01:00:50 Mr. Pregliasco addressed some issues raised by Mr. Wetherby, including: Mr. Wetherby's property is different and is also not located near the subject properties; the reason for this language is to protect trees, which are being protected; and to provide buffering for a neighboring property, which is a farm. Mr. Pregliasco also discussed the interpretation and purpose of "preserving undergrowth". The language will still apply to the rest of the subdivision.

01:04:13 Commissioner Carlson expressed concern about possible soil erosion under the trees if the grass / ground cover is mowed.

Deliberation:

01:07:15 The Commissioners concurred that the proposal is justified.

An audio/visual recording of the Planning Commission hearing 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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CASE NUMBER 18MOD1007

01:09:43 On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution, based on the Standard of Review and Staff Analysis, the applicant's testimony, and the applicant's presentation and booklet, was adopted:

WHEREAS, the Louisville Metro Development Review Committee finds that provisions for safe and efficient vehicular and pedestrian transportation within and around the development are not affected by this request; and

WHEREAS, the Committee further finds that the subject development conserves significantly more open space than required by the Land development Code; and

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

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

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

RESOLVED, the Louisville Metro Development Review Committee does hereby **APPROVE** the requested Modification of Conditions of Approval to **binding elements #24, #30, and #33** to allow the removal of undergrowth in the TCPA area from lots 1-5 in Shakes Run Subdivision located at 16701 Shakes Creek Drive. The modified binding elements shall read as follows:

24. A 30-foot Tree Canopy Protection Area (TCPA) shall be provided along the perimeter of the entire development. Existing tree canopy and undergrowth shall be preserved in this area and indicated on a tree preservation plan submitted to Planning Commission staff for approval, provided, however, the undergrowth in the TCPA area behind Lots 1-5 (as shown at the 8-15-18 DRC Meeting) shall be excluded from the obligation of preservation.

30. A 30-foot wide Tree Canopy Protection Area (TCPA) shall be permanently preserved along the perimeter of the entire development property regardless of current, or future, property ownership and/or control. All vegetation shall be preserved and protected in this area except for: (i) the removal of dead or declining trees that pose a public safety threat.; and (ii) the undergrowth in the TCPA area behind Lots 1-5 (as shown at the 8-15-18 DRC Meeting). The area shall be indicated on a preservation plan submitted to the Planning Commission. Canfield will install tree protection fencing along wooded portions of the 30-foot perimeter TCPA in the area or section of active development to protect these areas from disturbance, grading, clearing, mowing, and/or construction activity. Canfield will install in 30 days and continually maintain tree protection fencing along non-wooded portions of the 30-foot perimeter TCPA to protect these areas from mowing, grading, clearing, and/or construction activity. The tree protection fencing

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shall be maintained until each section goes to record plat and markers referenced in paragraph 5 hereof are installed.

33. Once a particular area or section of development is substantially completed, Canfield Development will install marker signs, to be approved by Planning and Design Services staff, at least every 60 feet with a minimum of one marker per lot, along the inside edge of 30-foot perimeter TCPA denoting the area as a protected area., excluding the TCPA area behind Lots 1-5 (as shown at the 8-15-18 DRC Meeting). The signs shall be consistent with the size and scale of signs used by the Jefferson County Environmental Trust to denote a conservation easement, and shall indicate that the area is a permanently preserved area and no mowing or clearing is allowed.

The vote was as follows:

YES: Commissioners Brown, Carlson, and Tomes.

NOT PRESENT: Commissioners Smith and Robinson.

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NEW BUSINESS

CASE NUMBER 18DEVPLAN1113

Request:	A General Waiver for Jeffersontown KY LDC and a Category 3 Development Plan
Project Name:	Research Drive Expansion
Location:	1725 and 1729 Research Drive
Owner:	Kyle Noltemeyer – Noltemeyer Capital Ltd.
Applicant:	Amy E. Cooksey – Mindel Scott & Associates
Representative:	Amy E. Cooksey – Mindel Scott & Associates
Jurisdiction:	City of Jeffersontown
Council District:	11 – Kevin Kramer and 18 – Marilyn Parker
Case Manager:	Ross Allen, 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:

01:10:39 Ross Allen presented the case (see staff report and recording for detailed presentation.)

01:12:55 In response to a question from Commissioner Brown, Mr. Allen said the staff report did support the waiver.

The following spoke in favor of this request:

Kent Gootee, Mindel Scott & Associates, 5151 Jefferson Boulevard, Louisville, KY. 40219

Summary of testimony of those in favor:

01:13:54 Kent Gootee, the applicant's representative, presented the applicant's case (see recording for detailed presentation.)

01:16:22 In response to a question from Paul Whitty, legal counsel for the Planning Commission, Mr. Gootee said the applicant will consolidate the two tracts into one. He added that there is a sanitary sewer line under this site.

01:17:20 In response to a question from Commissioner Brown, Mr. Gootee explained truck maneuvering as related to Research Drive.

The following spoke in opposition to this request:

No one spoke.

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Deliberation:

01:18:02 The Commissioners concur that the proposal is justified.

An audio/visual recording of the Planning Commission hearing 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.

- **General Waiver** from LDC 5.5.2.B.2 to allow the western off street loading and refuse collection areas to be visible from the public street and to not provide screening.
- **Category 3 Development Plan** for an 80,119 sq. ft. warehouse and accessory offices.

01:18:19 On a motion by Commissioner Carlson, seconded by Commissioner Brown, the following resolution, based on the applicant's justification and the Standard of Review and Staff Analysis, was adopted:

(Waiver) WHEREAS, the Louisville Metro Development Review Committee finds that the requested Waiver will not adversely affect adjacent property owners because the loading area is mostly behind the front yard setback; and

WHEREAS, the Committee further finds that the requested waiver will not violate the Comprehensive Plan because there will be appropriate screening along the parking lot vehicle use area which will help screen the loading area and the side yard buffers will also screen the loading area as well; and

WHEREAS, the Committee further finds that the extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because the configuration of the loading docks on each end of the building is as far away from the street as is possible to fit on the site; and

WHEREAS, the Committee further finds that the strict application of the provisions would deprive the applicant of the use of the site for warehouse use as he would not be able to have room for trucks to maneuver to the loading docks. There are two existing warehouses on these two lots which will be demolished for one larger warehouse on one lot in order to meet customer demand; and

WHEREAS, the Committee further finds that the requested waiver will not adversely affect adjacent property owners because staff upon reviewing the proposal determined that the orientation and the location of the loading docks as designed into the footprint of the proposed structure has an ingress/egress directly to the front and facing Research Drive thus either the entrance or the loading docks would need to be relocated/reoriented for screening to be provided; and

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WHEREAS, the Committee further finds that the waiver not violate the Comprehensive Plan because staff review of the subject site and adjacent properties within the general vicinity show a majority of the loading docks oriented in a north/south direction or parallel to Research Drive. One property as located to the southwest on the western side of Research Drive does have a loading dock perpendicular or facing Research Drive so although not out of character for the area it is also not the normal circumstance; and

WHEREAS, the Committee further finds that the extent of waiver of the regulation the minimum necessary to afford relief to the applicant because review of the subject site and adjacent properties within the general vicinity show a majority of the loading docks oriented in a north/south direction or parallel to Research Drive. One property as located to the southwest on the western side of Research Drive does have a loading dock perpendicular or facing Research Drive so although not out of character for the area it is also not the normal circumstance. The orientation and the location of the loading docks as designed into the footprint of the proposed structure has an ingress/egress directly to the front and facing Research Drive thus either the entrance or the loading docks would need to be relocated/reoriented for screening to be provided; now, therefore be it

RESOLVED, the Louisville Metro Development Review Committee does hereby **RECOMMEND** to the City of Jeffersontown that the requested Waiver from LDC 5.5.2.B.2 to allow the western off street loading and refuse collection areas to be visible from the public street and to not provide screening; **AND** the requested Category 3 Development Plan for an 80,119 sq. ft. warehouse and accessory offices, be **APPROVED**.

The vote was as follows:

YES: Commissioners Brown, Carlson, and Tomes.

NOT PRESENT: Commissioners Smith and Robinson.

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NEW BUSINESS

CASE NUMBER 18DEVPLAN1110

Request:	Revised Detailed District Development Plan for proposed restaurants at Oxmoor Center
Project Name:	Restaurants at Oxmoor Center
Location:	7900 Shelbyville Road
Owner:	WMB 2, LLC and TWB Oxmoor 2, LLC
Applicant:	GGP, Inc.
Representative:	Glenn Price – Frost Brown Todd Kelli Jones – Sabak Wilson & Lingo
Jurisdiction:	Louisville Metro
Council District:	18 – Marilyn Parker
Case Manager:	Joel Dock, 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:

01:19:32 Joel Dock presented the case (see staff report and recording for detailed presentation.) He addressed each item in the Technical Review and discussed the proposed binding elements.

01:23:02 Commissioner Brown asked why the restaurant plans are contingent upon the approval of the TopGolf facility rezoning. Mr. Dock explained that the orientation of the freestanding restaurant, as well as parking, would be affected by the golf facility. The numbers being presented today are provided assuming the golf facility is built. Staff would need to see a revised plan in the event that the golf facility is denied or a permit is not issued.

01:23:47 In response to a question from Commissioner Tomes, Mr. Dock said the exterior walls of the concourse will remain.

01:25:06 Commissioner Carlson asked about binding element #11 of the staff report (regarding the building permit for the golf facility; also, timing and phasing for this project.) See recording for detailed discussion.

01:28:10 Paul Whitty, legal counsel for the Planning Commission, stated that any approval of this case received today in no way indicates approval of the TopGolf facility. Mr. Dock said he also tried to make that clear in the staff report.

The following spoke in favor of this request:

Tim Martin, Frost Brown Todd, 400 West Market Street Suite 3200, Louisville, KY 40202

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Steve Porter, 2406 Tucker Station Road, Louisville, KY 40299

Kendall Merrick, 7900 Shelbyville Road, Louisville, KY 40222

Summary of testimony of those in favor:

01:29:01 Tim Martin, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.)

01:34:19 He explained why the applicant is separating this application from TopGolf (mainly, because this proposal does not involve a rezoning.)

01:35:36 He discussed binding element #11 of the staff report. He said that, in all likelihood, no construction would begin on this project until the final approval of the TopGolf request.

01:36:42 Patrick Dominik, an applicant's representative, further discussed the proposal.

01:40:14 Kendall Merrick, manager of Oxmoor Center, spoke in support. She emphasized the revitalization of the mall; jobs to be created; and estimated revenue to be generated.

01:44:48 Steve Porter spoke in support. He said this request does not have to depend on TopGolf, which has its own restaurant and bar.

01:46:21 Mr. Martin resumed the podium and concluded the presentation.

01:47:05 Commissioner Brown said the wording in binding element #10 should be "prior to issuance of building permit", NOT "prior to issuance of Certificate of Occupancy." Mr. Martin agreed.

The following spoke in opposition to this request:

No one spoke.

Deliberation:

01:47:44 The Commissioners concur that the proposal is justified.

An audio/visual recording of the Planning Commission hearing 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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01:48:42 On a motion by Commissioner Carlson, seconded by Commissioner Brown, the following resolution, based on the applicant's findings and the Standard of Review and Staff Analysis, was adopted:

WHEREAS, the Louisville Metro Development Review Committee finds that a portion of the Oxmoor Center property is in the 100-year flood plain of the Middle Fork of Beargrass Creek. This proposed redevelopment does not adversely impact the creek or the floodplain, as the redevelopment is on previously developed property. The proposed redevelopment will actually decrease the impervious area on the property by 48,164 square feet. The site does not exceed any air quality limitations and the site does not contain any steep slopes, scenic views or historic sites. The existing natural resources of the property are being preserved. In addition, as part of the redevelopment, over an acre of new green space will be created and at least 150 new trees will be planted on the property. The applicant is working with the Metropolitan Sewer District ("MSD") on any adjustments to the local regulatory floodplain. The construction and redevelopment will comply with MSD's design manual and standard specifications as well as any other local, state and federal ordinances; and

WHEREAS, the Committee further finds that it is anticipated the proposal will receive a report from the Transportation Review of safe and efficient vehicular and pedestrian transportation. The proposed redevelopment will retain the three existing direct access points to the parking lot- one directly from Oxmoor Lane to the west, one directly from Christian Way to the east and the third from driveway connecting Oxmoor Lane and Christian Way running along the southern edge of the property. Both Oxmoor Lane and Christian Way are divided four lane roads that connect directly to the major arterial of Shelbyville Road. Oxmoor Center is less than a quarter of mile from Watterson Expressway. In connection with Top Golf, the applicant has commissioned a traffic study to determine if any roadway improvements will be necessary for the redevelopment; and

WHEREAS, the Committee further finds that the proposed redevelopment in this Regional Center Form District does not require open space. However, the restaurant redevelopment will be separated from the proposed Top Golf facility by new open space that will allow pedestrian access between the two sites; and

WHEREAS, the Committee further finds that it is anticipated that the proposal will receive approval from the MSD. Final configuration and size of drainage pipes and channels will be determined during the construction plan design process. The redevelopment will decrease the impervious area of the subject property by 48,164 square feet. Because there is no increase in the impervious area (actually a decrease), no detention will be required; and

WHEREAS, the Committee further finds that the applicant proposes to redevelop the back or southside of Oxmoor Center. Portions of the Oxmoor Center will be remodeled and replaced with two restaurants with outdoor seating. A third free-standing restaurant between Oxmoor Center and the proposed Top Golf facility will also be developed. This development is compatible with the existing Oxmoor Center and the proposed Top Golf facility. The location of the restaurants is within the footprint of the existing mall, including the former Sears department store and the design is consistent with a Regional Center Form District; and

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WHEREAS, the Committee further finds that the proposal in conformance with the Comprehensive Plan and Land Development Code. The applicant proposes to redevelop and revitalize the southern half of the Oxmoor Center at 7900 Shelbyville Road. Portions of the Oxmoor Center will be remodeled and replaced with two restaurants with outdoor seating. A third free-standing restaurant between Oxmoor Center and the proposed Top Golf facility will also be developed. Part of the subject property is the site of the former Sears department store, which is currently vacant and is proposed to be removed. The proposal will revitalize the currently vacant portion of the property and drive economic growth in the existing Regional Center. The redevelopment, in connection with Top Golf, will bring the area of revision into compliance with current design standards, including improved landscaping, tree canopy, and parking lot lighting; and

WHEREAS, the Committee further finds that the proposal meets the intents of **Guideline 1 – Community Form** because the subject property is located in the Regional Center Form District, which is an ideal fit for the applicant's proposed use. The C-2 Commercial zoning is appropriate for a Regional Center, which is intended to contain a mixture of high intensity commercial uses including regional shopping and entertainment facilities. The proposed redevelopment will be connected to the existing Oxmoor Center, which contains similarly-scaled shopping, restaurant, and entertainment. The subject property is surrounded by commercial uses to the north across Shelbyville Road, to the northeast across Christian Way, and to the northwest across Oxmoor Lane. The subject property is surrounded by multi-family and undeveloped properties to the south, southeast, and southwest, all of which are zoned for future commercial and multi-family development; and

WHEREAS, the Committee further finds that the subject property is in an area benefitted by regional connectivity and transportation infrastructure. Oxmoor Center sits directly on Shelbyville Road, a major arterial, and is served by Interstate 264 less than a quarter of a mile to the west. The subject property is connected to Shelbyville Road by divided four-lane roads to the west and east, via Oxmoor Lane and Christian Way, respectively. The subject property is also served by TARC. The proposal will also enhance the appearance and cohesion of the Oxmoor Center property as a whole by bringing the area of revision into compliance with current design standards, including improved landscaping, tree canopy, and parking lot lighting; and

WHEREAS, the Committee further finds that the proposal meets the intents of **Guideline 2 – Centers** because the proposed redevelopment will leverage and enhance the existing activity center at the Oxmoor Center which is consistent with the Cornerstone 2020 Comprehensive Plan goal of promoting efficient land use and investment in existing infrastructure. The proposed redevelopment will utilize the existing parking and transportation infrastructure at Oxmoor Center and add new restaurants; and

WHEREAS, the Committee further finds that the proposal meets the intents of **Guideline 3 – Compatibility** because the subject property is the best location for the proposed redevelopment in our community. The restaurants will be connected to Oxmoor Center which contains similar-scale shopping, restaurant, and entertainment uses. The subject property is surrounded by other similar commercial uses, including offices, retail stores, car dealerships, shopping centers,

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and restaurants. The undeveloped properties to the south, southeast, and southwest, are all zoned for future commercial, office and multi-family development. The subject property is well-served by existing transportation infrastructure, with easy access to Interstate 264 to the west via Shelbyville Road, and access to Shelbyville Road via both Oxmoor Lane and Christian Way; and

WHEREAS, the Committee further finds that the proposal meets the intents of **Guideline 4 – Open Space** and **Guideline 5 – Natural Areas and Scenic and Historic Resources** because the proposed redevelopment will improve the open area at the southern end of the Oxmoor Center. The portion of Oxmoor Center to be remodeled for the two restaurants with contain outdoor seating facing the proposed Top Golf, and a third free-standing restaurant between Oxmoor Center and the proposed Top Golf will also feature outdoor seating facing the shared pedestrian promenade. The subject property is particularly well suited for the proposed redevelopment because it has no scenic, or historical resources. Natural areas include the Middle Fork of Beargrass Creek which will be preserved in its current condition as a part of this project because all new development will be limited to areas of existing development. The proposed redevelopment includes new pedestrian sidewalks along Christian Way that will connect the subject property to the open space to the southeast, and enhanced landscaping and lighting that will improve the appearance and visual impact of the existing parking lot; and

WHEREAS, the Committee further finds that the proposal meets the intents of **Guideline 6 – Economic Growth and Sustainability** because the proposed redevelopment is exactly the kind of redevelopment and revitalization project this Guideline promotes. The southern portion of Oxmoor Center, formerly home to the Sears department store, has been vacant since October 2017. The proposed redevelopment will follow the national trend of revitalizing covered malls by adding additional restaurant options and unique entertainment uses that cannot be replicated by internet retailers. In the early 20th Century, malls were community gathering spaces clustered in downtown areas. Then, in the 1950s to 1970s, the development of large suburbs outside of city centers saw the rise of suburban enclosed malls, such as Oxmoor Center and Mall St. Matthews. The current national trend is for retail to move either online or back toward downtown city centers, and enclosed suburban malls have had to adapt by adding unique options to drive visitors. The proposed redevelopment follows this trend, and will offer a fresh and unique regional attraction that will bring hundreds of new jobs to the area and induce further economic development; and

WHEREAS, the Committee further finds that the proposal meets the intents of **Guideline 7 – Circulation** because the proposed redevelopment will retain the three existing direct access points to its parking lot—one directly from Oxmoor Lane to the west, one directly from Christian Way to the east, and a third access point to the south from a driveway running along the southern edge of the property that connects to Oxmoor Lane. Both Oxmoor Lane and Christian Way are divided four lane roads that connect directly to major arterial Shelbyville Road to the north, which connects to Interstate 264 less than a quarter of a mile to the west. The proposed redevelopment will also connect internally to Oxmoor's parking lots to the north; and

WHEREAS, the Committee further finds that the proposal meets the intents of **Guideline 9 - Bicycle, Pedestrian and Transit** because pedestrians will be able to access the proposed

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redevelopment through the new south entrance of Oxmoor Center, which will be connected to the proposed Top Golf via a new pedestrian promenade with the three new restaurants with outdoor seating. The proposed redevelopment also includes new pedestrian sidewalks along Christian Way that will connect the subject property to the open space to the southeast, and also improve pedestrian access from the City of Hurstbourne neighborhoods to the east. The proposal will contain bicycle parking facilities as required by the LDC. TARC bus stops are located to the north of the subject property along Shelbyville Road at the intersections with Oxmoor Lane and Christian Way, providing easy access to Oxmoor Center and the proposed redevelopment. In addition, the applicant will work with TARC to determine the best location for an on-site stop to replace the bus stop at the former Sears; and

WHEREAS, the Committee further finds that the proposal meets the intents of **Guidelines 10-Flooding and Stormwater and 11-Water Quality** because the proposed redevelopment will decrease the impervious area of the subject property by approximately 48,000 square feet and will provide additional floodplain compensation and drainage improvements as required by MSD; and

WHEREAS, the Committee further finds that the proposal meets the intents of **Guideline 12-Air Quality** because the applicant, in connection with Top Golf, is conducting a traffic study in order to determine the potential impact on area roads from the proposed redevelopment. However, given the existing Oxmoor Center and other commercial uses nearby along high-traffic Shelbyville Road, the proposed redevelopment should generate fewer trips than the retail space it is replacing, creating a limited marginal impact on air quality, if any. The proposed redevelopment also contains new sidewalks along Christian Way which will facilitate pedestrian access to the Oxmoor Center site from nearby residential areas; and

WHEREAS, the Committee further finds that the proposed redevelopment complies with the intent and applicable Policies of **Guideline 13- Landscape Character** because the proposal includes improved landscaping, tree canopy, and parking lot lighting that will improve the appearance and visual impact of the subject property. The proposed redevelopment includes over one acre of reclaimed green space within Oxmoor's parking lot; and

WHEREAS, the Committee further finds that the proposal does not appear to have a significant impact on natural resource conservation as the existing footprint of the mall is being maintained in the areas of the development over the protected waterway. Other improvements are in keeping with existing impervious conditions; and

WHEREAS, the Committee further finds that provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community has been provided as the subject site will be integrated into a system of pedestrian and vehicle connectivity as demonstrated on an associated development plan in case no. 18ZONE1014. Connectivity internally through concourses of the shopping center is also provided; and

WHEREAS, the Committee further finds that sufficient open space is provided in the form of a pedestrian plaza and outdoor dining; and

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

WHEREAS, the Committee further finds that the overall site design and land uses are compatible with the existing and future development of the area as the proposal will redevelop an existing regional shopping center containing a wide variety of uses. It is also located along a commercial corridor and major arterial road with immediate access to Interstate-264; and

WHEREAS, the Committee further finds that the development plan conforms to applicable guidelines and policies of the Comprehensive Plan as the development is located within an existing activity center in the Regional Center form district. The Regional Center form district typically contains a mixture of high intensity uses including regional shopping, office, services, entertainment facilities and medium to high-density residential uses. Such Regional Centers may include a variety of stores under one roof, or may consist of freestanding structures. The amount of floor space in regional centers usually exceeds 400,000 square feet, reflecting a market area designed to serve a population of at least 100,000. Redevelopment and infill development are encouraged; now, therefore be it

RESOLVED, the Louisville Metro Development Review Committee does hereby **APPROVE** the requested Revised Detailed District Development Plan, **SUBJECT** to the following 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. Any changes, additions or 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.
2. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
3. Before any permit (including but not limited to building, parking lot, change of use or alteration 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. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.

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4. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
5. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
6. If work is required within the easements causing removal or damage of landscape materials, the property owner shall be responsible for replacement of materials according to the approved landscape plan.
7. The Planning Commission shall require a full traffic and air quality analysis, including an arterial analysis for Shelbyville Road, before considering any additional development of the general area known as Oxmoor Center/the Bullitt Farm. This binding element shall apply to any commercial, retail, residential or office development. The aforementioned analysis shall include expected traffic from all approved developments within the impact area, as defined by the Department of Public Works. It shall also include any proposed roadway improvements expected to be completed before completion of the proposed development. The goal of the traffic analysis is to recommend appropriate mitigation measures to accommodate expected traffic from the proposed development. Mitigation measures for traffic and air quality shall include, but not limited to, recommended signal timing adjustments along Shelbyville Road and construction of Bunsen/Bowling Parkway, in part or whole. The Developer should also furnish additional mitigation recommendations, as required, at impacted intersections.
8. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the August 15, 2018 meeting of the Development Review Committee.
9. Renderings of the proposed freestanding restaurant shall be submitted for review and approval by Planning Commission staff prior to issuance of building permit for freestanding restaurant only.
10. If a building permit for the proposed TopGolf facility (case no. 18ZONE1014) is not issued within 1-year of the date of approval of this approved development plan, any construction activity on the development site shall cease until a revised development

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plan is approved. In the event that no construction has begun, an extension of expiration may be granted in accordance with Land Development Code, section 1.1.9.

The vote was as follows:

YES: Commissioners Brown, Carlson, and Tomes.

NOT PRESENT: Commissioners Smith and Robinson.

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ADJOURNMENT

The meeting adjourned at approximately 3:05 p.m.

 9/17/2018
Chairman
Vice


Division Director