

**DEVELOPMENT REVIEW COMMITTEE OF THE LOUISVILLE
METRO PLANNING COMMISSION
MINUTES**

March 9, 2011

MEMBERS PRESENT

Susan Hamilton, Chairman
Lula Howard, Vice Chairman
Chief Richard Carlson, Commissioner
*David Tomes, Commissioner

MEMBERS ABSENT

Paula Wahl, Commissioner

STAFF MEMBERS PRESENT

Dawn Warrick, Assistant Director of Planning and Design Services
David Wagner, Planner I
Christopher Brown, Planner I
Sherie' Long, Landscape Architect
Pat Barry, MSD
Jennifer Caummisar, Engineer Supervisor
Jeff Brown, Engineer I
Jon Baker, Legal Counsel
Pamela M. Brashear, Management Assistant

APPROVAL OF MINUTES FROM MEETING

1:08:33 Commissioner Carlson moved to **APPROVE** the minutes from February 23, 2011. Commissioner Howard seconded the motion. Approved with one abstention

The vote was as follows:

YES: Commissioners Carlson and Hamilton

NO: No one

NOT PRESENT: Commissioners Tomes and Wahl

ABSTAINING: Commissioner Howard

***Commissioner Tomes arrived at 1:11 p.m.**

DRC MINUTES

March 9, 2011

NEW CASES: CASE NO. 15327

Case: 15327
Project Name: 6-plex Apartment
Location: 1102 Abbeywood Road
Owner(s): The Flats Herr Lane
Applicant: Andy Bollinger
Representative: Mike Evans
Project Size/Area: .387 acres
Jurisdiction: St. Matthews
Council District: 7 – Ken Fleming
Case Manager: Christopher Brown, Planner I

NOTE: COMMISSIONER TOMES ARRIVED AND VOTED ON THIS CASE.

An audio/visual recording of the Development Review Committee related to this case is available in the Planning and Design Services offices. Please contact the Customer Service staff to view the recording or to obtain a copy. The recording of this meeting will be found on the cd of the March 9, 2011 proceedings.

SUMMARY OF STAFF PRESENTATION:

01:09:30 The Development Review Committee continued the case from February 23, 2011 to allow staff landscape architect to meet with the applicant for a site visit and to allow MSD to attend the meeting to provide additional information regarding the retaining wall within the area of the existing drainage easement.

The applicant is requesting to allow an existing 2 foot retaining wall to remain within the required 6 foot landscape buffer area adjacent to the R-4 property along a portion of the south property line. Within the required 6 foot landscape buffer area, there is a planting and screening requirement to create sufficient mitigation of the mutli-family residential use adjacent to a single family property. The wall was constructed without being shown on any previously approved development plans for the subject property. Retaining walls, following an April 22, 2006 code interpretation, are considered structures and not permitted to encroach into landscape buffer areas. The interpretation states that staff should evaluate whether required landscaping and screening elements are still being provided within the landscape buffer area. The landscape buffer area is only 6 feet and the 2 foot retaining wall cuts through a large portion of the area. According to the site plan, there is only 3 feet between the retaining wall and edge of parking lot pavement. Following a site inspection, the staff landscape architect has stated there is not sufficient space to provide the required landscape materials within the remaining open space.

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1:11:58 Mr. Barry, MSD, met on the property last week and has concluded that the retaining wall is not going to cause any drainage issues. Jim Burch will make the final decision.

1:12:40 Ms. Long, Landscape Architect, met with the adjacent property owner and the landscaper for the applicant. The fence has to be installed at the edge of pavement and if not, it probably won't work. The shrubbery chosen to be installed will be fine.

The following spoke in favor of this request:

Dean Hedges, 1700 Cansington Place, Louisville, Ky.
Mike Evans, P.O. Box 384,

The following spoke in opposition:

Christopher Luken, 1110 King Arthur Lane, Louisville, Ky. 40222
Kristen Luken, 1110 King Arthur Lane, Louisville, Ky. 40222

SUMMARY OF TESTIMONY OF PROPONENTS:

1:16:46 Mr. Evans stated, "I did the calculations on how much water during the 100 years there would be in the ditch and it would be approximately 1.1 feet deep which is well within the banks on either side."

SUMMARY OF TESTIMONY OF OPPONENTS:

1:15:53 Mr. Luken remarked, "My major concerns are that proper drainage be allowed and proper screening with the fence with those plans be met. Based on what I've heard from MSD, Sherie' Long and Dean, as it stands with those being met, I'm fine with the placement of the wall and the fence as proposed."

1:17:38 Mrs. Luken wants assurance that the fence will be shadow box. Mr. Evans said it will be solid on both sides.

DISCUSSION:

1:17:53 Mr. Brown remarked, "If the committee wants to add a condition that the fence be placed directly at the edge of the pavement, even though the staff analysis is not in support, the applicant has provided alternative finding of facts. They are sufficient for supporting the waiver."

REBUTTAL:

None

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ACTION

1:19:05 Commissioner Carlson moved to **RECOMMEND** to the City of St. Matthews **GRANT** the landscape waiver **ON CONDITION** that the fence be installed specifically as discussed today as well as described on the plan that being at the edge of the pavement because it is critical to ensure survival of the proposed landscape and that the type of fence described be a shadow box style fence based on the information heard today, as well as the last meeting and **ADOPT** the applicant's justifications for granting the waiver. Commissioner Howard seconded the motion. Commissioner Carlson **AMENDED** the motion to change shadow box style fence to a fence to be solid on both sides. Commissioner Howard seconded the amended motion. Motion carried unanimously.

WHEREAS, the waiver will not adversely affect adjacent property owners. The waiver will result in a fence and plantings at a higher elevation, thus providing a better screen to the adjacent property owner; and

WHEREAS, the waiver will not violate the Comprehensive Plan since screening between different land uses will still be provided; and

WHEREAS, the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant. The wall has been constructed and screening can occur without relocation of the wall; and

WHEREAS, the applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect). The construction of the wall allows the fences and plantings to exceed the height of the adjoining property owner's fence. If the wall is relocated the plantings and fence will be approximately two (2) feet lower.

RESOLVED, that the Development Review Committee does hereby **RECOMMEND** to the City of St. Matthews **GRANTING** of the landscape waiver from article 12.B.2 of the Land Development Code to allow an existing 2 foot retaining wall to remain within the required landscape buffer area.

The vote was as follows:

YES: Commissioners Carlson, Hamilton and Howard

NO: No one

NOT PRESENT: Commissioner Wahl

ABSTAINING: Commissioner Tomes

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NEW CASES:
CASE NO. 15365

Case: 15365
Project Name: Hoskins Minor Plat
Location: 12503 Saw Mill Road
Owner(s): James and Sherree Hoskins
Applicant: Richard Matheny – Cardinal Surveying
Representative: Richard Matheny – Cardinal Surveying
Project Size/Area: 21.416 Acres
Jurisdiction: Louisville Metro
Council District: 13 – Vicki Aubrey Welch
Case Manager: David B. Wagner, Planner I

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SUMMARY OF STAFF PRESENTATION:

1:22:08 The applicant requests a minor plat waiver. The Minor Subdivision Plat proposes to create two tracts from one. Each tract will be in excess of 5 acres with tract 1 containing all existing structures. The tracts will front on a street with a pavement width of 12 feet. A waiver is needed as all newly created tracts are required to front on a street that has a minimum of 18 feet of pavement width.

The following spoke in favor of this request:

Kathy Matheny, 9009 Preston Highway, Louisville, Ky. 40219
Joe Hoskins, 12503 Saw Mill Road, Louisville, Ky.
Sherree Hoskins, 12503 Saw Mill Road, Louisville, Ky.
Ken Thieneman, 833 Valley College Drive, Louisville, Ky. 40272

The following spoke in opposition:

No one

SUMMARY OF TESTIMONY OF PROPONENTS:

1:25:08 Ms. Matheny does not agree with Public Works' recommendation for widening the road. "This is 600 feet of frontage, it's a dead end street, I have pictures and it would be (I have an estimate) \$20, 000 without an engineer or any other fees to do the earth work. Legally, I've discussed this with counsel this morning and I don't think we should be here on a waiver. If he was dividing this into 4 tracts, he could put a 12 foot gravel road. It's how you read the statute." The existing (asphalt) road is safe and flat. Commissioner Howard asked if they were going to dedicate right-of-way. Ms. Matheny said yes, 15 feet will be dedicated.

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1:28:27 Chairperson Hamilton asked if the fire department signed off on the plan before or after the condition of approval was attached by Public Works. Ms. Matheny said the PRP Fire Department signed off before the condition was added.

1:35 Mrs. Hoskins said her family has done its share of road improvements over the years.

1:36:31 Mr. Hoskins remarked, "Roughly 2 years ago, the house at the end of the street, which is about .7 of a mile dead end street, caught fire. Fire and Rescue, fire trucks, ambulance and all of those were able to get to the very end of the street to do what they had to do, put the fire out and were able to leave."

1:37:16 Mr. Thieneman remarked, "When I sat on the commission and we approved Cornerstone 2020, I don't believe it was intended that creating a plat meant to widen the road. I firmly believe that refers to a development, not a single family lot." Mr. Brown stated, "Ordinance 91 (Fire Dept. Ordinance) says you've got to have a minimum 18 foot pavement width when creating new homes or lots except 5 acre lots (no more than 5). This road serves more than 5 lots."

1:38:52 Ms. Matheny stated, "The fire department has waived this." Commissioner Carlson remarked, "When we stamp those minor plats, that is a generic stamp used by every fire department in the county. That basically says, we're ok with subdividing that lot, but there are some key words, 'no present objections'. If you decide to do some building, we may have some issues about fire hydrants and there may be some issues about fire lanes or access." Ms. Matheny added, "The city's problem with infrastructure development is not supposed to be the burden of one land owner. I have never seen one land owner have to do 600 feet of road improvements. They always dedicate the right-of-way which is their contribution."

SUMMARY OF TESTIMONY OF OPPONENTS:

None

DISCUSSION:

1:31:02 Ms. Caummisar, Public Works, said she is asking the applicant to widen the road 3 feet and if the other neighbor were to come in, then she/he would be responsible to add the other 3 feet. Commissioner Howard asked, "Is it not sufficient that the applicant has dedicated additional right-of-way? If they're dedicating additional right-of-way and someone in the future comes in across the way, I'm assuming they would also have to dedicate additional right-of-way. If the road was ever widened, wouldn't that dedication be there to do that?" Ms. Caummisar said it would be but she doesn't know who would pay for that widening. Commissioner Howard remarked, "I thought when you dedicated right-of-way and the time comes for the road to be improved, all the people who dedicated right-of-way would have already given land for it to be taken care of." Ms. Caummisar said the right-of-way would be there, but she doesn't know if this is on a list for Public Works to handle. Mr. Brown, Public Works,

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stated, "If anyone else on that road comes in to further subdivide their property, we'll have the same requirement. The dedication is required because of the minor subdivision plat and the road improvement would be required if someone came in and increased the intensity of those lots."

1:43:38 Commissioner Howard asked counsel if the committee would be setting a precedent with Public Works' condition of approval. Mr. Baker said no. It's been done before and each case is based on its own merit and own unique characteristics.

1:44:26 Commissioner Tomes remarked, "If this were a farm, a farmer could build another house on the property, never have to sub-divide and probably not even have to get a building permit." Mr. Baker stated, "The language is pretty clear, 'no case shall any new lots be created or new street constructed that does not meet the pavement width of at least 18 feet, except that a 5 lot, 5 acre per lot subdivision may be accessed by a 12 foot gravel road with 3 foot earthen shoulders'."

1:49:07 Commissioner Tomes remarked, "I do believe the waiver is justified. It is an undue burden on a single property owner and it seems to meet the criteria explained. The road is already beyond the standard that would have allowed a 5 unit subdivision to be on a gravel road 12 feet wide."

1:49:50 Commissioner Howard remarked, "The plat is dedicating additional right-of-way which means it will be ready for additional pavement when it becomes necessary."

REBUTTAL:

None

ACTION

1:54:36 Commissioner Howard moved to **GRANT** a full waiver without conditions of required pavement width based on the information provided today, discussion between commissioners during deliberation and the staff report – the waiver will not adversely affect adjoining property owners as the street already serves numerous parcels of land; it's not violating any specific guidelines of Cornerstone 2020; the minor plat is providing right-of-way dedication; also, the applicant has agreed to widening the access into lot 2 (16 feet wide and 30 feet deep from Saw Mill Road) of this minor plat for public safety concerns. The applicant's justification will be used for this request, Case No. 15365. Commissioner Tomes seconded the motion. Motion carried unanimously.

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WHEREAS, the waiver will not adversely affect adjacent property owners as the street already serves numerous parcels along Saw Mill Road and street improvements are a condition of approval of this waiver, thus improving the existing infrastructure; and

WHEREAS, the waiver will not violate specific guidelines of Cornerstone 2020 as the subdivision will not affect the current street pattern; and

WHEREAS, the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the subdivision cannot be approved without a waiver of this regulation;

WHEREAS, the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land as there are other lots abutting Saw Mill Road that utilize the substandard pavement width for access.

RESOLVED, that the Development Review Committee does hereby **GRANT** the minor plat waiver for Case No. 15365.

The vote was as follows:

YES: Commissioners Carlson, Hamilton, Howard and Tomes

NO: No one

NOT PRESENT: Commissioner Wahl

ABSTAINING: No one

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NEW CASES:
CASE NO. 15141

Case: 15141
Project Name: Magnolia Springs East
Location: 13604 La Grange Road
Owner(s): GP Enterprises, LLC
Applicant: Tim Huber, Ramsey Development
Representative: Paul B. Whitty, Goldberg Simpson
Project Size/Area: 11.25 acres
Jurisdiction: Louisville
Council District: 19 – Jerry Miller
Case Manager: Christopher Brown, Planner I

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SUMMARY OF STAFF PRESENTATION:

1:58:26 The applicant requests a Revised Detailed District Development Plan.

The applicant is proposing 95 dwelling unit assisted living facility on lot 1 in the R-6 zoned portion of the subject property. The assisted living facility will occupy a total of 95,760 square feet on the 7.98 acre lot. As part of the proposal, all required landscaping will be met with 20 foot property perimeter landscape buffer areas and 6 foot screening. In the interior of the lot, both tree canopy and ILA requirements will be met. 17 garage spaces are proposed along the west property line with a 25 foot break between to the two larger garage structures. This meets the Land Development Code requirements which allow accessory or garage structures on multi-family properties as long as they do not exceed 100 feet in length. The building will meet the design requirements for multi-family residential structures and has all delivery/loading areas located to the rear of the property. The needed right-of-way (ROW) will be dedicated and sidewalks provided to connect the development to the street. The previously required turn lanes and expanded La Grange road improvements will not be required at this time. Note 18 addresses the road improvements stating that no turn lanes are required for the assisted living use. The traffic will be reevaluated at the time a development comes forward for lots 2 and 3.

Due to the proposed change in use from the previously approved apartment complex, several binding element amendments are required and located within the attachments. These amendments deal with the change in square footage and structures proposed as well as the elimination of the need for the previously required road improvements.

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2:03:57 Mr. Brown said there's an additional binding element requested by Public Works (not included in staff report) regarding the right-of-way.

The following spoke in favor of this request:

Paul Whitty, 9301 Dayflower Street, Prospect, Ky. 40059
Tim Huber

The following spoke in opposition:

No one

SUMMARY OF TESTIMONY OF PROPONENTS:

2:04:32 Mr. Whitty remarked, "It will be helpful to show you the approved plan which is now being revised and I think you will agree this is a much less intense plan with a lot less parking and of course considerably less trip generations, hence the changes to the roadway improvements that will be likely required when the entire site is fully developed. We have a monument style sign proposed for the island and the elevations have been approved. A facility has been built on Whipps Mill with a patio area in the back. Our parking is in the middle of the minimum and maximum requirement. Also, Tim Huber pointed out that the proposal is for a 2-story structure."

SUMMARY OF TESTIMONY OF OPPONENTS:

None

DISCUSSION:

2:06:45 Commissioner Howard asked, "Will Alzheimer's patients be in the assisted living building?" Mr. Huber said there will be 20 units on the first floor. Those patients (memory care) can leave the building but it's locked down for their safety.

REBUTTAL:

None

ACTION

2:08:23 Commissioner Carlson moved to **APPROVE** the requested Revised Detailed District Development Plan based on the staff report, information heard today; also, **APPROVE** the changes, additions and deletions, to the binding elements. Commissioner Howard seconded the motion. Unanimously approved.

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**STANDARD OF REVIEW AND STAFF ANALYSIS FOR RDDDP and
AMENDMENT TO BINDING ELEMENTS**

WHEREAS, there does not appear to be any environmental constraints or historic resources on the subject site. Tree canopy requirements of the Land Development Code will be provided on the subject site; and

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

WHEREAS, sufficient open space exists on the property to meet the needs of the assisted living facility with recreational walking path to rear of property and open patio/gazebo area; and

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

WHEREAS, the overall site design and land uses are compatible with the existing and future development of the area. Landscaping will be provided to screen adjacent properties and roadways. Buildings and parking lots will meet all required setbacks; and

WHEREAS, the revised development plan appears to conform to guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code with the proposed use and its design. Proper mitigation exists with the buffer areas provide between adjacent single family residential uses.

RESOLVED, that the Development Review Committee does hereby **APPROVE** the RDDDP for Case No. 15141, subject to the following binding elements:

Existing Binding Elements

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

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2. The density of the development shall not exceed 7.17 dwelling units per acre on Tract 2 and 13.89 dwelling units per acre on Tract 3 (120 units on 11.25 acres).
3. Signs shall be in accordance with Chapter 8 of the Land Development Code.
4. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
5. 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.
6. 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 Louisville Metro Department of Inspections, Permits and Licenses, 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. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
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.

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9. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the January 20, 2010 Development Review Committee meeting.
10. The façade elevations shall be in accordance with applicable form district standards and shall be approved by PDS staff prior to construction permit approval.
11. At the time a building permit is requested, the applicant shall submit a certification statement to the permit issuing agency, from an engineer, or other qualified professional stating that the lighting of the proposed development is in compliance with Chapter 4 Part 1.3 of the land development code and shall be maintained thereafter. No building permits shall be issued unless such certification statement is submitted. Lighting shall be maintained on the property in accordance with Chapter 4 Part 1.3 of the land development code.
12. All street name signs, traffic control signs and pavement markings shall conform to the manual on uniform traffic control devices (MUTCD) requirements and be installed prior to construction of the first residence or building on the street and shall be in place at the time of the bond release. The address number shall be displayed on a structure prior to requesting a certificate of occupancy for that structure.
13. An easement shall be provided for future cross access to the adjoining property along northeast property line of OR portion of Tract 3 at such time as this portion of the property is developed. The Applicant shall construct the future connection on the subject property.
14. Developer shall be responsible for any required utility relocations, final surface overlay, signage, and striping associated with required road improvements to La Grange Road. Construction plans, bond, and Kentucky Transportation Cabinet (KTC) permit are required by Metro Public Works (MPW) prior to construction approval. Developer shall not request a certificate of occupancy until road improvements are complete.
15. An encroachment permit and bond may be required by Metro Public Works for roadway repairs on all surrounding access roads to the subdivision site due to damages caused by construction traffic activities.
16. Per KTC and Metro Public Works requirements and standards, the applicant shall provide the following: widen La Grange road to accommodate eastbound left and right turn lanes and a westbound left turn lane (minimum 2 ft. widening)

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with 6 – 8 ft shoulders along the property frontage as indicated on the approved plan.

Proposed Binding Elements

2. The ~~density of the development shall not exceed 95,760 square feet for the assisted living facility. 7.17 dwelling units per acre on Tract 2 and 13.89 dwelling units per acre on Tract 3 (120 units on 11.25 acres).~~
9. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the ~~January 20, 2010~~ **March 9, 2011** Development Review Committee meeting.
10. ~~The façade elevations shall be in accordance with applicable form district standards and shall be approved by PDS staff prior to construction permit approval.~~
13. An easement shall be provided for future cross access to the adjoining property along northeast property line of OR portion of ~~Tract 3~~ **Lot #2** at such time as this portion of the property is developed. The Applicant shall construct the future connection on the subject property.
14. ~~Developer shall be responsible for any required utility relocations, final surface overlay, signage, and striping associated with required road improvements to La Grange Road. Construction plans, bond, and Kentucky Transportation Cabinet (KTC) permit are required by Metro Public Works (MPW) prior to construction approval. Developer shall not request a certificate of occupancy until road improvements are complete.~~
16. ~~Per KTC and Metro Public Works requirements and standards, the applicant shall provide the following: widen La Grange road to accommodate eastbound left and right turn lanes and a westbound left turn lane (minimum 2 ft. widening) with 6 – 8 ft shoulders along the property frontage as indicated on the approved plan.~~
15. **Should future roadway improvements for La Grange Road require the removal of the proposed center median in the right of way at the site's entrance, the median shall be removed at the owner's expense within 60 days of notice from Metro Public Works or the Kentucky Transportation Cabinet.**

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The vote was as follows:

YES: Commissioners Carlson, Hamilton, Howard and Tomes

NO: No one

NOT PRESENT: Commissioner Wahl

ABSTAINING: No one

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NEW CASES:
CASE NO. 15329

Case: 15329
Project Name: Actors Theater
Location: 316 West Main Street and 130 South 3rd Street
Owner(s): Actors Theater of Louisville
Applicant: Actors Theater of Louisville
Representative: Jennifer Bielstein
Project Size/Area: 1.31 acres
Jurisdiction: Louisville
Council District: 4 – David Tandy
Case Manager: Christopher Brown, Planner I

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SUMMARY OF STAFF PRESENTATION:

2:10:18 The applicant requests a waiver of Chapter 8.3.3.A.6 of the Land Development Code to allow ten (10) 17'4" X 2' 6" projecting banner signs on the West Main Street façade and 2 parking banner sign at 5' X18" and a waiver of chapter 8.3.3.A.6 of the Land Development Code to allow four (4) 17'4" X 2' 6" projecting banner signs on the South Third Street façade and 2 parking banner sign at 5' X18".

The applicant is requesting approval to install ten (10) 17-4" tall by 2'-6" wide projecting banner signs across the façade of the 316 W. Main Street building façades and to also install four (4) 17-4" tall by 2'-6" wide projecting banners on the façade of the concrete parking garage located at 130 S. Third Street. The proposed banner signs will feature the Actors Theater logo with various graphics of performers and will include the logos of corporate sponsors located at the bottom of the banners. All banners will be mounted approximately 17'-0" above the sidewalk, project approximately 3'-10" from the building's walls, and will be illuminated with LED lighting. The Land Development Code allows only one projecting sign per façade of the building. The total square footage of the projecting signage counts as part of the attached signage which must be below 500 square feet per façade. Both the West Main Street and South Third Street facades will be below the 500 square foot maximum but require the requested waiver of Chapter 8.3.3.A.6 of the Land Development Code.

In addition, along both facades there will be two (2) 5' X 18" parking banner signs serving a directional purpose on the property.

Window clings and entrance signage are proposed but not considered part of the waiver request.

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The following spoke in favor of this request:

Jennifer Belstein, 316 West Main Street, Louisville, Ky. 40202

The following spoke in opposition:

No one

SUMMARY OF TESTIMONY OF PROPONENTS:

2:13:50 Ms. Belstein said there's very minimal signage at the Actors Theater. "We wanted to do something that improves our direct economic impact we have in this community as well as the indirect impact we have on people's quality of life in this community and with the KFC Yum Center as our neighbor, we want to be able to capitalize upon the increased traffic downtown. I think it's an eloquent design that ties in with other downtown projects."

SUMMARY OF TESTIMONY OF OPPONENTS:

None

REBUTTAL:

None

ACTION

2:15:32 Commissioner Carlson moved to **GRANT** the waiver of chapter 8.3.3.A.6 of the Land Development Code to allow 10 projecting banner signs on the West Main Street façade and 2 parking banner signs at 5 feet X 18 inches and to allow 4 projecting banner signs on the South Third Street façade and 2 parking banner signs as described in the request based on the information heard today, the staff report and **ADOPT** staff's review as the justification for granting the waiver. Commissioner Tomes seconded the motion. Motion carried unanimously.

WHEREAS, the waiver will not adversely affect adjacent property owners by not blocking sightlines along the street frontage or interfering with the adjacent ROW; and

WHEREAS, the waiver will not violate specific guidelines of Cornerstone 2020 by following the compatibility guidelines regarding signage within the Downtown form district, specifically Plan Element A.28, with the signage not dominating the building façade, following the rhythm of the building and bay windows, and similar in style to other signage located within downtown; and

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WHEREAS, the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant to allow for the identification of the use and established destination style pattern of signage; and

WHEREAS, the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant by not allow the use of the allowed square footage for the building façade in a manner consistent with other existing downtown signage types.

RESOLVED, that the Development Review Committee does hereby **GRANT** the requested waivers for Case No. 15329.

The vote was as follows:

YES: Commissioners Carlson, Hamilton, Howard and Tomes

NO: No one

NOT PRESENT: Commissioner Wahl

ABSTAINING: No one

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NEW CASES:
CASE NO. 15477

Case: 15477
Project Name: Life Long Learning Center
Location: 5001 South Hurstbourne Parkway
Owner(s): D.S. Education Foundation, Inc.
Applicant: D.S. Education Foundation, Inc.
Representative: Alex Rosenberg
Project Size/Area: 5.43 acres
Jurisdiction: Louisville
Council District: 22 – Robin Engel
Case Manager: Christopher Brown, Planner I

An audio/visual recording of the Development Review Committee related to this case is available in the Planning and Design Services offices. Please contact the Customer Service staff to view the recording or to obtain a copy. The recording of this meeting will be found on the cd of the March 9, 2011 proceedings.

SUMMARY OF STAFF PRESENTATION:

2:17:17 The applicant requests a landscape waiver from chapter 10.2.4.B to allow a proposed statue with planting bed to be located within the required 30 foot landscape buffer area along South Hurstbourne Parkway; a landscape waiver from chapter 10.2.8 of the Land Development Code to eliminate the required street trees along the South Hurstbourne Parkway street frontage; and a landscape waiver from chapter 10.3.5 of the Land Development Code to allow modification of the planting requirements within the 30 foot parkway buffer.

The applicant is requesting revisions to the approved landscape plan to eliminate the required street trees and parkway buffer plantings. On the subject property, there are considerable poor conditions along the street frontage for proper street tree plantings. The soil has been found to be shallow bedrock with high plasticity/fat clay soil overlying the bedrock. This soil area is a highly unsuitable environment for the required tree plantings and their survival. In lieu of the plantings all across the South Hurstbourne frontage and ROW, larger clusters of plantings will be provided along the entry point and to the south. The tree canopy being preserved and provided on the site far exceeds the required 20% by providing 32.4% coverage. In addition to the request in changes for the tree plantings, the applicant is requesting a waiver from chapter 10.2.4.B of the Land Development Code to allow the encroachment of the proposed statue into the required landscape buffer area. The statue is considered a structure and not permitted to encroach into the required 30 foot parkway buffer/LBA.

The following spoke in favor of this request:

Alex Rosenberg, 2011 Sugar Maple Drive, LaGrange, Ky. 40031
Diana Merzweiler, 40604 Bardstown Road, Louisville, Ky.

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The following spoke in opposition:

No one

SUMMARY OF TESTIMONY OF PROPONENTS:

2:23:52 Ms. Merzweiler said she would not be doing this project had it not been for Kosair Charities donating \$1.5 million to the center. "Their only request is for the sentinel placed prominently on our property and we thought this would be the best location as folks are coming in or passing by. That actually provides them with awareness, because not only do they support us, but 100's of other agencies throughout our area. It's our way of giving thanks."

SUMMARY OF TESTIMONY OF OPPONENTS:

None

REBUTTAL:

None

ACTION

2:25:16 Commissioner Carlson moved to **GRANT** the requested landscape waiver from section 10.2.4.B to allow a proposed statue with planting bed to be located within the 30 foot landscape buffer area along South Hurstbourne Parkway based on the information heard today, the staff report and **ADOPT** staff's analysis as the justification for granting the waiver. Commissioner Tomes seconded the motion. Motion carried unanimously.

WHEREAS, the waiver will not adversely affect adjacent property owners since sufficient plantings and screening of will be provided along Hurstbourne Parkway; and

WHEREAS, the waiver will not violate specific guidelines of Cornerstone 2020 due to the intent of landscape character and compatibility guidelines under Guideline 3 being met on the subject property with the provided tree canopy coverage, screening of the vehicular use area, mitigation through buffer areas along the property perimeters, and the vehicular use area being broken up with all required interior landscaping; and

WHEREAS, the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant to allow the location of the statue with a planting bed at the visible entry point while still meeting planting and screening requirements on the subject property; and

WHEREAS, the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on

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the applicant by greatly limiting the permitted location of the proposed statue due to the required 30' landscape buffer areas surrounding the entire property perimeter and location closer to the entrance would conflict with the freestanding signage on the property.

The vote was as follows:

YES: Commissioners Carlson, Hamilton, Howard and Tomes

NO: No one

NOT PRESENT: Commissioner Wahl

ABSTAINING: No one

2:25:48 Commissioner Carlson moved to **GRANT** the landscape waiver from section 10.2.8 of the Land Development Code to eliminate the required street trees along the South Hurstbourne Parkway street frontage based on the staff report, information heard today and **ADOPT** staff's analysis as the justification for granting the waiver **ON CONDITION** that the plantings occur in accordance with the plans shown before the committee today. Commissioner Tomes seconded the motion. Motion carried unanimously.

The vote was as follows:

YES: Commissioners Carlson, Hamilton, Howard and Tomes

NO: No one

NOT PRESENT: Commissioner Wahl

ABSTAINING: No one

2:26:31 Commissioner Carlson moved to **GRANT** a landscape waiver of section 10.3.5 of the Land Development Code to allow modifications of the planting requirements within the 30 foot parkway buffer based on the staff report, information heard today and **ADOPT** staff's review as the justification for granting the waiver **ON CONDITION** that the plantings occur in accordance with the plans shown to the committee today. Commissioner Tomes seconded the motion. Motion carried unanimously

WHEREAS, the waiver will not adversely affect adjacent property owners since extensive plantings will be provided on the subject property in clusters at several points along the street frontage; and

WHEREAS, the waiver will not violate specific guidelines of Cornerstone 2020 under the Guideline 3, Compatibility, due to the extensive tree canopy being provided on the property and the intent of the landscape character being met with all plantings areas as proposed by the applicant. In addition, Guideline 5, Natural Areas and Resources, is

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being followed with the applicant respecting the natural resources and environmental conditions of the property through extensive tree canopy protection and plantings outside the soil areas found not suitable for proper planting along the street frontage to not create potential environmental degradation; and

WHEREAS, the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant due to the existing environmental conditions along the street frontage; and

WHEREAS, the applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect) with the extensive tree canopy protection areas to be preserved on the property and the tree canopy coverage far exceeding the requirements of the subject property resulting in a benefit to the natural resources of the subject property.

RESOLVED, that the Development Review Committee does hereby **GRANT** the requested landscape waivers for Case No. 15477.

The vote was as follows:

YES: Commissioners Carlson, Hamilton, Howard and Tomes

NO: No one

NOT PRESENT: Commissioner Wahl

ABSTAINING: No one

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NEW CASES:
CASE NO. 15430

Case:	15430
Project Name:	Fifth Third Bank
Location:	8300 Ambrosse Lane
Owner(s):	Fifth Third Bank
Applicant:	Fifth Third Bank
Representative:	Jason Christoff
Project Size/Area:	.98 acres
Jurisdiction:	Louisville
Council District:	20 – Stuart Benson
Case Manager:	Christopher Brown, Planner I

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SUMMARY OF STAFF PRESENTATION:

2:28:23 The applicant requests a binding element amendment of number 5 to allow the relocation of an existing monument style within the South Hurstbourne Parkway area.

The applicant is proposing to relocate a monument style sign on the property from the intersection of Ambrosse Lane and South Hurstbourne Parkway more directly in front of the South Hurstbourne Parkway street frontage. The proposed location is within an existing ILA area along the required parkway buffer. The street frontage along South Hurstbourne Parkway is less than 450 feet; therefore, the monument style is limited to the 6 foot and 60 square foot parkway signage standards. The current binding element 5 under docket number 9-29-88 limits the signage to 54 square feet and does not allow the signage within 30 feet of the front property line. The binding element does not follow the current parkway regulations of the Land Development Code.

The following spoke in favor of this request:

Matt Rouekamp, 530 Walnut, Cincinnati, Ohio 45263

The following spoke in opposition:

No one

SUMMARY OF TESTIMONY OF PROPONENTS:

2:31:46 Mr. Rouekamp stated, "We're looking at updating the landscaping and maintaining the initial requirements. We found we were able to move the sign, with the change in the ordinance, which will increase our visibility. My assumption is, once this

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is granted, we will be able to reapply for the sign permits needed. We will also change out the other buildings which are in compliance. The only one we had to get clarification on was the front sign.”

SUMMARY OF TESTIMONY OF OPPONENTS:

None

REBUTTAL:

None

ACTION

2:32:32 Commissioner Carlson moved to **APPROVE** the requested change to binding element number 5 based on the staff report and the information heard today, noting that the proposed new sign location is in compliance with the applicable ordinance and development codes. Commissioner Tomes seconded the motion. Unanimously approved.

WHEREAS, the change in binding element regarding signage will have no effect upon the conservation of natural resources on the property; and

WHEREAS, the provisions for safe and efficient vehicular and pedestrian transportation both within the development and the community will remain on the property and be unaffected by a change to the location and size of the monument style signage; and

WHEREAS, the provision of sufficient open space (scenic and recreational) to meet the needs of the proposed development is not affected by the proposed binding element amendment; and

WHEREAS, the drainage facilities existing on the property will remain as previously approved by MSD and LDT from the detailed development plan; and

WHEREAS, the signage proposed will be compatible with the design, both in size and scale, with the surrounding Stonybrook South properties which follow the parkway signage regulations of the Land Development Code; and

WHEREAS, the signage proposed would conform to compatibility guidelines of Cornerstone 2020 and follow the regulations of the Land Development Code in regards to monument style signage within the established parkway.

RESOLVED, that the Development Review Committee does hereby **APPROVE** the binding element amendment of number 5 for Case No. 15430.

Existing Binding Element

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5. The only permitted freestanding sign shall be located as shown on the approved development plan. No portion of the sign, including the leading edge of the sign frame, shall be closer than 30 feet to front property line. The sign shall not exceed 54 square feet in area per side and 6 feet in height. No sign shall have more than two sides.

Proposed Binding Element

5. ~~The only permitted freestanding sign shall be located as shown on the approved development plan. No portion of the sign, including the leading edge of the sign frame, shall be closer than 30 feet to front property line. The sign shall not exceed 54 square feet in area per side and 6 feet in height. No sign shall have more than two sides.~~ **Signs shall be in accordance with Chapter 8 of the Land Development Code.**

The vote was as follows:

YES: Commissioners Carlson, Hamilton, Howard and Tomes

NO: No one

NOT PRESENT: Commissioner Wahl

ABSTAINING: No one

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NEW CASES:
CASE NO. 15512

Case: 15512
Project Name: Warehouse/Office
Location: 12200 Westport Road
Owner(s): 12200 Westport Road, LLC
Applicant: 12200 Westport Road, LLC
Representative: Ann Richard
Project Size/Area: 15.9 acres
Jurisdiction: Louisville
Council District: 17 – Glen Stuckel
Case Manager: Christopher Brown, Planner I

An audio/visual recording of the Development Review Committee related to this case is available in the Planning and Design Services offices. Please contact the Customer Service staff to view the recording or to obtain a copy. The recording of this meeting will be found on the cd of the March 9, 2011 proceedings.

SUMMARY OF STAFF PRESENTATION:

2:33:35 The applicant requests a waiver from chapter 5.8.1.B of the Land Development Code to not provide the required sidewalk along Westport Road street frontage and a waiver from chapter 5.8.1.B of the Land Development Code to not provide the required sidewalk along Collins Lane street frontage.

The applicant is proposing a 47,350 square foot warehouse addition with dock doors on the subject property in an area of existing VUA. A proposed drive will provide vehicular access around the addition to the existing rear on site driveway area. The building addition is a 19% expansion to the property and 13% of the existing VUA will be decreased. Due to the size of the proposed addition in relationship to the larger existing portions of the property, the applicant is requesting a sidewalk waiver for the Westport Road and Collins Lane street frontages. The Collins Lane portion of the property will have no additional construction to the existing structure. Under chapter 6.2.6.B.2.c.iv of the Land Development Code, the Planning Commission or designee may grant a waiver to allow a reduced sidewalk requirement where less than 50% of the street frontage is being developed. A reduction waiver shall not exempt future development on the parcel from the construction of the remainder of the sidewalk. There are no existing walks in the area and drainage facilities exist that would cause complications in sidewalk construction. Public Works supports the waiver request on the subject property.

The following spoke in favor of this request:

Ann Richard, 503 Washburn Avenue, Suite 101, Louisville, Ky. 40222

The following spoke in opposition:

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CASE NO. 15512

No one

SUMMARY OF TESTIMONY OF PROPONENTS:

2:37:11 Ms. Richard provided photographs and aerials. The area is heavily industrial and there are no sidewalks. "One of the drainage structures would have to be addressed if a sidewalk is built. Also, there are some utilities further down Collins Lane."

SUMMARY OF TESTIMONY OF OPPONENTS:

None

REBUTTAL:

None

ACTION

2:39:08 Commissioner Carlson moved to **GRANT** the requested sidewalk waivers along Westport Road and Collins Lane based on the information heard today, the staff report and **ADOPT** staff's analysis as the justification for granting the waiver; noting that should there be future development on this parcel dealing with street frontage, the committee may re-visit the sidewalk requirement. Commissioner Tomes seconded the motion. Motion carried unanimously.

WHEREAS, the waiver will not adversely affect adjacent property owners due to the lack of sidewalks within the vicinity and the affect upon the surrounding warehouse/industrial uses; and

WHEREAS, the waiver will not violate specific guidelines of Cornerstone 2020 under mobility Guideline 7 with the vehicular accessibility for the uses in the general vicinity that rely upon strictly vehicular accessibility. The sidewalk construction would also cause potential issues with the drainage facilities existing on the property in accordance with the flood and infrastructure requirements of Guidelines 10 and 14; and

WHEREAS, the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant to allow for the construction of the addition to the rear of the property and not affect the existing drainage facilities; and

WHEREAS, the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant by requiring extensive 1,800 linear feet of sidewalk network to be constructed in an area without any connecting sidewalks on a site with minimal addition to the overall property.

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CASE NO. 15512

RESOLVED, that the Development Review Committee does hereby **GRANT** the waivers from chapter 5.8.1.B of the Land Development Code to not provide the required sidewalk along Westport Road and Collins Lane street frontages for Case No. 15512.

The vote was as follows:

YES: Commissioners Carlson, Hamilton, Howard and Tomes

NO: No one

NOT PRESENT: Commissioner Wahl

ABSTAINING: No one

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The meeting adjourned at 2:40 p.m.

**Susan Hamilton, Economic Development Department
Chairman**

**Latondra Jones, Planner II
Case Manager**