

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO DEVELOPMENT REVIEW COMMITTEE MEETING
November 3, 2021**

A meeting of the Louisville Metro Development Review Committee was held on Wednesday, November 3, 2021 at 1:00 p.m. via Cisco Webex Video Teleconferencing.

Commissioners present:

Rich Carlson, Chair
Jim Mims, Vice Chair
Jeff Brown
Patti Clare
Pat Seitz – left at 2:30 p.m.

Commissioners absent:

No one.

Staff members present:

Joe Reverman, Assistant Director, Planning & Design Services
Julia Williams, Planning Supervisor
Brian Davis, Planning Manager
Joe Haberman, Planning Manager
Beth Jones, Planner II
Jay Lockett, Planner I
Molly Clark, Planner I
Heather Pollock, Planner I
Travis Fiechter, Legal Counsel
Madison Thomas, Management Assistant (minutes)

Other staff present:

Beth Stuber, Transportation Planning Supervisor
Tony Kelly, MSD

The following matters were considered:

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APPROVAL OF MINUTES

Minutes of the October 20, 2021 Development Review Committee meeting.

00:03:31 On a motion by Commissioner Brown, seconded by Commissioner Clare, the following resolution was adopted:

RESOLVED, that the Louisville Metro Development Review Committee does hereby **APPROVE** the minutes of its meeting conducted on October 20, 2021.

The vote was as follows:

YES: Commissioners Brown, Clare, Mims, and Carlson.

NO: No one.

ABSENT: No one.

ABSTAIN: Commissioners Seitz.

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OLD BUSINESS

CASE NUMBER 21-DDP-0035

Request: Revised Detailed District Development Plan (Continued from the 10/06 DRC Meeting)
Project Name: Jeff Wyler Dixie Honda
Location: 5244 Dixie Highway
Owner: DWSB LOUISVILLE LLC
Applicant: Bardenwarper, Talbott and Roberts
Representative: Bardenwarper, Talbott and Roberts
Jurisdiction: Louisville Metro
Council District: 12 – Rick Blackwell
Case Manager: Jay Lockett, AICP, 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:

00:06:40 Jay Lockett presented the case and showed a PowerPoint presentation (see staff report and recording for detailed presentation.)

In response to Commissioner Mims' question about the characteristics of the fence, Jay Lockett described the fence in detail.

The following spoke in support of the request:

Paul Whitty, 1000 N Hurstbourne Parkway, Louisville, KY 40223

Paul Rini, 401 Milford Parkway, Milford, OH 45150

Summary of testimony of those in support:

00:12:40 Paul Whitty, the applicant's representative, went into more detail on the new details of the plan.

In response to Commissioner Carlson's question about working with the fire department, Paul Rini said that they have ensured the fire department has accessibility.

There was discussion about the Binding Element and the gate.

00:25:04 Commissioners' deliberation.

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OLD BUSINESS

CASE NUMBER 21-DDP-0035

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 Clare, the following resolution was adopted:

Revised Detailed District Development Plan:

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

WHEREAS, provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community have been provided. The proposed development plan allows for continued public access around the subject site.

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

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

WHEREAS, the overall site design and land uses are compatible with the existing and future development of the area.

WHEREAS, the development plan conforms to the Comprehensive Plan. Mobility Goal 2 Policy 1 states: Provide transportation facilities and systems that accommodate all users and allow for context-sensitive solutions that recognize the distinguishing characteristics of each of the Form Districts. Mobility Goal 2 Policy 2 states Coordinate use of rights-of-way with community design policies. Ensure accessible rights-of-way to accommodate mobility needs of all transportation network users. Mobility Goal 2 Policy 6 states Ensure that the internal circulation pattern for streets within a development be designed with an appropriate functional hierarchy of streets and appropriate linkages with existing and future development. Mobility Goal 3 Policy 17 states Require cross access easements according to standards set forth in the Land Development Code to reduce traffic on major thoroughfares and to reduce safety hazards. The applicant has provided for adequate vehicular and pedestrian circulation around the subject site.

Proposed 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) is requested:
 - a. The development plan must receive full construction approval from Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. Encroachment permits must be obtained from the Kentucky Transportation Cabinet.
 - c. A minor subdivision plat or legal instrument shall be recorded dedicating additional right-of-way to Dixie Highway to provide a total of 65 feet from the centerline). A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services prior to obtaining a certificate of occupancy.
 - d. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a certificate of occupancy. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - e. A reciprocal access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be created between the adjoining property owners and recorded. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services prior to obtaining a certificate of occupancy.

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5. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
6. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
7. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
8. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the July 5, 2018 Planning Commission meeting.
9. No idling of trucks shall take place within 200 feet of residential development. No overnight idling of trucks shall be permitted on-site.
10. All existing trees on the site shall be preserved.
11. Any change in use on the subject property from the C-2 permitted "automobile sales agencies, automobile repair garages, automobile rental agencies, or used car sales areas" to another C-2 permitted use on the subject site shall require review and approval by Metro Council. Any change in use to a C-1 permitted use shall not require review and approval by Metro Council, provided, however, any change to the following C-1 permitted uses shall require review and approval by Metro Council: "pawn shops, package liquor stores, and check cashing services."
12. **No gate or other obstruction shall be erected or otherwise put in place to prevent public vehicular and pedestrian access around the subject site from Zayre Ave to the**

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traffic signal across from Trent Ave. Prior to final transmittal of the approved plan, a legal easement in a form acceptable to the Planning Commission legal counsel shall be recorded that provides for continued public access around the subject site.

RESOLVED, that the Louisville Metro Development Review Committee does hereby **APPROVE** the Revised Detailed District Development Plan for case 21-DDP-0035 and the changing to the Binding Elements on pages six and seven on the staff report, with the addition to Binding Element number 12 to include “or otherwise put in place” in reference to obstructions of this new cross access, based on the staff report and testimony heard today.

The vote was as follows:

YES: Commissioners Brown, Clare, Seitz, Mims and Carlson.

NO: No one.

ABSTAIN: No one.

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NEW BUSINESS

CASE NUMBER 21-CAT3-0017

Request: Category 3 Development Plan
Project Name: Boyd's Logistics Park Lot 4
Location: 1400 Cecil Ave
Owner: Whayne Supply Co.
Applicant: Brian Cambron
Representative: Mindel Scott and Associates
Jurisdiction: Louisville Metro
Council District: 1 – Jessica Green
Case Manager: Jay Lockett, AICP, Planner I

Notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicants.

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

Agency Testimony:

00:27:02 Jay Lockett presented the case and showed a PowerPoint presentation (see staff report and recording for detailed presentation.)

Commissioner Brown asked if sidewalks were proposed on the easement on both sides of the property. Jay Lockett said that was correct. Brian Cambron explained the sidewalks in detail.

The following spoke in support of the proposal:

Brian Cambron, 10001 Linn Station Road, Louisville, KY 40223

Kent Gootee, 5151 Jefferson Blvd, Louisville, KY 40219

Summary of testimony of those in support:

00:33:06 Kent Gootee and Brian Cambron went into more detail on the plan (see recording for detailed presentation.)

00:39:55 Commissioners' deliberation.

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

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NEW BUSINESS

CASE NUMBER 21-CAT3-0017

On a motion by Commissioner Brown, seconded by Commissioner Seitz, the following resolution was adopted:

RESOLVED, that the Louisville Metro Development Review Committee does hereby **APPROVE** the Category 3 Development plan for case 21-CAT3-0017, based on the staff report and testimony heard today.

The vote was as follows:

YES: Commissioners Brown, Clare, Seitz, Mims and Carlson.

ABSTAIN: No one.

NO: No one.

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CASE NUMBER 21-DDP-0097

Request: Revised Detailed District Development Plan with a Waiver
Project Name: Eclipse Bank
Location: 13905 Promenade Green Way
Owner: Oreo 4, LLC
Applicant: Eclipse Bank
Representative: Mindel Scott and Associates
Jurisdiction: Louisville Metro
Council District: 19 – Anthony Piagentini
Case Manager: Jay Lockett, AICP, Planner I

Notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicants.

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

Agency Testimony:

00:41:18 Jay Lockett presented the case and showed a PowerPoint presentation (see staff report and recording for detailed presentation.)

There was discussion about the buffer.

Commissioner Clare asked how wide the proposed interior drive lane is. Jay Lockett said he believes it follows the 24-foot standard.

The following spoke in support of the proposal:

Kent Gootee, 5151 Jefferson Blvd, Louisville, KY 40219

Summary of testimony of those in support:

00:49:10 Kent Gootee responded to Commissioner Mims' question about other developments with this waiver; Mr. Gootee said all the development west of High Wickham Place have received the same waiver. Mr. Gootee went into more detail on the site and the development plan (see recording for detailed presentation.)

00:55:10 Commissioner's 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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CASE NUMBER 21-DDP-0097

On a motion by Commissioner Brown, seconded by Commissioner Seitz, the following resolution was adopted:

21-WAIVER-0137:

WHEREAS, the waiver will not adversely affect adjacent property owners as the development will be in keeping with other development in the area. All required screening and planting will be provided.

WHEREAS, the waiver will not violate the Comprehensive Plan. The development will be compatible with other development in the area and the form district. Adequate screening and planting shall be provided.

WHEREAS, the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since all other aspects of the Land Development Code are being met for the subject site, including all required planting and screening.

WHEREAS, the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land. The Old Henry Road right-of-way is up to 270 feet wide adjacent to the subject site, and all required screening and planting will be provided around the subject site.

RESOLVED, that the Louisville Metro Development Review Committee does hereby **APPROVE** 21-WAIVER-0137 for case 21-DDP-0097 from the Land Development Code section 10.3.5 and table 10.3.1 to allow the parking to encroach up to five feet into the required 30-foot parkway buffer as shown on the development plan, based on the staff report and testimony heard today.

The vote was as follows:

YES: Commissioners Brown, Clare, Seitz, Mims and Carlson.

NO: No one.

ABSTAIN: No one.

On a motion by Commissioner Brown, seconded by Commissioner Seitz, the following resolution was adopted:

Revised Detailed District Development Plan:

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

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WHEREAS, provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community have been provided. The proposed development plan allows for continued public access around the subject site.

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

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

WHEREAS, the overall site design and land uses are compatible with the existing and future development of the area.

WHEREAS, the development plan conforms to the Comprehensive Plan. The proposed uses are in keeping with other development and the general character of the area. The proposed development is similar to the types and scale of uses as shown on the approved general development plan. Adequate screening and buffering will be provided around the subject site. Provisions have been made for safe vehicular and pedestrian maneuvering around the subject site. Tree canopy provisions shall be met on the subject site.

Proposed Binding Elements:

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

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed-upon binding elements, unless amended pursuant to the LDC. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or its designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. Signs shall be in accordance with LDC Chapter 8.
3. No outdoor advertising signs, small freestanding signs, pennants, balloons or banners shall be permitted on the site.
4. Construction fencing shall be erected when off-site trees or tree canopy exists within 3 feet of a common property line. Fencing shall be in place prior to any grading or construction, shall enclose the entire area beneath the tree canopy

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and shall remain in place until all construction is completed. No parking, material storage or construction activity is permitted within the protected area.

5. Before any permit, including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition, is requested:

- a. The development plan must receive full construction approval from Develop Louisville, Permits and Licenses, Louisville Metro Public Works and the Metropolitan Sewer District.
- b. Encroachment permits must be obtained from the Kentucky Transportation Cabinet.
- c. A minor subdivision plat shall be recorded creating the lot lines as shown. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services prior to requesting a building permit.
- d. The property owner/developer must obtain approval of a detailed plan for screening, buffering and or landscaping as described in LDC Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
- e. A reciprocal access and crossover easement agreement in a form acceptable to Planning Commission legal counsel shall be created and recorded; a copy of the recorded instrument shall be submitted to the Planning and Design Services Department of Develop Louisville.
- f. Final elevations/renderings shall be submitted for review and approval by Planning Commission staff. A copy of the approved rendering shall be available in the case file on record in the offices of the Louisville Metro Planning Commission.

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.

7. The applicant, developer or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with them. 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.

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8. No idling of trucks shall take place within 200 feet of single-family residences.

9. The applicant shall provide documentation showing that the development complies with LDC 4.1.3 lighting regulations prior to issuance of a construction permit. These include regulations regarding mounting height limits, luminaire shielding, canopy lighting levels and light trespass.

10. All street name signs shall be installed prior to requesting a certificate of occupancy for any structure. The address number shall be displayed on a structure prior to requesting a certificate of occupancy for that structure.

RESOLVED, that the Louisville Metro Development Review Committee does hereby **APPROVE** the Revised Detailed District Development Plan for case 21-DDP-0097 and the revisions to the Binding Elements shown on pages seven and eight of the staff report, based on the staff report and testimony heard today.

The vote was as follows:

YES: Commissioners Brown, Clare, Seitz, Mims and Carlson.

NO: No one.

ABSTAIN: No one.

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CASE NUMBER 21-DDP-0079

Request: Revised Detailed District Development Plan with Building Design Waivers (Continued from 10/20 DRC)
Project Name: Proposed Grocery Store with Outlots
Location: 2500 Terra Crossing Blvd
Owner: DLP Real Estate, LLC
Applicant: Matt McLaren – Gresham Smith & Partners
Representative: Cliff Ashburner – Dinsmore & Shohl, LLP
Jurisdiction: Louisville Metro
Council District: 19 – Anthony Piagentini
Case Manager: Molly Clark, 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:

00:58:14 Molly Clark presented the case and showed a PowerPoint presentation (see staff report and recording for detailed presentation.)

In response to Commissioner Carlson’s question about notices, Molly Clark said proper notice was given.

There was discussion about the design standards.

Molly Clark said the applicant paid all fees to KYTC regarding the traffic signal improvement on Terra Crossing and Old Henry Road.

The following spoke in support of the request:

Cliff Ashburner, 101 S 5th Street, Louisville, KY 40202

Diane Zimmerman, 12803 High Meadows Pike, Prospect, KY 40059

Matt McLaren, 111 W Main Street, Louisville, KY 40202

Summary of testimony of those in support:

01:08:30 Cliff Ashburner, the applicant’s representative, went into more detail on the requests and the development plan (see video for detailed recording.)

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Diane Zimmerman discussed the traffic report in detail and how the new plan reduces traffic.

Cliff Ashburner continued his presentation and discussed the proposed building.

Commissioner Brown asked why they were proposing to modify the median on Terra Crossing. Matt McLaren explained it was for truck maneuvering.

01:24:30 Commissioners' deliberation.

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

On a motion by Commissioner Brown, seconded by Commissioner Seitz, the following resolution was adopted:

21-WAIVER-0101:

WHEREAS, the requested waiver will not adversely affect adjacent property owners, the applicant is meeting all the other requirements. They are providing all the landscaping plantings in the remaining landscape buffers that will provide visual interest and screening for the facades that do not meet the Land Development Code.

WHEREAS, guideline 1, policy 4 of Plan 2040 mentions that new development should be compatible with scale and site design of nearby existing development. They are asking for the building design waiver regarding windows being less than 50% but will still be providing some clear windows and doors for the front façade that will have all the primary customer entrances. Community Form Goal 2, Policy 15 calls for parking in activity centers should reflect the area's associated Form District standards to balance safety, traffic, transit, pedestrian, environmental and aesthetic considerations.

WHEREAS, the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since the proposed building will be a large grocery store.

WHEREAS, the applicant has incorporated other design measures that compensate for non-compliance with the requirements to be waived but providing all the required plantings in the remaining landscape buffers that will help screen and provide visual interest to the building façades that don't meet the Land Development Code.

21-WAIVER-0148:

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CASE NUMBER 21-DDP-0079

WHEREAS, the proposed waiver of the requirement that no more than 50% of a perimeter landscape buffer area contain easements under Section 10.2.4.B.3 of the Land Development Code will not adversely affect the adjacent property owners. The waiver is necessary because the property is adjacent to the Gene Snyder Freeway and an existing easement overlaps into the entire required landscape buffer area. There will be no adverse impact to adjacent property owners. The applicant will maintain all the required plantings through the entire landscape buffer area.

WHEREAS, this waiver will not violate the Comprehensive Plan. The proposed commercial development is consistent with other Suburban Workplace commercial developments in the area. While the easement encroaches into the entire of the landscape buffer area, the applicant will maintain the necessary plantings and treat the space as if it was otherwise not encroached into by the easement.

WHEREAS, the extent of the proposed waiver is the minimum necessary to afford relief to the applicant. The proposed waiver is merely to allow the buffer to be encroached into by the existing easement and does not inhibit the applicant's ability to provide the landscape buffer area. The applicant will still treat the space as the required landscape buffer area.

WHEREAS, the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land and would create an unnecessary hardship on the applicant as it would essentially prohibit the applicant from developing this property merely because an easement that does not prevent it from providing the landscape buffer simply overlaps with the same area.

RESOLVED, that the Louisville Metro Development Review Committee does hereby **APPROVE** 21-WAIVER-0101 for case 21-DDP-0079 from Land Development Code section 5.6.1 to allow a building façade to have less than 50% clear windows and doors facing a public street, and 21-WAIVER-0148 from Land Development Code section 10.2.4.B.3 to allow the utility easement to overlap 50% of the required 50-foot Gene Snyder Buffer, based on the staff report and testimony heard today.

The vote was as follows:

YES: Commissioners Brown, Clare, Seitz, Mims and Carlson.

NO: No one.

ABSTAIN: No one.

On a motion by Commissioner Brown, seconded by Commissioner Seitz, the following resolution was adopted:

Revised Detailed District Development Plan:

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WHEREAS, 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.

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 and the Kentucky Transportation Cabinet have approved the preliminary development plan.

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

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

WHEREAS, the overall site design and land uses 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.

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

Proposed Binding Elements:

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

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. Prior to development (includes clearing and grading) of each site or phase of this project, the applicant, developer, or property owner shall obtain approval of a detailed district development plan in accordance with Chapter 11, Part 6. Each plan shall be in adequate detail and subject to additional binding elements.

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3. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
4. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
5. 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 Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. Encroachment permits must be obtained from the Kentucky Transportation Cabinet.
 - c. A minor subdivision plat or legal instrument shall be recorded (creating the lot lines as shown on the development plan). A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services prior to obtaining a building permit.
 - d. 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.
 - e. A reciprocal access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be created between the adjoining property owners of the proposed outlots, and the existing hotel to the north and recorded. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services prior to obtaining a building permit.
 - f. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the October 20th, 2021 Planning Commission DRC meeting. A copy of the approved rendering is available in the case file on record in the offices of the Louisville Metro Planning Commission.
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 property owner shall provide a cross over access easement if the property to the 2 proposed out lots and the existing hotel to the north on the plan. A copy of the signed easement agreement shall be provided to Planning Commission staff upon request.
10. Updated trip generations, or additional analysis if warranted by change in development character, shall be required per MPW requirements prior to each Detailed Development Plan Approval. Updated trip generations, or additional analysis if warranted by change in development character, shall be required per MPW requirements prior to each Detailed Development Plan approval. The Planning Commission may withhold approval of the revised plan if such analysis reveals an unacceptable level of trip generation with inadequate mitigation by the developer.
11. The following uses otherwise permitted in Commercial District C-2 shall be prohibited:
 - a. Auction sales, items transported to site of auction
 - b. Automobile repair garages
12. Plantings shall be substantially similar to the planting exhibit presented at the November 3, 2021 Development Review Committee and shall also meet Chapter 10 of the Land Development Code.
13. Generator testing shall be restricted between the hours of 9 p.m. to 7 a.m.

RESOLVED, that the Louisville Metro Development Review Committee does hereby **APPROVE** the Revised Detailed District Development Plan for case 21-DDP-0079 with the removal and replacement of the Binding Elements show on pages 10 through 12 of the staff report with the addition of Binding Element #12 to reference the planting exhibit that was presented at today's November 3, 2021 Development Review Committee

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meeting that the landscaping they provide shall be substantially compliant to the plan presented today, and Binding Element #13 that would restrict the generator testing hours from 9 p.m. to 7 a.m., based on the staff report and testimony heard today.

The vote was as follows:

YES: Commissioners Brown, Clare, Seitz, Mims and Carlson.

NO: No one.

ABSTAIN: No one.

DEVELOPMENT REVIEW COMMITTEE MINUTES
November 3, 2021

CASE NUMBER 21-MPLAT-0167

Request: Record Plat Amendment
Project Name: Lindsay Avenue Minor Plat
Location: 2715 Lindsay Avenue
Owner: Beach Properties LLC
Applicant: Charles Podgursky
Representative: Charles Podgursky
Jurisdiction: Louisville Metro
Council District: 9 – Bill Hollander
Case Manager: Julia Williams, AICP, Planning Supervisor

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:

01:29:15 Julia Williams presented the case and showed a PowerPoint presentation (see staff report and recording for detailed presentation.)

The following spoke in support of the proposal:

Charles Podgursky, 7321 New La Grange Road, Louisville, KY 40222

Summary of testimony of those in support:

01:32:02 Charles Podgursky explained the request.

The following spoke in neutral of the proposal:

David Vislisel, 45 Warren Road, Louisville, KY 40206

Summary of testimony of those in neutral:

01:33:45 David Vislisel, representing the Clifton Heights Community Council, asked what the options of the back lot are, if there would be a large storage building or enclosed structure built there. Commissioner Carlson said the Land Development Code would not allow any building to be larger than the primary building on a piece of land and it would require a waiver, in which the neighbors would be notified. David Vislisel asked if the two houses are built on the property, if the neighborhood would have access to those plans and if they could check on the style and characteristics of the homes. Joe Reverman said that would be part of the building permit process, and that is something that they could find online when the permit is filed. David Vislisel asked to confirm if it was single family properties being developed on Lots 1 and 3. Joe Reverman responded that there were no buildings proposed today, just the subdividing

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of the property is being discussed. David Vislisel asked about sidewalks and plantings in the Binding Elements. Julia Williams explained if they were to build on Lots 1 and 3, they would be required a sidewalk but there are no plantings required for single family dwellings.

01:42:10 Commissioners' deliberation.

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

On a motion by Commissioner Brown, seconded by Commissioner Clare, the following resolution was adopted:

RESOLVED, that the Louisville Metro Development Review Committee does hereby **APPROVE** the record plat amendment for case 21-MPLAT-0167 to create three lots from one within the GT Dick Subdivision in Plat Book 08, Page 35A, based on the staff report and testimony heard today.

The vote was as follows:

YES: Commissioners Brown, Clare, Mims and Carlson.

NO: No one.

ABSENT: Commissioner Seitz.

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CASE NUMBER 21-MPLAT-0125

Request: Record Plat Amendment
Project Name: Poplar Level Road Minor Plat
Location: 5700 Poplar Level Road
Owner: MK JK Properties LLC
Applicant: MK JK Properties LLC
Representative: Richard Matheny, Cardinal Surveying
Jurisdiction: Louisville Metro
Council District: 24 – Madonna Flood
Case Manager: Heather Pollock, 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:

01:45:20 Heather Pollock explained the application is going to be withdrawn because the request is changing.

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.

No action was taken.

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CASE NUMBER 21-WAIVER-0113

Request: Changing Image Sign Waiver
Project Name: Changing Image Sign Waiver
Location: 3938 Poplar Level Road
Owner: Holy Family
Applicant: Golden Rule Signs
Representative: heather Mullin
Jurisdiction: Louisville Metro
Council District: 10 – Pat Mulvihill
Case Manager: Beth Jones, AICP, Planner II

Notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicants.

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

Agency Testimony:

00:04:30 Beth Jones explained the reason there was a request to continue this case to a date uncertain.

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 Seitz, the following resolution was adopted:

RESOLVED, that the Louisville Metro Development Review Committee does hereby **CONTINUE** 21-WAIVER-0113 to a date uncertain.

The vote was as follows:

YES: Commissioners Brown, Clare, Seitz, Mims and Carlson.
NO: No one.

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ADJOURNMENT

The meeting adjourned at approximately 2:47 p.m.

Chairman

Division Director