

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO DEVELOPMENT REVIEW COMMITTEE MEETING
June 15, 2022**

A meeting of the Louisville Metro Development Review Committee was held on Wednesday, June 15, 2022 at 1:00 p.m. at the Old Jail Courtroom, 514 West Liberty Street, Louisville, KY, and via Cisco Webex Video Teleconferencing.

Commissioners present:

Rich Carlson, Chair
Patti Clare, Vice Chair
Glenn Price
Jeff Brown
Suzanne Cheek

Commissioners absent:

No one.

Staff members present:

Joe Reverman, Assistant Director, Planning & Design Services
Brian Davis, Planning Manager
Julia Williams, Planning Supervisor
Tara Sorrels, Planner I
Zach Schwager, Planner I
Dante St, Germain, Planner II
Jay Lockett, Planner II
Laura Ferguson, Legal Counsel
Chris Cestaro, Management Assistant (minutes)

Other staff present:

Beth Stuber, Transportation
Tony Kelly, MSD

The following matters were considered

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APPROVAL OF MINUTES

Minutes of the June 1, 2022 Development Review Committee meeting.

00:03:58 On motion by Commissioner Brown, seconded by Commissioner Cheek, the following resolution was adopted:

RESOLVED, that the Louisville Metro Development Review Committee does hereby **APPROVE** the minutes of its meeting conducted on June 1, 2022.

The vote was as follows:

YES: Commissioners Brown, Cheek, and Carlson.

ABSTAIN: Commissioner Clare and Price.

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OLD BUSINESS

CASE NO. 21-DDP-0078

Request:	CONT'D from the 06/01/22 DRC meeting - Revised Detailed District Development Plan with Revised Binding Elements, and Waivers
Project Name:	Thompson Brothers Plumbing
Location:	436 Roberts Avenue
Owner:	Thompson Bros Construction LLC
Applicant:	Thompson Bros Construction LLC
Representative:	Miller Wihry
Jurisdiction:	Louisville Metro
Council District:	25 - Amy Holton Stewart
Case Manager:	Dante St. Germain, AICP, Planner II

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

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

Agency Testimony:

00:04:55 Dante St. Germain presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.) She noted that this case was continued to allow the applicant time to revise the development plan so that the driveway in the easement will be the previously-approved 24 feet in width.

The following spoke in favor of the proposal:

Jolene Melendez, 1602 Ehrler Drive, Louisville, KY 40213

Summary of testimony of those in favor:

00:09:21 Jolene Melendez, the applicant, said she had nothing to add but was available for questions.

The following spoke in opposition to the proposal:

No one spoke.

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Deliberation:

00:01:44 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.

Waivers:

Waiver #1: from 10.2.4.B.1 to permit encroachment into a required property perimeter Landscape Buffer Area by up to 14 feet by a drive aisle and to waive required plantings (22-WAIVER-0036)

Waiver #2: from 5.9.2.A.1.b.ii to omit required pedestrian and vehicular circulation with an adjacent non-residential use (22-WAIVER-0037)

00:11:27 On a motion by Commissioner Brown, seconded by Commissioner Price, 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 would not adversely affect adjacent property owners, as the driveway already exists and has caused no known adverse effects; and

WHEREAS, the Committee further finds that the waiver will not violate the Comprehensive Plan as the Comprehensive Plan encourages appropriate transitions between uses of significantly different intensity or density. While the zoning intensity is significantly different between the two properties, the uses are not of significantly different intensity; 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 driveway already exists and the circulation on the site requires it to be in its current location; 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

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create an unnecessary hardship on the applicant because the circulation on the site would not work without the drive aisle being where it is located; and

(Waiver #2) WHEREAS, the Committee further finds that the waiver would not adversely affect adjacent property owners, as the site is in use as a contractor's shop, which is not normally visited by customers who would also patronize nearby commercial; and

WHEREAS, the Committee further finds that the waiver will not violate the Comprehensive Plan as no Mobility goals, objectives or policies are violated by securing the site and not providing circulation, as the use is not the type of business to attract customers who would also patronize nearby commercial; 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 use of the property is not the type that would attract retail customers, and providing pedestrian and vehicular circulation would not be to the public advantage; 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 because providing the required pedestrian and vehicular circulation would require a significant redesign of a site which is already in use; now, therefore be it

RESOLVED, the Louisville Metro Development Review Committee does hereby **APPROVE** the requested Waiver #1: from 10.2.4.B.1 to permit encroachment into a required property perimeter Landscape Buffer Area by up to 14' by a drive aisle and to waive required plantings (22-WAIVER-0036); and requested Waiver #2: from 5.9.2.A.1.b.ii to omit required pedestrian and vehicular circulation with an adjacent non-residential use (22-WAIVER-0037).

The vote was as follows:

YES: Commissioners Clare, Brown, Cheek, Price, and Carlson.

Revised Detailed District Development Plan and revised Binding Elements

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00:12:21 On a motion by Commissioner Brown, seconded by Commissioner Cheek, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Development Review Committee finds that there do not appear to be any environmental constraints or natural resources on the site. No historic assets are evident on the 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. Louisville Metro Public Works has provided preliminary approval of the plan; and

WHEREAS, the Committee further finds that no open space provisions are relevant to the 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 would be compatible with the existing and future development of the area as the requested expansion is relatively small, and the impact of the existing business has caused no known adverse effects on the neighborhood; 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, with the exception of a requested waivers; 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:

Existing Binding Elements (to be replaced on subject site only)

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

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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. ~~The development shall not exceed 5,350 square feet of gross floor area for 436/438 Roberts Ave.~~

The development shall not exceed 6,400 square feet of gross floor area for 440/448/450 Roberts Ave.

The development shall not exceed 2,350 square feet of gross floor area for 452 Roberts Ave.

3. No 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) is requested:
- a. The development plan must receive full construction approval from Develop Louisville, Louisville Metro Public Works 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.
 - c. A minor plat or legal instrument shall be recorded consolidating ~~436/438 Roberts Avenue into one lot~~ and 440/448/450 Roberts Avenue into one lot. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of the approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
 - d. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
 - 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

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Design Services; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.

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. No idling of trucks shall take place within 200 feet of single-family residences. No overnight idling of trucks shall be permitted on-site.
9. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the ~~December 1, 2016 Planning Commission~~ **June 1, 2022 Development Review committee** meeting.

Binding Elements (subject site only):

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. The development shall not exceed 6,400 square feet of gross floor area for 440/448/450 Roberts Ave.
The development shall not exceed 2,350 square feet of gross floor area for 452 Roberts Ave.
3. No pennants, balloons, or banners shall be permitted on the site.

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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) is requested:
 - a. The development plan must receive full construction approval from Develop Louisville, Louisville Metro Public Works 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.
 - c. A minor plat or legal instrument shall be recorded consolidating 440/448/450 Roberts Avenue into one lot. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of the approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
 - d. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
 - e. A reciprocal access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be created between the adjoining property owners and recorded. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
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.

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8. No idling of trucks shall take place within 200 feet of single-family residences. No overnight idling of trucks shall be permitted on-site.
9. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the **June 15, 2022** Development Review Committee meeting.
10. No power equipment that will cause a noise disturbance will be run between the hours of 10 p.m. and 6 a.m.

The vote was as follows:

YES: Commissioners Clare, Brown, Cheek, Price, and Carlson.

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NEW BUSINESS

CASE NO. 22-DDP-0018

Request:	Revised District Development Plan for a proposed commercial kennel
Project Name:	Pet Suites of America
Location:	9017 Taylorsville Road
Owner:	HMA Property Holdings, LLC
Applicant:	Keith Demchinski - Beta Equity Investments, LLC
Representative:	Jon Baker - Wyatt, Tarrant & Combs, LLP
Jurisdiction:	Louisville Metro
Council District:	11 - Kevin Kramer
Case Manager:	Zach Schwager, 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:

00:13:37 Zach Schwager presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.)

00:17:14 In response to a question from Commissioner Brown, Mr. Schwager said this case has been docketed for the June 27, 2022 Board of Zoning Adjustment (BOZA) hearing. They also discussed the rezoning that took place on this property and a previous discussion about an outdoor kennel operation on the property (see recording for detailed discussion.)

The following spoke in favor of the proposal:

Jon Baker, Wyatt Tarrant & Combs, 400 West Market Street Suite 2000, Louisville, KY 40202

Keith Demchinski, TM Crowley & Associates (developer), 11312 Hazel Dell Parkway, Carmel, IN 46250

Tony Sola, P.O. Box 41182, Mesa Arizona 85274

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Summary of testimony of those in favor:

00:18:02 Jon Baker, the applicant's representative, introduced the case and handed out copies of proposed binding elements to the Committee members.

00:19:56 Keith Demchinski, the developer's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.)

00:25:10 Mr. Baker resumed the applicant's presentation (see recording.)

00:30:16 Mr. Demchinski concluded the presentation.

00:43:04 In response to a question from Commissioner Price, Mr. Demchinski discussed how sites are selected for this operation (see recording.)

00:44:00 In response to a question from Commissioner Brown, Mr. Demchinski said the wall is proposed to be 8 feet tall; the PVC fencing that creates the enclosure for the animals is proposed to be 7 feet tall.

00:44:22 In response to questions from Commissioner Clare and Cheek, Mr. Demchinski used the site plan to point out and clarify the location of the fence extension/addition.

00:45:46 Commissioner Carlson and Mr. Demchinski discussed hours that pets/dogs might be outside. Mr. Demchinski said there are no employees on the premises after close of business and described nighttime security measures.

00:47:38 Commissioner Carlson, Mr. Demchinski and Mr. Baker discussed hours of operation, which would include the proposed overnight boarding. The following proposed binding element #10 was read into the record by Mr. Baker:

"Except for the indoor boarding of dogs and cats, the hours of operation for any use on the subject property shall be limited from 6:30 a.m. to 10:00 p.m., except that outdoor-related activities shall conclude on the subject property by 8:00 p.m."

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00:49:50 In response to questions from Commissioner Carlson regarding binding element #9, Tony Sola, an acoustical engineer for the applicant, discussed sound-attenuation (see recording for detailed discussion.)

00:53:19 In response to questions from Commissioner Carlson, Mr. Demchinski and Mr. Sola discussed noise levels ("averages" and "peak level") and how they relate to the Louisville Metro noise ordinance. See recording.

The following spoke neither for nor against the proposal ("Other"):

Scott Harrington, legislative aide for Councilman Kevin Kramer, 601 West Jefferson Street, Louisville, KY 40202

Summary of testimony of those neither for nor against the proposal:

00:56:30 Scott Harrington discussed a recent rezoning on an adjacent parcel (Case No. 21-ZONE-0075 for Hurstbourne Labs) which had binding elements that restricted noise operations. He discussed binding element enforcement and how the Metro noise ordinance relates to this case. See recording for detailed presentation.

Rebuttal:

00:59:29 Mr. Demchinski and Mr. Baker made final comments (see recording.)

01:02:57 Laura Ferguson, Assistant County Attorney, discussed binding element #9 (see recording.)

*NOTE: Due to technical issues, an online opposition speaker was not able to speak before the rebuttal. She reconnected after the rebuttal had already been given and chose to speak.

The following spoke in opposition to the proposal:

Angela Poynter, 2117 Canterbrook Drive, Louisville, KY 40299

Summary of testimony of those in opposition:

01:04:02 Angela Poynter expressed concerns about noise, diminishing property values, enjoyment of their homes, and looking at a big brick wall in her back yard. She asked if the wall was going to come all the way down Axminster to block the trees that are proposed to retain. Mr. Demchinski discussed the issue with Ms. Poynter.

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01:13:43 In response to a question from Commissioner Clare, Mr. Demchinski said about 50 dogs at most would be outside at the same time.

01:14:41 In response to a question from Commissioner Cheek, Mr. Demchinski explained more details about the outdoor play areas for the animals. Traffic count along Taylorsville Road was also discussed.

01:16:30 In response to a question from Commissioner Brown, Mr. Schwager confirmed that approval from the BOZA Committee is required and said he would add that to the proposed binding elements (binding element #5 d.)

01:16:52 In response to a question from Commissioner Price, Mr. Sola clarified his testimony regarding the audibility of barking dogs on the other side of an 8-foot wall (see recording)

Deliberation:

01:18:53 Commissioners' deliberation.

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

Revised Detailed District Development Plan

01:25:42 On a motion by Commissioner Brown, seconded by Commissioner Price, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Development Review Committee finds that there are no significant natural or historic resources on the subject site; and

WHEREAS, the Committee further finds that provisions for safe and efficient vehicular and pedestrian transportation have been provided around and within the proposed development. Transportation Planning has approved the preliminary development plan; and

WHEREAS, the Committee further finds that there are no open space requirements

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applicable to this proposal; and

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

WHEREAS, the Committee further finds that the overall site design and land uses are compatible with the existing and future development of the area. Adequate screening and buffering will be provided around the subject site; and

WHEREAS, the Committee further finds that the proposed development plan conforms to the Comprehensive Plan and the Land Development Code; now therefore be it

RESOLVED, the Louisville Metro Development Review Committee does hereby **APPROVE** the requested Revised Detailed District Development Plan, with the addition of Binding Element #5 D requiring the BOZA Conditional Use Permit approval prior to plan transmittal or final approval; and subject to the following binding elements:

Proposed Binding Elements.

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed-upon binding elements unless amended pursuant to the LDC. Any changes/additions/alterations to 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. No outdoor advertising signs, small freestanding signs, pennants, balloons or banners shall be permitted on the site.
3. There shall be no vehicular or pedestrian access from Axminster Drive to the subject property.
4. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.

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5. Before any permit is requested, including but not limited to permits for building, parking lot, change of use, site disturbance, alteration or demolition:
 - a. The development plan must receive full construction approval from Develop Louisville, Louisville Metro Public Works and the Metropolitan Sewer District,
 - b. Encroachment permits must be obtained from the Kentucky Transportation Cabinet, and
 - c. The property owner/developer must obtain approval of a detailed plan for screening/buffering/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.
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 all tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of their content. The binding elements shall run with the land, and the owner and the 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 all 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 June 15, 2022 Development Review Committee meeting.
9. The subject property shall be restricted to the following uses permitted under C-1 Commercial zoning:
 - Antique shops
 - Art galleries
 - Athletic facilities

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- Audio/video recording studios, providing the building is soundproofed
- Bakeries, retail; all products produced to be sold on-premises only
- Barber shops
- Bed and Breakfasts
- Bicycle sales and service
- Bookstores
- Catering kitchen/bakery preparing food and meals for sale or consumption elsewhere
- Clothing, dry goods and notions stores
- Clubs, private, non-profit or proprietary
- Colleges, schools and institutions of learning
- Community residences
- Community Service Facility
- Computer sales (hardware and software) and programming services
- Confectionery, ice cream or candy stores, retail; no more than 50% of the floor area shall be used for production of food items for off-premise sale
- Convents and monasteries
- Country clubs
- Dance Instruction; excludes adult entertainment uses as defined within LMCO Chapter 11
- Day care centers, day nurseries, nursery schools and kindergartens
- Department stores
- Dressmaking or millinery shops
- Drugstores
- Dwelling, Multi-family
- Dwelling, Single-family
- Dwelling, Two-family
- Electric appliance stores
- Extended stay lodging
- Family care home (mini-home)
- Florist shops
- Funeral homes
- Furniture stores
- Hardware and paint stores
- Health spas
- Home occupations
- Hotels and motels, including ancillary restaurants and lounges enclosed in a structure in which dancing and other entertainment (not including adult entertainment activities as defined in LDC 4.4.1) may be provided
- Interior decorating shops
- Jewelry stores
- Libraries, museums, historical buildings and grounds, arboretums, aquariums and art galleries
- Medical laboratories

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- Music stores
 - Office, business, professional and governmental
 - Parks, playgrounds, and community centers
 - Pet grooming, obedience training and related pet activities, provided the operation is conducted within a soundproofed building
 - Pet shops
 - Photocopying, duplicating, paper folding, mail processing and related services
 - Photographic shops
 - Photography studios
 - Picture Framing
 - Radio and television stores
 - Religious buildings
 - Rental businesses offering items whose sale is a permitted use in this district, videocassette and similar products, rental and sales but not constituting an adult video cassette rental center
 - Residential care facilities
 - Shoe repair shops
 - Shoe stores
 - Stationery stores
 - Tailors
 - Tanning salons
 - Temporary buildings, the uses of which are incidental to construction operations being conducted on the same or adjoining lot or tract and which shall be removed upon completion or abandonment of such construction or upon the expiration of a period of two years from the time of erection of such temporary buildings, whichever is sooner
 - Tents, air structures and other temporary structures intended for occupancy by commercial activities including but not limited to sales, display and food services, provided that applicable building and fire safety codes are met and provided further that such structures may not be installed for a period or periods totaling more than ten (10) days during a calendar year
 - Toy and hobby stores
 - Variety stores
 - Veterinary hospital, provided the operation is conducted within a sound-proofed building
 - Boarding of cats and dogs
10. The existing four-board fence along Axminster Drive shall be repaired prior to the issuance of the Certificate of Occupancy and maintained in good condition.
11. The hours of operation for any use on the subject property shall be limited to 6 a.m. to 10 p.m.

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12. The hours of operation for any use on the subject property other than the indoor boarding of cats and dogs shall be limited to 6:30 a.m. to 10 p.m., except that outdoor-related pet activities shall conclude on the subject property by 8:00 p.m.

The vote was as follows:

YES: Commissioners Clare, Brown, Cheek, Price, and Carlson.

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NEW BUSINESS

Case No. 22-DDP-0047

Request:	Revised Detailed District Development Plan with Revisions to Binding Elements
Project Name:	Key Family Dentistry
Location:	6305 E Manslick Rd
Owner:	Parkway Professionals LLC
Applicant:	Parkway Professionals LLC
Representative:	QK4
Jurisdiction:	Louisville Metro
Council District:	23 - James Peden
Case Manager:	Jay Luckett, 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:

01:28:21 Jay Luckett presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.) He noted that the Board of Zoning Adjustment will review a variance request under docket 22-VARIANCE-0059 at the June 27, 2022 meeting. He answered some questions regarding binding elements from Commissioner Carlson.

The following spoke in support of the proposal:

Ashley Bartley, Qk4, 1046 East Chestnut Street, Louisville, KY 40204

Summary of testimony of those in support:

01:31:34 Ashley Bartley, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.)

The following spoke in opposition:

No one spoke.

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Case No. 22-DDP-0047

Deliberation:

01:35:57 Commissioners' deliberation.

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

Revised Detailed District Development Plan

01:36:16 On a motion by Commissioner Brown, seconded by Commissioner Price, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Development Review Committee finds that there do not appear to be any environmental constraints or historic resources 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 has 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 except where waivers have been approved. Buildings and parking lots will meet all required setbacks except where variances are requested; and

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NEW BUSINESS

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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

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 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 elements) 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. Signs shall be in accordance with 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' 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, or site disturbance 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. 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. The appropriate variances shall be obtained from the Board of Zoning Adjustment to allow the development as shown on the approved district development plan.
 - d. Encroachment permits must be obtained from the Kentucky Transportation

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Cabinet.

- e. 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; A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services prior to obtaining a building permit.
 - f. 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 building permit.
 - g. 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.
7. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
8. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
9. At the time a building permit is requested, the applicant shall submit a certification statement to the permit issuing agency, from an engineer, or other qualified professional stating that the lighting of the proposed development is in compliance with Chapter 4 Part 1.3 of the land development code and shall be

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maintained thereafter. No building permits shall be issued unless such certification statement is submitted. Lighting shall be maintained on the property in accordance with Chapter 4 Part 1.3 of the land development code. Lighting shall be maintained on the property in accordance with Chapter 4 Part 1.3 of the land development code.

10. The address number shall be displayed on a structure prior to requesting a certificate of occupancy for that structure.
11. The development shall not permit the following land uses:
 - a. car washes
 - b. restaurants with drive-through windows
12. Service of the dumpster facility shall be permitted only in accordance with the Metro Louisville Code of Ordinances.
13. The applicant shall install an 8' solid wood screening fence and enhanced landscaping as proposed on the Landscape Exhibit presented to the Land Development and Transportation Committee on March 25, 2021. Final location and type of additional plantings will be shown on the approved landscape plan.
14. All landscaping shall be irrigated.

The vote was as follows:

YES: Commissioners Clare, Brown, Cheek, Price, and Carlson.

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NEW BUSINESS

CASE NUMBER 22-DDP-0046

Request:	Revised Detailed District Development Plan
Project Name:	Mike's Carwash Location: 9710 Westport Rd
Owner:	Becky Young
Applicant:	Cliff Ashburner
Jurisdiction:	Louisville Metro
Council District:	23 - James Peden
Case Manager:	Tara Sorrels, 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:

01:36:51 Tara Sorrels presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.) She noted that, if the plan is approved today, Metro Transportation Planning has requested the following Condition of Approval for the plan, to read as follows:

A pedestrian connection will be provided from the public sidewalk along Westport Rd to the building and will be worked out during construction phase.

01:39:58 In response to a question from Commissioner Brown regarding Binding Element #9, Ms. Sorrels said that the applicant did not meet the 14-day deadline for mailing notices, but the adjoining property owners and interested parties were all notified and all have provided written consent that the public meeting should take place today.

The following spoke in support of the proposal:

Cliff Ashburner, Dinsmore & Shohl, 101 S 5th St #2500, Louisville, KY 40202

Eddie Kreiger, 100 Northeast Drive, Loveland, Ohio 45140

Richard Dearing, Mayor of Hickory Hill, 9803 Cypress Creek Drive, Louisville, KY 40241

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Summary of testimony of those in support:

01:40:27 Cliff Ashburner, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.)

01:48:05 In response to a questions from Commissioners Carlson and Brown, Mr. Ashburner addressed the issue of how long the vacuums will be on or off. He said all the stores are open from 7:00 a.m. to 9:00 p.m. Eddie Kreiger, an applicant's representative, discussed the hours of operations. He said they would be agreeable to a binding element about turning the vacuums off. Mr. Ashburner asked that proposed Binding Element #3 be updated/amended (see recording for detailed discussion.)

01:51:54 Richard Dearing, mayor of Hickory Hill, spoke in favor of the proposal.

The following spoke in opposition to the proposal:

No one spoke.

Deliberation:

01:53:02 Commissioners' deliberation.

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

Revised Detailed District Development plan with revisions to existing binding elements.

01:53:51 On a motion by Commissioner Brown, seconded by Commissioner Price, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Development Review Committee finds that there do not appear to be any environmental constraints or historic resources on the subject site; and

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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 Transportation Planning Staff has 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; 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

RESOLVED the Louisville Metro Development Review Committee does hereby **APPROVE** the requested Revised Detailed District Development Plan, **SUBJECT** to the following Condition of Approval:

A pedestrian connection will be provided from the public sidewalk along Westport Rd to the building and will be worked out during construction phase.

AND 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. All signage shall comply with Chapter 8 of the Land Development Code.
3. Hours of operation will be limited to ~~8:00 a.m. to 10:00 p.m.~~ **7:00 a.m. to 9:00 p.m.**

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4. No outdoor advertising signs (billboards), small free-standing (temporary) signs, pennants, balloons, or banners shall be permitted on the site.
5. There shall be no outdoor storage on the site.
6. Underground storage, detention or increased storage will be provided as determined by MSD during the construction plan design process. The stormwater run-off drainage schematic, depicted by arrows on the site plan, are for conceptual purposes only. Final configuration of drainage system and the size of pipes and channels will be determined during the construction plan design process and will accommodate on-site and off-site runoff to existing 42" RCP under Westport Road and will be subject to MSD and KY DOT approval. Both entrances and the downstream perimeter will be curbed and guttered.
7. Outdoor lighting shall be directed down and away from adjoining properties and shall be shoe box style light fixtures with no exposed light source. Lighting levels shall not exceed 2 foot candles at the property line.
8. Any change in the development plan or binding elements shall require 14 day advance notice to the City of Hickory Hills, the Westport Road Baptist Church, Watkins Memorial Methodist Church and to anyone else who submits their name in the record of this case requesting advance notice of a Planning Commission meeting at which a change in plan or binding element is to be considered.
9. No freestanding signs, signs attached to the building façade or signs visible from windows regarding alcoholic beverages shall be placed on the property.
10. 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 Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
 - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to

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requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.

- d. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the June 15th, 2022 Development Review Committee meeting. A copy of the approved rendering is available in the case file on record in the offices of the Louisville Metro Planning Commission.
 - e. A reciprocal access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be created between the adjoining property owners and recorded. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
- 11. If a building permit is not issued within one year of the date of approval of the plan, the property shall not be used in any manner unless a revised district development plan is approved or an extension is granted by the Planning Commission.
 - 12. 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.
 - 13. There shall be a four foot berm located at the front of the property as shown on the detailed development plan. The berm shall be at an elevation of four feet above Westport Road elevation and shall be planted with a variety of evergreen and shade trees.
 - 14. Signs shall be posted that notify patrons to turn off radios when servicing their vehicles.
 - 15. No loudspeaker or outside public address system shall be allowed.

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16. All wash water from the car wash shall be routed into the sanitary sewer system as required by MSD.
17. The subject property shall be maintained in a like new condition at all times and shall be kept free of litter. There shall be a sufficient number of receptacles located on the subject property, and they shall be emptied on a regular basis so that there is always adequate provision for the disposal of trash. Dumpsters shall be completely screened from view.
18. No work shall be done and no drying of vehicles shall be permitted at the front of the car wash building. The only external operations shall be at the self-service facility by individual patrons and at the rear of the automatic car wash building.


The vote was as follows:


YES: Commissioners Clare, Brown, Cheek, Price, and Carlson.

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ADJOURNMENT

The meeting adjourned at approximately 3:00 p.m.


Chairman


Division Director

